



Northern Ireland  
Assembly

Report by the Assembly Commissioner for Standards on a  
complaint against Gordon Lyons MLA  
by the Committee on the Administration of Justice (CAJ)  
and Conradh na Gaeilge (CnG)

Assembly-Confidential

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## Summary

This report relates to my investigation into whether, on the balance of probabilities, Mr Lyons' failure to attend the North South Ministerial Council ("NSMC") Language Body sectoral meeting scheduled for the 31 March 2021 was in keeping with the Seven Principles of Public Life as required by the Ministerial Code of Conduct.

I received a complaint on 16 April 2021 from the Committee on the Administration of Justice (CAJ) and Conradh na Gaeilge (CnG) against then junior Minister Gordon Lyons MLA due to his failure to attend the NSMC Language Body sectoral meeting scheduled for the 31 March 2021. The complainants contend that then junior Minister Lyons was 1) in breach of the Pledge of Office (cb), committing to "participate fully.... In the North South Ministerial Council" due to his failure to participate and 2) in breach of paragraph (v) of the Ministerial Code of Conduct "comply with this Code" including being obliged to comply with the Seven Principles of Public Life set out in paragraph 1.6 of the Ministerial Code of Conduct. CAJ and CnG contend that Mr Lyons' failure to participate in the meeting is/was part of a strategy by the DUP to boycott NSMC meetings as part of protest action relating to the consequences of Brexit (and specifically the NI Protocol).

I commenced my investigation on 14 June 2021. On 7 July 2021, Mr Lyons stated at interview that he couldn't recall the exact reason as to why he was unable to attend but later concluded that it was because he had constituency business to attend to. He also stated that the Language Body meeting was not confirmed and therefore there was no meeting to attend. He denied that his failure to attend was due to any strategy by the DUP to withdraw from the NSMC.

After considering all of the evidence, including an interview with Mr Lyons under oath and all of the documentation requested and received, it is my view that Mr Lyons by his actions and decisions, showed a lack of leadership, openness, selflessness and accountability in breach of paragraph 1.5 (iv) and 1.6 of the Ministerial Code of Conduct when 1) he failed to attend the NSMC Language Body meeting in breach of his legal duties and responsibilities as contained within Part V of the Northern Ireland Act 1998, 2) he failed to notify in accordance with section 52A of the Northern Ireland Act 1998 and 3) when he put forward the defence that the meeting and agenda wasn't officially confirmed. All of this occurred against the backdrop of the DUP's publicly stated five-point plan of 2 February 2021 including 'sending a strong signal' to the Irish Government that DUP members 'cannot and will not continue to act as though relationships are normal'.

## Timeline of Investigation

16 April 2021	Commissioner receives complaint
28 June 2021	Invitation to interview letter sent to Gordon Lyons MLA
7 July 2021	Interview with Gordon Lyons MLA
7 July 2021	Request for information sent to TEO
6 Dec 2021	Information received from TEO
8 March 2022	Information requested from Minister for Communities, Dierdre Hargey
8 March 2022	Notice sent to Gordon Lyons to provide information
20 Sept 2022	Letter sent to DUP requesting Feb 2021 DUP five-point plan
13 Oct 2022	Notice to produce document sent to DUP
19 Oct 2022	Received DUP five-point plan of Feb 2021

## Complaint Background

1. I received a complaint from the Committee on the Administration of Justice (CAJ) and Conradh na Gaeilge (CnG) on 16 April 2021, alleging that then Junior Minister Lyons breached the Ministerial Code of Conduct when he failed to attend the NSMC Language Body meeting on 31 March 2021. The allegations are that Mr Lyons was 1) in breach of the Pledge of Office (cb), committing to “participate fully.... In the North South Ministerial Council” (“the NSMC”) due to his failure to participate and 2) in breach of paragraph (v) of the Ministerial Code of Conduct “Comply with this Code” including being obliged to comply with the Seven Principles of Public Life set out in paragraph 1.6 of the Ministerial Code of Conduct. In particular the duty to “take decisions solely in terms of the public interest” and “be as open as possible about all the decisions and actions that they take.” The complainants contend that Mr Lyons’ failure to partake in the meeting is/was part of a strategy by the DUP to boycott NSMC meetings as part of protest action relating to the consequences of Brexit (and specifically the NI Protocol).

## Investigation

2. In the course of my investigation, I carried out the following:
  - Reviewed the complaint and evidence provided<sup>1</sup>
  - Interviewed Mr Lyons MLA<sup>2</sup>

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<sup>1</sup> Document 1

<sup>2</sup> Document 2

- Requested<sup>3</sup> and received<sup>4</sup> information from TEO
- Requested<sup>5</sup> and received<sup>6</sup> information from Deidre Hargey, Minister for Communities
- Requested<sup>7</sup> and received<sup>8</sup> from the DUP their five-point plan of 2 February 2021
- Requested<sup>9</sup> and received<sup>10</sup> further information from Mr Lyons MLA

A copy of the complaint and all other documents I have relied on in reaching my decision are at Annex A.

#### **Allegations contained in complaint**

3. The allegations are as follows:

1. Mr Lyons' non-attendance at the NSMC Language Body meeting was in breach of the Pledge of Office (cb), committing to "participate fully.... In the North South Ministerial Council"
2. Mr Lyons' non-attendance at the Language Body NSMC meeting was in breach of paragraph (v) of the Ministerial Code of Conduct "Comply with this Code" including being obliged to comply with the Seven Principles of Public Life set out in paragraph 1.6 of the Ministerial Code of Conduct. In particular the duty to "take decisions solely in terms of the public interest" and "be as open as possible about all the decisions and actions that they take."
3. Mr Lyons' failure to partake in the meeting was part of a strategy by the DUP to boycott NSMC meetings as part of protest action relating to the consequences of Brexit and specifically the NI Protocol.

#### **Issues arising: Interpretation of Paragraph 1.5(v)**

4. The complainants contended that paragraph 1.5(v) of the Ministerial Code of Conduct acts as something akin to a backdoor route to providing me with the vires to address compliance with the wider Ministerial Code, thereby bringing into play the provisions of the wider code that touch directly on the requirements vis a vis the operation of the NSMC including the Pledge of Office. This is unlikely to be the correct interpretation, as it would fundamentally undermine the legislative intention to restrict my remit to the Ministerial Code of Conduct (paras 1.5 and 1.6). Therefore, "this code" at paragraph 1.5 (v) is interpreted as meaning the Ministerial Code of Conduct and in respect of this complaint is confirmed to be paragraphs 1.5 and 1.6 only. Therefore, the allegation

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<sup>3</sup> Document 3

<sup>4</sup> Document 4

<sup>5</sup> Document 5

<sup>6</sup> Document 6

<sup>7</sup> Document 7

<sup>8</sup> Document 8

<sup>9</sup> Document 9

<sup>10</sup> Document 10

at para 3.1 above regarding the Pledge of Office is not within the scope of the Ministerial Code of Conduct and cannot be considered by me.

### **Findings of Fact**

5. I found the following facts established to the required standard of proof:
  1. Mr Lyons MLA, in his capacity as then Junior Minister, did not attend the online NSMC Language Body meeting on 31 March 2021.
  2. Mr Lyons' Private Office notified the NSMC Secretariat of his intention not to attend on 23<sup>rd</sup> March 2021. A nomination form was not submitted.
  3. Mr Lyons asserted that his reason for non-attendance was because he had constituency business.
  4. Mr Lyons' Private Office tried to find an alternative Unionist Minister to attend, but none were available to attend.

### **Evidence**

#### **Background and context**

6. The establishment of the North-South Ministerial Council arose from the Good Friday/Belfast Agreement. The Northern Ireland Act 1998 ("the 1998 Act") makes provision for NSMC meetings and arrangements. Paragraph 2 of Strand Two of the Belfast Agreement makes it clear that participation in NSMC meetings is to be "one of the essential responsibilities" attaching to a ministerial post, and that alternative arrangements are to be made in the event of a relevant minister not participating or not being able to participate.
7. Section 52A(4) of the 1998 Act states that each appropriate Minister must notify the First Minister and the deputy First Minister, as soon as reasonably practicable and in any event *no later than ten working days before the date of the meeting*, of what they intend to do<sup>11</sup>. The stipulation of a time frame signifies the importance of the NSMC structures and processes and responding in a timely manner. Section 52A(10) makes it clear that it is ten working days (or two weeks) in advance of any meeting.<sup>12</sup> This provides notification to the FM and dFM and allows them time to make alternative arrangements.

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<sup>11</sup> <https://www.legislation.gov.uk/ukpga/1998/47/section/52A>

<sup>12</sup> <https://www.legislation.gov.uk/ukpga/1998/47/section/52A>

8. Section 52A(5) imposes a duty upon the First Minister and deputy First Minister to nominate someone to attend in place of the appropriate Minister<sup>13</sup>:

“If the appropriate Minister gives a notification under subsection (4) (c) (or if the First Minister and the deputy First Minister receive no notification from him, under subsection (4)), the First Minister and deputy First Minister acting jointly shall nominate a Minister or Junior Minister.

- (a) To attend the meeting in place of the appropriate Minister; and
- (b) To participate in the meeting so far as it relates to matters for which the appropriate Minister has responsibilities “

### **Judicial Review**

9. During the course of this investigation and subsequent to the lodgement of this complaint, a judicial review was taken by Mr Sean Napier against DUP Ministers including then Junior Minister Lyons in relation to the DUP Ministers’ withdrawal from the NSMC. While this judicial review and the declaration by Scofield J on 10 October 2021, that the DUP’s withdrawal was and is unlawful, is arguably relevant to this investigation and report to the extent that it has evidential relevance, it is not being considered in relation to this complaint and the investigation into the breach of the Ministerial Code of Conduct as the court’s judgement falls outside the timeframe of this complaint.

### **DUP Five-point Plan 2 February 2021**

10. On 2 February 2021, Former First Minister Arlene Foster unveiled the DUP’s five-point plan which clearly stated the DUP’s opposition to the NI Protocol and included that they (the DUP) would ‘send a signal’ to the Irish Government in relation to North-South institutions.<sup>14</sup>

“We have indicated to our own Government that they now need to act but as the largest Unionist party at Stormont we also intend to send a strong signal to the Government of the Republic of Ireland that North-South relationships are also impacted by the implementation of a Protocol which they supported. Our members cannot and will not continue to act as though relationships are normal”<sup>15</sup>

11. This five-point plan was set out 8 weeks prior to Mr Lyons’ non-attendance at the Language Body meeting on 31 March 2021.

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<sup>13</sup> <https://www.legislation.gov.uk/ukpga/1998/47/section/52A>

<sup>14</sup> Document 8 and:

<https://www.bbc.co.uk/news/uk-northern-ireland-55932434>

<https://www.bbc.co.uk/news/uk-northern-ireland-55910506>

<https://www.belfasttelegraph.co.uk/news/northern-ireland/dup-refusal-to-engage-with-north-south-bodies-on-protocol-issues-will-continue-vows-lord-dodds-40327410.html>

<sup>15</sup> Document 8

## Ministerial Code of Conduct

12. The Seven Principles of Public Life were set out by Lord Nolan in 1995 in the first report of the Committee on Standards in Public Life and form part of the Ministerial Code of Conduct (Para 1.6) which is of direct relevance to this complaint leading from para 1.5 (iv and v)<sup>16</sup>.
13. The Committee of Standards in Public Life stated in their latest publication on leadership:

“Adherence to the Seven Principles helps ensure that elected representatives make controversial and difficult policy decisions in the public interest and that they are accepted by the majority of citizens.”<sup>17</sup>
14. The main principles identified as being engaged in the context of this complaint are:

**Leadership:** Holders of public office should promote and support *these principles* by leadership and example.

**Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness:** Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Selflessness:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.
15. The definition of leadership used in this investigation (as per the Ministerial Code of Conduct at para 1.6) states that

“Holders of public office should promote and support *these principles* by leadership and example”.
16. A refined and updated definition was recently published by the Committee on Standards in Public Life. While not the definition being used for this investigation, it offers readers of this report the most up-to-date definition of what leadership is in the context of public life:

“Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs”.<sup>18</sup>

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<sup>16</sup> <https://standardscommissionniassembly.org/wp-content/uploads/2021/06/Northern-Ireland-Ministerial-Code.pdf>

<sup>17</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1029944/Upholding\\_Standards\\_in\\_Public\\_Life\\_-\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1029944/Upholding_Standards_in_Public_Life_-_Web_Accessible.pdf)

<sup>18</sup> <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>

## **Interview with Gordon Lyons MLA**

17. Mr Lyons stated under oath at interview that he did not remember the particular reason for not being available to attend the NSMC Language Body meeting<sup>19</sup> but when asked further into the interview he recalled that he had to deal with a build-up of paperwork and the day-to-day constituency office work.<sup>20</sup>
18. When asked if that is normally a reason for cancelling attendance at NSMC meetings, Mr Lyons said  
“The meeting wasn't cancelled because the meeting needs to be agreed in the first place.”<sup>21</sup>
19. He further clarified:  
“Look, it is a bit of a complicated process because when do you say that a meeting is actually taking place? Because if there's no agenda agreed, the meeting can't take place. The agenda needs to be agreed beforehand. If there is no-- there needs to be the member that's the minister that's attending needs to sign off on their attendance and confirm that the date is right. There then may before that have been a provisional date that had been put in, or floated, but that doesn't necessarily mean that the meeting was always going to happen.”<sup>22</sup>
20. When asked if there was a deliberate intent not to attend the NSMC for any reason other than his constituency business, Mr Lyons replied:  
  
“I have stated that our party policy at that time was that we wouldn't be implementing anything within North South meetings in relation to the protocol. We don't think that was going to be appropriate but we've been on the record and said there was no boycott of attendance as a result of this meeting.”<sup>23</sup>

## **Documentary evidence**

21. Subsequent to his interview, I wrote to Mr Lyons on 8 March 2022 with a number of questions requiring clarification.<sup>24</sup>
22. Mr Lyons replied on 23 March 2022, and in response my question as to why he could not have taken time out from his constituency work on 31 March to join the virtual NSMC Language Body meeting, Mr Lyons stated that “There was no meeting confirmed for 31 March”.<sup>25</sup>

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<sup>19</sup> Document 2 at 11.31

<sup>20</sup> Document 2 at 16.53

<sup>21</sup> Document 2 at 17.34

<sup>22</sup> Document 2 at 21.28

<sup>23</sup> Document 2 at 35.10

<sup>24</sup> Document 9

<sup>25</sup> Document 10



23. In response to the question as to why it was necessary to do constituency work on that day when it would give rise to a diary clash with the Language Body meeting, Mr Lyons stated: “I do not believe there was a clash, as the meeting was not confirmed.”<sup>26</sup>
24. Mr Lyons’ clearly stated view was that the meeting was not confirmed; it was his view that there was no meeting.
25. In response to questions and a request for documents from Deirdre Hargey MLA, then Minister for Communities, confirmed that she considered the meeting was confirmed when the Joint Secretariat wrote to her Private Office on 21 January 2021 to confirm that “the 31 March 2021 at 11am had been secured”. On this confirmation, her Private Office commissioned briefing for the meeting.<sup>27</sup>
26. When asked if it was her view that other participants considered this to be a confirmed or scheduled meeting, Ms Hargey said it was her understanding that “..officials in my department, the two North South Language Bodies, the Joint Secretariat, the Minister of State for Sport and the Gaeltacht and his officials” considered this to be a scheduled and confirmed meeting.<sup>28</sup>
27. Further documentary evidence obtained from TEO shows that the NSMC Secretariat sought confirmation from the Private Secretary to then Junior Minister Lyons of potential dates in late March for an NSMC Language Body meeting (email of 21 January).<sup>29</sup> The NSMC Secretariat by email to the Private Secretary to then Junior Minister Lyons on 27 January subsequently confirmed 31 March 2021 as the date of the meeting.<sup>30</sup> By email of 27 January 2021 to the NSMC Secretariat, the Diary Secretary to then Junior Minister Lyons confirmed the date and confirmed that it had been logged in Mr Lyons diary.<sup>31</sup> The NSMC Secretariat by email on 10 March 2021 asked for the nomination form to be completed and followed that up with a reminder email on 15 March 2021.<sup>32</sup>
28. On 23 March the Private Secretary to Mr Lyons advised the Joint Secretary to the NSMC that Mr Lyons was unavailable.<sup>33</sup> This notification was not within the ten working days as required under Section 52A(4) of the 1998 Act.<sup>34</sup>
29. On 26 March the Joint Secretary made a submission to Ministers requesting them to nominate a replacement minister to attend the NSMC Language Body meeting as ‘accompanying Minister’. A

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<sup>26</sup> Document 10

<sup>27</sup> Document 6

<sup>28</sup> Document 6

<sup>29</sup> Document 11

<sup>30</sup> Document 12

<sup>31</sup> Document 12

<sup>32</sup> Document 13

<sup>33</sup> Document 14

<sup>34</sup> <https://www.legislation.gov.uk/ukpga/1998/47/section/52A>

further letter was written on 29 March from Minister Lyons's Private Secretary to the Private Secretaries of all Ministers designated Unionist to ask if they were available to attend the meeting. No Minister was available.<sup>35</sup>

30. No joint agreement was reached between the First and deputy First Ministers on the proposal by the First Minister to postpone the meeting and it was convened on 31 March 2021. In the absence of an accompanying Minister, the requirement for cross-community participation at meetings of the NSMC was not met, and therefore could not proceed and was postponed.

### **Reasoned Decision**

#### **Allegation 1: Pledge of Office**

31. As stated above (at para 4) "this code" at paragraph 1.5 (v) is interpreted as meaning the Ministerial Code of Conduct and in respect of this complaint is confirmed to be paragraphs 1.5 and 1.6 only. Therefore, allegation 1 regarding a breach of the Pledge of Office is not within the scope of the Ministerial Code of Conduct and cannot be considered by me.

#### **Allegation 2: The Seven Principles of Public Life**

32. This is an investigation into whether, on the balance of probabilities, Mr Lyons' actions were "*at all times*" in keeping with the Seven Principles of Public Life as required by the Ministerial Code of Conduct.
33. Ministers within the Northern Ireland Executive bear personal responsibility for compliance with their Pledge of Office, the Ministerial Code including the Code of Conduct and adhering to Seven Principles of Public Life *at all times*.
34. The Seven Principles including selflessness, accountability and openness are part of the obligations of leadership in public life. Being accountable for decisions and actions as well as acting and taking decisions in an open and selfless manner are particularly relevant when considering the facts of this complaint.
35. There appears to have been nothing of an urgent nature either within Mr Lyons constituency or otherwise that would have prevented his attendance at the online NSMC Language Body meeting on 31 March 2021, nor did Mr Lyons contend that there was any such urgent issue. Instead, he at first couldn't recall why he could not attend the meeting, then further into the interview appeared

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<sup>35</sup> Document 15

to remember he had constituency business to take care of including paperwork. This suggests that his non-attendance was not due to some urgent matter but rather a conscious decision to prioritise working in his constituency office that day instead of attending the NSMC Language Body meeting.

36. Paragraph 2 of Strand Two of the Belfast Agreement makes it clear that participation in NSMC meetings is to be “one of the essential responsibilities” attaching to a ministerial post. Mr Lyons would have been or should have been aware of its importance and his legal obligation. In de-prioritising attendance in favour of his constituency work, work that could arguably have been done at a time before or after the meeting, showed a lack of leadership in terms of openness and selflessness.
37. The defence put forward by Mr Lyons that there ‘was no meeting’ and that the meeting was not confirmed is unconvincing. The evidence shows that the date was confirmed and put in Mr Lyons’ diary by his Diary Secretary on 27 January 2021. Mr Lyons’ Private Secretary sought replacement Ministers to attend—that is, to attend the meeting Mr Lyons claims did not exist and yet was confirmed and in diaries. Likewise, the then FM Mr Givan sought to postpone the meeting; I do not believe anyone would seek to postpone a meeting that Mr Lyons claims was never confirmed. Moreover, twelve people were in attendance on the day of the meeting; all of these attendees believed the meeting to be confirmed and scheduled otherwise they would not have convened to take part. I am in no doubt that there was, in fact, an NSMC Language Body sectoral meeting that was scheduled for and convened on the 31 March 2021 and could not proceed because then Junior Minister Lyons, as accompanying Minister, did not attend.
38. The NSMC Language Body meeting was being held online, yet there was no evidence provided by Mr Lyons as to why he could not have taken time out to attend virtually from his constituency office, especially as no alternative minister could be found. He did not provide any rationale for being unable to attend virtually from his constituency office, stating only that “the meeting wasn’t confirmed”. Openness requires that holders of public office should be as open as possible about all the decisions and actions they take and that they should give reasons for their decisions and restrict information only when the wider public interest clearly demands; I do not believe, on balance, that Mr Lyons has been open about his motivation for his non-attendance at the NSMC Language Body meeting on 31 March 2021.
39. Mr Lyons had a legal obligation to attend the meeting, and if he could not attend to notify the NSMC Secretariat *no later than ten working days before the date of the meeting*. The NSMC Secretariat was notified of Mr Lyons’ lack of availability for 31 March meeting on 23 March; this was a failure to comply with Section 52A(4) of the 1998 Act. Failing to comply with a legal duty is not in keeping with the Seven Principles of Public Life.

40. Selflessness requires decisions to be taken solely in the public interest. The concept of the public interest has been defined broadly by academics as “*that which is best for society as a whole*”<sup>36</sup>. The complainants believe Mr Lyons’ decision not to attend the Language Body meeting was not taken solely in terms of the public interest—meaning essentially that the decision was not taken solely in terms of what was best for society as a whole. It is hard to imagine that Mr Lyons’ decision was best for society as a whole considering his decision not to attend impeded the important work of the Language Body sectoral meeting which could not take place because of his non-attendance. In this respect, Mr Lyons’ failure to attend was not in the public interest. The law in relation to the NSMC is not ambiguous, and therefore, it was also not in the public interest that he chose to ignore his legal obligation, as it sends a message that it is acceptable to ignore the law.

**Allegation 3: Mr Lyons’ decision not to attend the Language Body NSMC sectoral meeting was part of the DUP’s political strategy**

41. The publicly articulated five-point plan by then DUP leader and FM Arlene Foster on 2 February 2021 included the DUP’s intention to “send a strong signal to the Government of the Republic of Ireland that North-South relationships are also impacted by the implementation of a Protocol which they supported”. Although Mr Lyons denies that his party’s five-point plan of 2 February 2021 was the reason for his non-attendance, based on the evidence, it is reasonable to conclude on the balance of probabilities, that Mr Lyons’ non-attendance at the Language Body meeting was motivated by the DUP’s political position articulated in their five-point plan. This is because 1) there is no evidence to suggest there was an overriding or urgent reason behind his decision not to attend; indeed, Mr Lyons couldn’t remember the reason when first asked at interview, 2) the meeting was being held virtually and he could have easily attended from his constituency office but chose not to, and 3) Mr Lyons prioritised his constituency work, even when he knew no other minister could be found.
42. Whatever Mr Lyons’ motivation, be it his party’s political policy at the time or his prioritisation of his constituency work, he was in breach of his legal obligations which is a failure to “at all times” adhere to the Seven Principles of Public Life.

**Conclusions**

43. In failing to comply with his legal obligations relating to the NSMC Language Body meeting and failing to notify within the appropriate timeframe in accordance with Section 52A(4) of the 1998

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<sup>36</sup> Edwin Rekosh, *Who defines the public interest?*, International Journal on Human Rights, June 2004: <https://sur.conectas.org/en/defines-public-interest/>

Act, it is my view that Mr Lyons showed a lack of leadership including a lack of openness, accountability and selflessness.

44. By ignoring his legal duties and responsibilities, Mr Lyons failed to “promote and support the Seven Principles by leadership and example”. Instead, he set a bad example for his Assembly colleagues and for the wider society that he is somehow above the law, which ultimately could serve to lower standards within the Assembly and diminish public trust and confidence in the Assembly.
45. I am satisfied on the basis of my analysis of the facts and evidence that, on the balance of probabilities, Mr Lyons acting as then Junior Minister, was in breach of paragraph (iv) of the Ministerial Code of Conduct to at all times “Follow the Seven Principles of Public Life as set out by the Committee on Standards in Public Life” found in paragraph 1.6 of the Ministerial Code of Conduct and in particular the principles of leadership, accountability, selflessness and openness, when he failed to comply with his legal duties and responsibilities contained within Part V of the Northern Ireland Act 1998, and in particular sections 52A and 52B.

**Annex A**

Document	Description
1	CAJ and CnG complaint
2	Interview transcript Gordon Lyons MLA
3	TEO request for information
4	TEO response
5	Letter to Deirdre Hargey MLA requesting information
6	Deirdre Hargey MLA response
7	Letter and Notice to DUP requesting 2 February 2021 five-point plan
8	Response/receipt of DUP five-point plan 2 February 2021
9	Letter to Gordon Lyons MLA requesting information
10	January G Lyons response to letter requesting information
11	Email 21 January 2021
12	Emails 27 January
13	Emails 10 March and 15 March
14	Email 23 March
15	Letters seeking alternative Minister to attend

## Document 1: CAJ and CnG Complaint

Dear Dr McCullough

Further to the commencement on the 22 March of Section 5 of Functioning of Government (Miscellaneous Provisions) Act (Northern Ireland) 2021, amending s17 Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 to extend your remit to consider breaches of the Ministerial Code, this is a complaint relating to breaches of the Ministerial Code submitted by CAJ and Conradh Na Gaeilge (for whom the contact is Conchúr Ó Muadaigh, cc'd).

CAJ is an independent human rights organisation with cross community membership, established in 1981, that works to ensure compliance with obligations under international human rights law. Conradh na Gaeilge, founded in 1893, is an Irish language non-governmental organisation with extensive links to the community and a core interest in the protection and the promotion of the Irish language.

The complaint relates to the North South Ministerial Council thematic North South Language Body meeting that had been scheduled for the 31 March 2021 with the attendance of two NI Ministers, as well as Minister of State for the Gaeltacht Jack Chambers TD. The Minister for Communities Deirdre Hargey MLA and TEO Junior Minister Gordon Lyons MLA were nominated to attend this meeting. Reportedly however Junior Minister Gordon Lyons MLA declined to attend the meeting resulting in its cancellation. This was reported in the media (in Irish ) here: <https://tuairisc.ie/cruinniú-thuaidh-theas-faoi-ngaeilge-curtha-ar-ceal-mar-nach-raibh-an-dup-ar-fail/>

This complaint is therefore seeking an investigation, with reference to Junior Minister Lyons not participating in the meeting of the 31<sup>st</sup> March, into breaches of the NI Ministerial Code, including the Pledge of Office, relating to duties on Ministers to participate in North South Ministerial Council meetings.

We would ask if you would meet with us (virtually) to further discuss the specifics of this complaint.

Best regards, Daniel

**Daniel Holder**  
**Deputy Director**

Committee on the Administration of Justice (CAJ)  
1st Floor Community House  
Citylink Business Park  
6A Albert Street  
Belfast  
BT12 4HQ

**From: Sent: To:**

**Cc: Subject:**

Dear Dr McCullough

Daniel Holder

Mon, 17 May 2021 15:21:06 +0000 +StandardsCommissioner

Conchúr Ó Muadaigh

RE: Complaint regarding breach of Ministerial Code

Thank you for facilitating the requested meeting earlier today in relation to our complaint below of the 16th of April.

The purpose of this communication is to provide some further detail in relation to our complaint on behalf of the complainant organisations.

First in relation to the provisions of the Ministerial Code that we consider not to have been complied with. These include:

- Primarily the provision (cb) of the Pledge of Office, committing to “participate fully.... In the North South Ministerial Council.” This directly relates to the failure of Junior Minister Lyons to participate in the North South Ministerial Council (NSMC) thematic North South Language Body meeting that had been scheduled for the 31 March 2021. Other provisions of the Pledge of Office, an inherent part of the broader Code and Schedule 4 NIA 1998, are engaged relating to the discharge in good faith of all the duties of office, equality and the promotion of the interests of the whole community.
- Provisions of the Ministerial Code of Conduct – primarily the duty in paragraph (v) to “comply with this Code.” ‘This Code’ is a reference to the broader NI Executive Ministerial Code, which includes the Pledge of Office and other relevant provisions, including the provisions of section 3 relating specifically to duties to participate in the North-South Ministerial Council (NSMC).
- Other provisions of the Ministerial Code of Conduct that relate to Ministers being obliged to comply with the Seven Principles of public life, that are then set out in paragraph 1.6 of the Ministerial Code. In particular the duty to “take decisions solely in terms of the public interest” and “be as open as possible about all the decisions and actions that they take.” The engagement of these particular provisions relates to the reasons for not participating in the NSMC Languages Body meeting of the 31<sup>st</sup> March. The failure to partake in the meeting is part of a strategy by the DUP to boycott NSMC meetings as part of protest action relating to the consequences of Brexit (and specifically the NI Protocol). This position has been publicly set out on a number of occasions by senior members of the party, for example the (then) Deputy Leader of the DUP Lord Nigel Dodds in the Belfast Telegraph [here](#). However, simultaneously the DUP (presumably conscious the boycott offends the Ministerial code and duties under the primary legislation)- have also put forward pretexts (‘diary clashes’ etc, agenda issues etc) for not participating in meetings that we do not consider credible. In the case of the NSMC Language Body Meeting of 31 March – the [Túairisc.ie media report cited below](#) states “Ní raibh oifig an aire a bhí i gceist, Gordon Lyons, sásta aon mhíniú a thabhairt do Túairisc.ie ar an gcúis gur tharraing sé siar ón gcruinniú seachas go ndúirt sé féin nach raibh sé ar f=E1il.” [Translated



into English: “The office of the minister in question, Gordon Lyons, was unwilling to provide *Tuairisc.ie* with any explanation as to why he withdrew from the meeting other than stating that he was not available.”] It continues: Ní rabhthas s=E1sta ach oiread aon deimhniú a thabhairt go

bhfreastalódh an tAire Lyons ar an gcruinniú nuair a réachtálfaí arís é. [in English: *Neither was it [the Ministers Office] willing to give any confirmation that Minister Lyons would attend the meeting when it was held again*] We consider that this explanation does not comply with the Principle of openness about the reasons for attending the meeting, and was also not a decision taken in the public interest, but rather in pursuance of a party strategy to obstruct north-south cooperation.

Second here is further information on the context and consequences of failures to participate in the NSMC Language Body:

- Under the Good Friday Agreement, it was stated that a North/South Implementation body be set up to promote both the Irish language and the Ulster Scots language. Under the auspices of this body, Foras na Gaeilge would carry out all the designated responsibilities regarding the Irish language. This entails facilitating and encouraging the speaking and writing of Irish in the public and private arena in the context of part three of the European Charter for Regional and Minority Languages.
- Foras na Gaeilge, has responsibility for the promotion of the Irish Language on an all-island basis. Foras na Gaeilge, has the task of promoting the Irish Language and a wide range of functions were given to the agency to add to its effectiveness in the promotion of Irish, for example, in the area of community language revival, family transmission, dictionary development, advising public bodies, promotional campaigns and delivering grants to language communities to support and enhance the Irish language.
- The North South council meets in the language sector in order to take decisions on policies and actions to be implemented by the North/South Language Body with its two agencies (Foras na Gaeilge and the Ulster Scots Agency).
- North/South meetings are an instrumental part of the functioning of Foras na Gaeilge and where decisions are taken concerning governance, policies, and actions to be implemented to support the development of the Irish language. Any decisions not taken nor agreed upon at North/South sectoral meetings have an adverse impact on the community of Irish speakers and those involved in the development and protection of the language.
- On the 31<sup>st</sup> March when the scheduled North/ South language sectoral meeting was cancelled, and where decisions on the appointments to the Foras na Gaeilge board and its yearly budget were to be taken, no decisions were taken. It frustrated and impacted Foras na Gaeilge’s decision-making abilities and disrupted decisions about funding schemes and other decisions under Foras na Gaeilge’s remit. While the Irish language community and those involved in the development of the language is made up of a diversity of groups from headquarter bodies, community voluntary groups, youth clubs, and local councils Foras na Gaeilge places a significant and central role in the ecosystem of the Irish language community. Any disruption to Foras na Gaeilge will eventually be experienced by the community of language speakers in our communities.

The Irish language community should not be adversely impacted by the failure of a Minister to partake in NSMC meetings.

We hope by the submission of this complaint will prevent recurrence in the future. Best regards, Daniel

**Daniel Holder Deputy Director**

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Dr Melissa McCullough  
NI Assembly Commissioner for Standards  
Coimisinéir na gCaighdeán de chuid Fheidhmeannas TÉ 238 Foirgnimh na Parlaiminte  
Cnoc an Anfa  
Béal Feirste, BT43XX

**Case ID: 202100007**

Dr McCullough, a chara

24 June 2021

Gabhaim buíochas leat as ucht do chomhfhreagrais ar an 15ú lá de mhí an Mheithimh maidir leis an ghearán thuasluaite.

Mar achoimre ina hiomláine:

- Chuir An Coiste um Riar an Chirt (CAJ) agus Conradh na Gaeilge (CnG) ár ngearán isteach ar an 16ú lá de mhí Aibreáin 2021. Baineann an gearán le teip an Aire Sóisearaigh, Gordon Lyons MLA, freastal ar chruinniú a bhí beartaithe ar an 31ú lá de mhí an Mhárta 2021 de chuid na Comhairle Aireachta Thuaidh/Theas maidir leis an fhoras teanga thuaidh-theas.

Thank you for your correspondence of the 15 June 2021 in relation to the above complaint.

For completeness to recap:

- The Committee on the Administration of Justice (CAJ) and Conradh Na Gaelige (CnG) submitted our complaint on the 16 April 2021. The complaint concerns the then Junior Minister Gordon Lyons MLA failing to participate in the scheduled meeting of the 31<sup>st</sup> March 2021 of North South Ministerial Council thematic North South Language Body.
- In submitting the complaint we had sought a meeting to further discuss the complaint which took place on the 17 May 2021. This included discussion on the scope of the new powers to examine complaints against ministers, in which the understanding had been conveyed that the powers covered the entirety of Schedule 4 of the NIA 1998. Straight after this meeting we submitted more detailed information on the provisions of the Code we consider not to have been complied with.
- We had earlier received your response of the 28 April which had drawn attention to awaiting a procedures direction from the Assembly committee in relation to the new powers. This came into force on the 14 June and we were then copied into a letter to the Clerk of the Committee on the 14 June regarding the Investigation.
- On the 15 June we received the most recent correspondence stating admissibility must be reconsidered in light of the new procedures. It also states that the Commissioner had been informed that the Pledge of Office is not within the jurisdiction of complaints.

This correspondence therefore responds to the letter of the 15 June 2021 to provide the information requested and reiterate the specific basis relating to provisions of s1.5 and s1.6 of the Ministerial Code. It should be read alongside our initial complaint and the further information submitted on the 17 May 2021.

Firstly, we consider the duty under s.1.5 paragraph (v) to “comply with this Code...” has not been complied with. We understand ‘This Code’ as a reference to the broader Ministerial Code, which includes the Pledge of Office provision (cb) committing to “participate fully.... In the North South Ministerial Council.”<sup>i</sup>

Secondly, our complaint relates to other provisions of the s1.5 Code of Conduct that relate to the Seven Principles of public life, that are then set out in s1.6 of the Code. In particular the duty to “take decisions solely in terms of the public interest” and “be as open as possible about all the decisions and actions that they take.” The engagement of these particular provisions relates to the reasons for not participating in the NSMC Languages Body meeting of the 31<sup>st</sup> March. The failure to partake in the meeting is part of a strategy by the DUP to boycott NSMC meetings as part of protest action relating to the consequences of Brexit (and specifically the NI Protocol). This position has been publicly set out on a number of occasions by senior members of the party, for example the (then) Deputy Leader of the DUP Lord Nigel Dodds in the Belfast Telegraph [here](#). However, simultaneously the DUP (presumably conscious the boycott offends the Ministerial code)- have also put forward pretexts (‘diary clashes’ etc, agenda issues etc) for not participating in meetings that we do not consider credible. In the case of the NSMC Language Body Meeting of 31 March – the Tuairisc.ie [media report](#) states “Ní raibh oifig an aire a bhí i gceist, Gordon Lyons, sásta aon mhíniú a thabhairt do Tuairisc.ie ar an gcúis gur tharraing sé siar ón gcruinniú seachas go ndúirt sé féin nach raibh sé ar fáil.” [Translated into English: “*The office of the minister in question, Gordon Lyons, was unwilling to provide Tuairisc.ie with any explanation as to why he withdrew from the meeting other than stating that he was not available.*”] It continues: Ní rabhthas sásta ach oiread aon deimhniú a thabhairt go bhfreastalódh an tAire Lyons ar an gcruinniú nuair a reáchtálfaí arís é. [in English: *Neither was it [the Ministers Office] willing to give any confirmation that Minister Lyons would attend the meeting when it was held again*]

Ní cheapaimid go ngéileann an míniú a thug sé gan freastal ar an chruinniú seo le prionsabal na hoscailteachta, agus níor glacadh an cinneadh ar mhaithe le leas an phobail, ach tharla sé de bhun stráitéise an pháirtí bac a chur ar chomhoibriú thuaidh-theas.

Ceapaimid go gcuireann seo síos go maith ar mhionsonraí an ghearáin.

We consider that this explanation does not comply with the Principle of openness about the reasons for attending the meeting, and was also not a decision taken in the public interest, but rather in pursuance of a party strategy to obstruct north-south cooperation.

We trust this provides sufficient information on the specifics of the complaint. Is mise le meas

Daniel Holder, CAJ Conchúr Ó Muadaigh, CnaG



<sup>i</sup> In relation to the Commissioner having been informed that breaches of the Pledge of Office are outside of the remit, we would query this given the provision in the Ministerial Code of Conduct under s1.5(v) requires Ministers to comply with 'this Code'. It is difficult to see how this could be interpreted narrowly as compliance with the Code of Conduct, not least as same would be tautological, but rather as reference to the broader Ministerial Code. Indeed s1.2 cross references 'this Code' as the broad Ministerial Code provided for by s28A of the NI Act, and s1.3 makes clear the 'Ministerial Code of Conduct is an integral part of the Ministerial Code' and 'is not to be regarded as a substitute for, or an alternative to, the full provisions of the Ministerial Code'.

**Document 2: Interview Transcript Gordon Lyons MLA**

**Interview:** Commissioner Interview with Minister Gordon Lyons MLA

**Date:** 7 July 2021

**Place:** Room 222 Parliament Buildings

**Case:** 202100007

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[00:00:00] **Gordon Lyons:** Is this okay?

[00:00:01] **Melissa McCullough:** Okay. Today is the 7th of July, 2021. We're interviewing Mr. Gordon Lyons. Present, is myself Melissa McCullough, and John Devitt. This is a complaint relating to the Committee on the Administration of Justice and Conradh na Gaeilge. The first thing will be to ask you if you would like to take an oath and which one you would like to take.

[00:00:31] **Gordon:** Okay, yes.

[00:00:32] **Melissa:** Speak it out loud.

[00:00:33] **Gordon:** I'm happy to take the oath.

[00:00:35] **Melissa:** Okay, thank you.

[00:00:37] **Gordon:** I swear by Almighty God that the evidence I shall give shall be the truth, the whole truth, and nothing but the truth.

[00:00:42] **Melissa:** Thank you very much.

[00:00:45] **John Devitt:** The time is 11:03.

[00:00:47] **Melissa:** 11:03. Thank you for coming in today.

[00:00:51] **Gordon:** Yes, no problem.

[00:00:53] **Melissa:** This is a complaint, and there have been a number of issues raised in the press about this I know, but this complaint, in particular, is regarding when you were then the junior minister in non-attendance at the North South Ministerial Committee meeting for languages, sub-committee for languages is it?

[00:01:14] **Gordon:** Yes.

[00:01:15] **Melissa:** Irish language?

[00:01:16] **Gordon:** No, it's [crosstalk]

[00:01:19] **Melissa:** Languages body, the NSMC languages body which was to meet on the 31st of March. Basically, this is a joint complaint with CAJ and Conradh na Gaeilge and that is regarding mainly the seven principles of public life in section 1.5 of the code. They relate to, those seven principles are in section 1.6, they are selfishness and openness. Selflessness, they relate to taking decisions solely in terms of the public interest, and openness being as open as possible about all the decisions and actions that ministers take.

Those are the two grounds for which they're complaining and I'm investigating. There was a question about the pledge of office as you remember and you had to go back and forward, apologies about that. The pledge of office is not covered, but then, the advice I've been given legally is that it is covered within the principles, not a pledge but actually, what they're actually

saying, so it's covered in the principles. That's where we're at, at the moment. Could you explain your reason for non-attendance to us?

**[00:02:30] Gordon:** Well, first of all, I would argue that there wasn't a situation of non-attendance because the meeting date had not been confirmed. I've been to a number of these meetings since I was in office, and whenever we finished a meeting they will say, "The next meeting will take place in summer time 2020," or whatever it might be. So there's no specific date given for the previous meeting to the best of my recollection. It would have come a time then when shortly before a meeting was due to happen, we should have received a request to say that, "Does this suit you? Are you prepared to sign off that you're going to attend to these meetings?"

There have been various different meetings over the course of the year and a half that I was in office. And I remember getting the request as to whether or not, on this particular one, I don't even think I was asked whether the time suited, whether there was an attempt to try and find a time that actually suited accompanying ministers which is what I was because this wasn't a specific subject area for me. I would have been attending as an accompanying minister. There was no agreement found on that. There have been different North South Ministerial meetings that have been tried to arrange. One on transport and one on languages.

I had offered alternative dates certainly for the transport one because I actually specifically remember discussions that were ongoing and one of the reasons why we couldn't do the transport one was because I gave an alternative date and the Green Party minister in the Republic of Ireland wasn't available due to business he had in the Dail. It's simply a matter of trying to find a time that suits or a minister that suits. I think the private office records will show that there was an attempt to see if other ministers could take part instead.

**[00:04:32] Melissa:** You're saying that the legislation which requires you to attend that meeting, might not apply because you didn't really have a date?

**[00:04:40] Gordon:** Well, I think it would be different if it said somewhere in the legislation there is a requirement that the North South ministerial meeting must happen on the third Tuesday of a month or whatever else. Well, that would be different, but it wasn't the case that the meeting was set up and I simply did not attend or I refused to attend. I think they should have been quite misleading in their statement which says that we had a policy of boycotting NSMC meetings. They actually highlight a Belfast Telegraph article. The then deputy leader of the party said, not that we are boycotting meetings, but we won't be doing anything on North South Bodies which implements or reinforces the Northern Ireland protocol. There's a misrepresentation of what our party policy was at that time. It was never the intention, it was never stated, that we were doing a boycott of North South meetings. Some organisations think that that is the case and that is what happened. It wasn't--

**[00:05:37] Melissa:** You think that's what happened? There was a sense that there's a turn of phrase. What you read there in the Telegraph, it is stating that the policy at the time was that you wouldn't attend meetings that promoted--

**[00:05:55] Gordon:** No. We wouldn't be doing anything in those meetings that implemented the protocol. It wasn't about whether we would attend or not. Part of the policy was, we would attend, but we obviously as ministers have control over the agenda and we wouldn't be doing anything that would be at the implementation of the Northern Ireland protocol. Does that make sense?

**[00:06:13] Melissa:** Yes.

[00:06:14] **Gordon:** Okay, good.

[00:06:15] **Melissa:** Is there anything, any proof you could provide us, evidence that there was a sense that you tried to find someone else to attend on your behalf?

[00:06:26] **Gordon:** Yes. I don't have that information on me, but I should be able to get information from the private office that showed that a request went out the other ministers, see if any other ministers would be able to attend. But, I would actually go back to what the seven principles of public life actually states. This is the reason why we are here today. In terms of selflessness, holders of public office should take decisions solely in terms of the public interest. They should not do in order to gain financial or other material benefits for themselves, their family, or their friends. That's what that principle of public life is actually about. It is wrong to suggest in any way that any decision that I have made was from my own personal financial interest. That's what that refers to, completely wrong to say that that was the case.

[00:07:16] **Melissa:** Yes. I have to say that I think even with the MLA code of conduct, what they're doing is broadening it out. I'm not so sure that isn't correct, because this has been so old. It hasn't really defined seven principles since 1995. I think there's a little bit of an extension of this to always act in the public interest, and when there's a doubt between private and public to go with the public interest. I think that's how they're reading it. I can confirm all that.

[00:07:45] **Gordon:** Yes, but there is no private interest in this for me whatsoever.

[00:07:49] **Melissa:** I suppose private in terms of your party's position is what they're saying.

[00:07:53] **Gordon:** Yes, but I would still say that MLA's and ministers of course conduct themselves I think at times in their party interests because that is what they believe is in the public interest. We stand on a party political manifesto. We get elected on that basis. Then we try and implement our policies because we believe that's in the public interest.

[00:08:15] **Melissa:** Yes. I understand what you're saying. I suppose what they're saying is the public interest for them was the idea that their community at large in languages situation would be suffering from some of the non-attendance because of the inability then to make decisions that would impact that community, that they're thinking public interests in that respect. There's two things going on.

In terms of the openness and transparency, there is something that said, and I don't know, this media report here, you may have had it, but basically, they suggest that there was no explanation given when asked, obviously by a media outlet. Did you ever really explain in any other outlet other than this even, why there was no attendance at this language body meetings?

[00:09:13] **Gordon:** This is a media report I'm not familiar with. As far as I can remember, the first time this came in was whenever I saw the complaint. I think when I was still in the private office, I was shown this, but it was as part of this complaint that had come through. I just wonder, are we really going to say that the refusal to respond to a media request, and I don't remember saying at the time, but even if I did at that time, are we saying that unless we respond to every media request and the way in which they want us to respond to media requests, that's a failure to be open. I, as a minister, was before committees. I have question time in the chamber. I can take correspondence. I don't remember this organisation writing to me, but maybe it didn't come across my desk but I would have had no problem. I think there was one occasion I've seen the floor of the assembly where a question was asked around this. It was during first minister's question time and either myself or the first minister had said that these things are always subject to diaries and you have to nominate three ministers. The minister of the Republic, the unionist minister, and the nationalist minister here to coordinate diaries. There are



agendas that need to be looked through. There's significant papers that are going through as well. Sometimes there are appointments to public bodies, other issues that need discussion and sometimes we ask for longer periods of time as well. It doesn't always work out that they happen at the exact time. The most recent one, a plenary session, was postponed-- I think that was due to some of the political turmoil that was going on in my own party at that time as a result of the newly appointed first minister. Sometimes meetings don't happen regularly outside of north-south and east-west meetings. There are meetings that are regularly rearranged or postponed or ministers changed about. It's the nature of this job. In terms of openness, I'm open to answering those questions.

**[00:11:31] Melissa:** Well you can tell us here. What was the reasoning? You're telling us that it was just basically you couldn't make it?

**[00:11:39] Gordon:** I don't remember the particular reason why but I remember at the time saying that yes in terms of diary, there were going to be issues but I think that records will show that I have attempted in the past. In fact there was an attempt at rescheduling of this meeting and I have provided dates that would have been available.

**[00:12:00] Melissa:** Has it been rescheduled?

**[00:12:03] Gordon:** Well I've left office now but.

**[00:12:04] Melissa:** No.

**[00:12:05] Gordon:** The plenary session was meant to take place at the end of June. I think potentially the 28th of June. I remember saying to my private office at that time, let's make sure this is rescheduled before the plenary session so that the sectoral meeting could happen before the plenary sessions. All of that was done.

**[00:12:30] Melissa:** I don't know myself if this language body meeting has actually happened. Has it happened? Not with you. I understand.

**[00:12:41] Gordon:** I'm not sure because I'm out of office.

**[00:12:44] Melissa:** I just didn't know if it actually has happened. I'm not so sure myself I'll have to look that up. You do, you understand why they're complaining? Do you see why they, I'm not asking you to agree with what they're saying, but do you understand the theory behind what they're saying is that, in non-attendance and in the law. In fact, the governance of these North South Ministerial meetings. My understanding is that it's put in place so that this doesn't normally regularly happen. That when it's agreed, it's agreed. I know things happen but there's even legislation that is actually suggesting the way to actually nominate other ministers and how that works. So there's a whole lot put in place to make sure that there aren't a lot of changes in these meetings. I'm wondering what your view is on that because it sounds like you think there are a lot of changes really.

**[00:13:39] Gordon:** I understand that they have a particular interest in this. They want it to take place. I had no objection to facilitating that. I offered alternative dates. In fact, I remember towards the end of May beginning of June when the rescheduling issue came up. I had said, "Let's get this done." I understand the requirement that's there. I understand the need for these meetings to take place. I understand where they're coming from in terms of wanting the meeting to take place, but they state that we're boycotting North South meetings and they put in Belfast Telegraph article which actually says the opposite. There is no boycott that's ongoing about that. There will not be issues and in and around the Northern Ireland protocol where decisions will be implemented.

**[00:14:35] Melissa:** Then does that by extension mean that some of those type of meetings that deal with Irish languages like that one, in particular, would promote-- Does that fall in line with-- What agenda items would not be able to be fulfilled within that?

**[00:14:51] Gordon:** Probably all agenda items should be able to be fulfilled within that.

**[00:14:56] Melissa:** There was no problem with that meeting?

**[00:14:59] Gordon:** No. Because based on our stated policy, no, there wouldn't have been. There probably would always have been an agenda item on the implications of EU exit from the European Union but just discussing that as an issue is not in my view implementation of the protocol. I think I know what you're getting at here, would that have led to me not taking part in that meeting? No, because it wasn't an issue of discussion. There isn't really any protocol implications for that.

**[00:15:28] Melissa:** Really, the reasoning of a diary clash, I'd like to see just the evidence of that because I think that is part of understanding why this didn't happen. I know from the legislation and the duty to participate, is there the power nominated there? Failure to nominate is in Section 52A through it seems. There's a lot of legislation which covers this, which tells me how important these duties are. I was just curious as to whether if the evidence is there, maybe it could have been shared earlier before this meeting, but having not been shared then if you could provide that to us that would be useful.

**[00:16:20] Gordon:** Where does this fall under in terms of the code?

**[00:16:24] Melissa:** If you did, to be open as possible about why you didn't attend, the evidence of why it actually was that you didn't attend, because if you read about the legal background and the information in terms of the legislation, there's all these reasons why you can nominate someone else so that there is no reason to not attend if you can nominate someone else. I know that has to all be agreed and all of those steps along the way. I just would like to have as evidence of why.

**[00:16:53] Gordon:** In what way with that form? For me, on that day, in particular, having just come out of a period as Minister for Agriculture, I needed to set some time aside in order to deal with consistency matters that had been building up. That was the day that was spent in my consistency office dealing with those issues going through paperwork in regards to those and the day-to-day stuff that we pick up so-

**[00:17:23] Melissa:** That is the reason?

**[00:17:25] Gordon:** -that's why I was there.

**[00:17:28] Melissa:** Do you know? I don't know. I'm asking this honestly. Is that normally a reason for canceling North South?

**[00:17:34] Gordon:** The meeting wasn't canceled because the meeting needs to be agreed in the first place.

**[00:17:41] Melissa:** I see. I hear back what you've said at the beginning. When they say that there was non-attendance, it wasn't non-attendance-- [crosstalk]

**[00:17:50] Gordon:** That would be on my argument because my understanding is, and if this isn't something-- I've been to a number of these meetings. I'm not involved in the machinery around the organisation of it all but my private office would have come to me and they'd have said, "You're due to have X meeting at some stage. Here's the date that's been proposed. Are you going to sign this to say that we can start putting this all in motion?" My understanding was that hadn't happened because I was saying, "No, I'm not free. Let's do a different date on

this." For me, I find it unusual that they're saying that a meeting was cancelled because, in my view, it wasn't necessarily arranged in the first place.

**[00:18:35] Melissa:** I just want to check that they're saying it was cancelled. Let me just check that in their original complaint because I know we've had to go back and forth a few times. And [unintelligible] 'with reference to you not participating in the meeting which had been scheduled which breached the Ministerial Code'. They claim it had been scheduled for the 31st of March with the attendance of two NI ministers as well as Minister of State, Jack Chambers, Deidre Hargey, and yourself were nominated. Reportedly, Junior Minister Gordon Lyons declined to attend the meeting resulting in its cancellation. Is that an accurate reflection?

**[00:19:19] Gordon:** I would need to check. My understanding of it is that it was not agreed to. It becomes official once I consent to my participation in it because the First and Deputy First Minister would have nominated me but my understanding is that it would have required me to sign off and then once that was signed off, everything was put into motion.

**[00:19:44] Melissa:** We need to just--

**[00:19:46] Gordon:** This is to the best of my recollection but--

**[00:19:50] Melissa:** I can check this out-

**[00:19:51] Gordon:** Good.

**[00:19:51] Melissa:** -with people too but if you want to supply us with any information that is further to what you're saying as evidence then that would be helpful. Of course, I will also look into this but that first April 16th, the very first complaint, which basically states you are nominated to attend the meeting and that you declined to attend the meeting resulting in its cancellation. I just would like confirmation on that from you, and I can also look into that as well on this end, but that is key here, I would say because it seems to be, you don't really agree with what they're suggesting there, and so we can take a look at that.

**[00:20:38] Gordon:** I can check that out. Again, it comes back to not the wider issue of attendance or not because there is a requirement for me to participate. I get that. But I don't agree, that's not my recollection that I'd signed up to it, so that the process could be perfect so that it actually happened, but in terms of my openness about it, I hope that I have been open on that and explained that alternative dates would have been, okay, and in terms of selflessness, it wasn't done for personal interest.

**[00:21:23] Melissa:** That actually is helpful, what you've said today, and I think that still leaves some questions.

**[00:21:28] Gordon:** Yes, I can understand that. Look, it is a bit of a complicated process because when do you say that a meeting is actually taking place? Because if there's no agenda agreed, the meeting can't take place. The agenda needs to be agreed beforehand. If there is no-- there needs to be the member that's the minister that's attending needs to sign off on their attendance and confirm that the date is right.

They're then made before that, have been a provisional date that had been put in, or floated, but that doesn't necessarily mean that the meeting was always going to happen.

**[00:22:02] Melissa:** Was this date 31st of March, put in your diary?

**[00:22:06] Gordon:** I don't know.

**[00:22:07] Melissa:** Now we need to get a copy of that.

**[00:22:09] Gordon:** Because I don't have access to that, but I can--

**[00:22:12] Melissa:** Who is the person who would have access to that, I know you're no longer in that office, so who is the person I would contact, do you know?

[00:22:19] **Gordon:** The best person to probably speak to would be Kevin Kerr?

[00:22:21] **Melissa:** Yes.

[00:22:22] **Gordon:** You know Kevin?

[00:22:23] **Melissa:** Yes, I do. I will contact him, at least we'll have information.

[00:22:28] **Gordon:** I'll speak to him as well to get some sort of a timeline as well if that's helpful.

[00:22:34] **Melissa:** That would be very helpful because it's all forming a part of the story yes.

[00:22:36] **Gordon:** It's part of the wider background for you. I don't believe that it is relevant to the complaint that is actually here in terms of specifically what I may have breached within the code.

[00:22:49] **Melissa:** You see, this is also under debate. This one bit, and it's a big bit because the debate is, does five of the ministerial code of conduct, and that is, I'll just tell you, debatable by both myself and, because I was questioning number five out of the nine, says, "Comply with this Code and with rules relating to these public funds" That comply with this code, arguably means including the pledge of office.

[00:23:24] **Gordon:** You know where I'm going?

[00:23:24] **Melissa:** Yes, and I understand they believe why that's even there and that it likely does not, but in the event that it should include the pledge, we then are back to attending the exact of-- is it c? Yes, cb, under the pledge of office to participate fully in the Executive Committee, North South Ministerial Council, and the British-Irish Council.

Now, if in fact, it does include, if five relates into this, which it doesn't, actually I'm not so sure it does, then that's a totally different thing. That is actually defacto breach, but if we're saying that it's based on these standards in public life, the question of to me, openness, transparency, acting in the public interest can all be debatable, and that is the truth of it. All the evidence that I can collect [unintelligible] will give me any written document. If you want to supply a statement in support of that, to expand on what we talked about today, this is where the principles are a little bit more debatable.

[00:24:37] **Gordon:** The other issue, I would say that even if you would say that section five of the ministerial code 1.5(v), says comply with this code, I think this code means they put ministerial code of conduct, in fact. Let's say that it actually refers to the entirety of the code and it refers to 1.4 as well. There is no doubt whatsoever in my view that I have upheld 1.4. Because all 1.4 requires me to do is to take the pledge, which I have taken.

[00:25:14] **Melissa:** From the time that you started office.

[00:25:14] **Gordon:** 1.4 says you have to affirm the pledge. That's the pledge that I have made.

[00:25:25] **Melissa:** That's why I think the legal advice so far, and people can disagree legally on this, is that it does not include the pledge of office. That's my understanding.

[00:25:34] **Gordon:** I don't even believe 1.5(v) refers to the overall document. But if it did refer to the overall document, I still see the requirement on me to affirm the terms of the following pledge of office. Which is undeniable that I have done because it's on the record in the chamber when I took office that I did affirm the pledge of office. Don't get me wrong. I think we entirely need to fulfill this pledge and we need to act in this way because we've confirmed we will do it. It's quite clear in my view that the requirement is to affirm the pledge. Because come of these are quite subjective.

[00:26:17] **Melissa:** This code is very wide, by the way. This code is extremely wide compared to as you know the MLA Code of Conduct. 'To be quite clear, I was even querying myself. Not

that they don't seem to mention six, but operating in a way to promote a good community relations in respect of this particular, they're not mentioning that, but that's one of the--

**[00:26:38] Gordon:** I take it, you have to work under the complaint that has been submitted to you.

**[00:26:44] Melissa:** I can't say much more about-- I'm only talking of this complaint. That's why six is not in operation. When you actually look at some of these, there it's debatable, which can be-- They have focused solely on section-- They reconsider the duty under section 1.5 to comply with this code'. Now, we've talked about that. Really, we're talking about, secondly, their complaint relates to other provisions, which are really talking about the seven principles of public life, and that's where we've focused on today. The public interest and the openness, reasons for your decisions when asked, and things. There is something there, that's why we're discussing this today. I think if we can get further information, I'd be really appreciative of it. I'll look on the other end and try to figure out other things at the same time.

I'm struck, to be quite honest, at the legal requirements that are set out for these meetings. I would never have looked into them myself. They are pretty strongly worded, and pretty robust in terms of what the requirements are for these certain meetings. Understanding all of that. Of course, any decision I make would be under the advice of a legal person externally. It won't be as if that would be considered either. I'm hoping this would be robust and fair decision, whatever way it comes out, but I would really appreciate any and all evidence you can provide me because I want a full account.

**[00:28:23] Gordon:** I think I still do have some ability still legally to request information from my time in the department. I will find out in regards to this meeting. I haven't done that before today. This was done on the best of my recollection at that time, but I might as well be able to give you a little bit more detail about how the process works internally within the private office as well so we can get that agreed.

**[00:28:52] Melissa:** I can ask for any documentation I'd like to compare. I don't want sweating over if you can't get it, because I will be able to get it at the commission. Don't worry about it. You just provide me with those sorts of things that you think would be helpful to answer this, because I think it's an important case. It's an important case in terms of moving forward because it might not be the only case regarding these things.

**[00:29:18] Gordon:** I won't argue. I'm aware of that. I hope that we don't get to the point where-- There needs to be freedom within minister's diaries to organise these meetings at times that suit.

**[00:29:38] Melissa:** Actually, one has to [unintelligible] that the laws follow, right?

**[00:29:43] Gordon:** Oh yes, absolutely.

**[00:29:44] Melissa:** That's what I'm talking about. I think that's really what it's about.

Principles that follow on from that legal side of things, the principles of making sure it's in the public interest. If everything is followed, I'm speaking off the top of my head here, but my first gut reaction is, did it follow the legal side of things in terms of when it was set up, why was non-attendance? When you say that there was other things you had to do, is that a reason for non-attendance? Is that an applicable reason? Is there a list of reasons you can give? I don't know.

**[00:30:21] Gordon:** I know because I don't think that there is. I don't know it says specific anywhere you need to go.

**[00:30:26] Melissa:** It seems so heavily written down in this ministerial code and in the law. I've wondered, I'm surprised they don't say, "What is a valid reason for non-attendance?" If they seem to say that you need to appoint someone else if you're not attending. It seems to be a pretty strong preference towards attendance, right?

**[00:30:49] Gordon:** Oh yes, absolutely. That's why when the rescheduling tried to happen, I had given dates specifically to recognise that there's going to be a plenary meeting, so let's get that done before then. There was another meeting, a transport sectoral meeting. I hope there's that evidence to go back and forward to show. There should be because when I tried to rearrange another date, they came back and said that the transport minister in the South had business in the door. Obviously, they're going to be keeping record of that as well.

**[00:31:32] Melissa:** Again, at some point though, there possibly is a record that everybody-- Are you aware if everybody agreed on the 31st and you just had to change that? That's not the case?

**[00:31:43] Gordon:** No, I don't think that is the case. I certainly do not remember signing off on anything that said yes at the time for this to go through.

**[00:31:49] Melissa:** We'll get to the bottom of it so that we can figure this all out.

**[00:31:54] Gordon:** **[unintelligible 00:31:54]** find that out. I'll very strongly and robustly defend myself in terms of the two charges that are actually applicable here. Which in terms of selflessness I'll robustly defend any attempt by anyone to say there was any personal or private interest. Which is exactly what that first principle is in relation to. In terms of openness, we cannot allow ourselves to get into a situation where if one news outlet doesn't get a response or get an adequate response, that a minister can be accused of not being open about decisions that have been made. If this actually even falls into the category of a decision, if timings fall on those two. I don't believe that there is any merit in the decision to bring a complaint.

**[00:32:50] Melissa:** I think it'd be important to just get all the evidence in right now, and let's take it from there. I think that's the best way forward at the minute. If you want to just submit it to myself, that'd be great. John do you have any questions?

**[00:33:03] John:** No, I think it was very useful, precise, and very informative. I suppose, from my perspective to recap and confirm to you if I've understood exactly what you've said, you're non-attendance is purely based on the fact that as far as you're concerned, there was no specific date set. Is that correct?

**[00:33:21] Gordon:** There was no agenda agreed as far as I know, and there was no date that was agreed by-- I don't agree the date but the first minister and the deputy first minister would've agreed the date. That would be my understanding.

**[00:33:34] John:** Would it be your practice to provide alternative dates that maybe suit, as you say, it's not set to stone because it might suit somebody else, but doesn't suit other people.

**[00:33:45] Gordon:** I remember on a couple of occasions on the transport meeting and the languages one, providing alternative dates. In fact, I thought I was very generous on the latest language one, because I understood that the plenary meeting was to take place whenever it was in June, and thought it would've been appropriate that I would've done beforehand. I was able to say, "I'm able to do day A, B, or C." I was prepared to make myself very flexible because I understood that the plenary was coming up and it's always good to have these sectoral meetings done before the plenary.

**[00:34:22] John:** Just to clarify those facts, because as you say, it's quite ambiguous as to who sets the date, and the date has to be agreed by all parties. As far as you're concerned, you don't recall signing off anything.

**[00:34:33] Gordon:** No. That's the issue with these. Yes, it is quite heavily prescribed because who goes and the process for doing so, and everything else. If it said that every meeting needs to take place on X month or whatever else, then there would be a requirement on us to find the time. There isn't that in there.

**[00:35:02] John:** There's certainly from your perspective, no deliberate intent for you not to attend for any other reason.

**[00:35:10] Gordon:** I have stated that our party policy at that time was that we wouldn't be implementing anything within North South meetings in relation to the protocol. We don't think that was going to be appropriate but we've been on the record and said there was no boycott of attendance as a result of this meeting.

**[00:35:30] John:** That's very helpful. Thank you.

**[00:35:31] Gordon:** Good.

**[00:35:31] Melissa:** Thank you so much. Gordon, I am actually going to have this transcribed. Will be sending it to you. Just to check through it for any inaccuracy, but if there's something substantial, then we'd need to make another meeting and do another just for you to check through. At that stage, you can take it from there with any other evidence you provide us and we'll likely take it from there and say, the summer will be quite slow in anything happening because I'm not here as much and the assembly's slowing down, but hopefully this won't be overextended. I'm trying to do everything pretty expeditiously because people are always waiting on complaints being finished and finalised. Won't be any undue delays to things, but I would appreciate any of that evidence that you give as soon as you have it.

**[00:36:20] Gordon:** That's fine.

**[00:36:22] Melissa:** Thank you so much. The time is now 11:40.

**[00:36:28] [END OF AUDIO]**

**Document 3: Request to TEO for information**

**From:** McCullough, Melissa Dr

**Sent:** 07 July 2021 16:36

**To:** [REDACTED]@executiveoffice-ni.gov.uk> **Subject:** Confidential information request

Dear Neill

Hope you are keeping well.

I am writing to request the following information and hope you can either provide this to me or point me in the right direction.

1. Confirmation via evidence in diaries or otherwise of if/when the date of the North South
2. Ministerial Council Languages Body meeting on 31<sup>st</sup> March was confirmed in Minister's diaries.
3. Confirmation of when (if this meeting was a confirmed meeting), it was then cancelled.
4. Evidence relating to why the meeting was cancelled (if indeed it was cancelled).
5. Any other evidence in relation to that meeting that would provide information as to its original conception to its cancellation.

Happy to discuss if you feel that would be helpful.

Kind regards

Melissa



**DR MELISSA MCCULLOUGH**

*Commissioner for Standards*

work: 02890521220  
[REDACTED]



**Document 4: TEO response**



Head of Executive & Central Advisory Division  
Room SD.13  
Stormont Castle  
BELFAST  
BT4 3TT

TEL: [REDACTED]  
[REDACTED]

Dr Melissa McCullough  
Assembly Commissioner on Standards  
Northern Ireland assembly  
Parliament Buildings  
Stormont  
Ballymiscaw  
BELFAST BT4 3XX

Your reference: 202100007

15 November 20212

Dear Commissioner

**COMPLAINTS AGAINST THE FORMER JUNIOR MINISTER GORDON LYONS**

I refer to previous correspondence regarding complaints against the former Junior Minister Gordon Lyons MLA and your requests for information concerning the North South Ministerial Council Languages Body meeting on 31 March 2021. I have set out below the information relevant to each part of the request.

- 1. Confirmation via evidence in diaries or otherwise of if/when the date of the North South Ministerial Council Languages Body meeting on 31<sup>st</sup> March was confirmed in Minister's diaries.**

By e-mail of 21 January 2021, Ruth Galwey, NSMC Secretariat, sought confirmation from Kevin Kerr, Private Secretary to Junior Minister Lyons of

potential dates in late March 2021 for an NSMC Language Body Sectoral. Ruth Galwey by email to Kevin Kerr of 27 January subsequently confirmed 31 March 2021 as the date of the meeting. Stephanie Reynor, Diary Secretary to Junior Minister Lyons by e-mail of 27 January 2021 to Ruth Galwey confirmed the date and that it had been logged in his diary. Junior Minister Lyons was appointed Minister of Agriculture, Environment and Rural Affairs on 2 February 2021.

**2. Confirmation of when (if this meeting was a confirmed meeting), it was then cancelled.**

The meeting was not cancelled but convened and was unable to proceed on the day due to the absence of an Accompanying Minister

**3. Evidence relating to why the meeting was cancelled (if indeed it was cancelled).**

As for (2) above.

**4. Any other evidence in relation to that meeting that would provide information as to its original conception to its cancellation.**

Mr Lyons returned to the Executive Office as Junior Minister on 8 March. The NSMC Secretariat sought confirmation on 10 March that the date of 31 March scheduled for the Languages sectoral meeting was suitable for him.

On 23 March the Private Secretary to Junior Minister Lyons advised the (Northern Ireland Executive) Joint Secretary to the NSMC that Junior Minister Lyons was not available on 31 March to attend the meeting as Accompanying Minister.

On 26 March the Joint Secretary made a submission to Ministers requesting them, in the light of the Junior Minister's non-availability, to nominate a Minister (or Junior Minister) to attend the NSMC language sectoral meeting as "Accompanying Minister". On 29 March, the Private Secretary to Junior Minister Lyons wrote to the Private Secretaries of all Ministers designated Unionist to ask if they were available to attend the meeting in that capacity. No Minister was available.

No joint agreement was reached between the First Minister and deputy First Minister on the former's proposal to postpone the meeting because of the absence of an Accompanying Minister, and it accordingly convened on 31 March. In the absence of an Accompanying Minister, the requirement for cross-community participation at meetings of the NSMC was not fulfilled. The meeting could not therefore proceed and was postponed to a date to be arranged.

Please let me know if you require any further information or should you require copies of the emails or other material referred to at sections (1) and (4) above.

Yours sincerely

A solid black rectangular box used to redact the signature of Neill Jackson.

**NEILL JACKSON**  
**EXT: 88149**

**Document 5: Letter to Deirdre Hargey MLA requesting information**



**Commissioner for Standards**  
222 Parliament Buildings  
Ballymiskaw  
Stormont  
Belfast  
BT4 3XX

Tel: 028 9052 1220  
Email: standardscommissioner  
@niassembly.gov.uk

**Minister Deirdre Hargey MLA**  
**Private Office**

8 March 2022

**Notice to Produce Documents**

**Case ID: 202100026/00007**

Dear Minister Hargey

I believe you may have information that could assist me in relation to an ongoing investigation relating to Ministerial non-attendance at NSMC and in particular, Language Body meetings. Under the statutory powers I have under section 28(b) of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011, I hereby require you to produce to me on or before 24<sup>th</sup> March 2022, the following information and/or documentation relating to my investigation.

1. Any and all documents within your custody or under your control as Minister, relating to attendance at NSMC meetings on 31<sup>st</sup> March 2021 (Language Body) and 1<sup>st</sup> October 2021 (Language Body).
2. Answers to the following:
  1. Did you consider the 31<sup>st</sup> March meeting to be a 'scheduled' meeting? Why or why not?
  2. Did you consider the 31<sup>st</sup> March meeting to be a 'confirmed' meeting? Why or why not?

3. Did you consider the 1<sup>st</sup> October meeting to be a 'scheduled' meeting? Why or why not?
4. Did you consider the 1<sup>st</sup> October meeting to be a 'confirmed' meeting? Why or why not?
5. Did other participants consider this to be a scheduled and/or confirmed meeting?
6. How many participants, if any, were convened for each of the meetings prior to postponement?
7. Was there an agreed agenda?
8. Did then Junior Minister Lyons (31<sup>st</sup> March) and current Minister Lyons (1<sup>st</sup> October) provide any further details to you and/or the other participants in relation to his non-attendance at either of these meetings?
9. Were attempts made by you or any other person to reschedule the meeting? If so, please explain.

The following categories of documents are specified without prejudice to the generality of paragraph 1:

3. Any and all documents prepared for and provided to Ministers which touch upon or relate to arrangements for, or attendance at, NSMC meetings in any way.
4. Any and all documents relating to meetings at which arrangements for, or attendance at, NSMC meetings was discussed or considered, whether or not the meeting also involved any third party.
5. Any and all handwritten file notes which touch upon or relate to arrangements for, or attendance at, NSMC meetings in any way.
6. Any and all documents (if any) relating to meetings, correspondence or communications with relevant bodies in the Republic of Ireland/the United Kingdom etc related to arrangements for, or attendance at, NSMC meetings.
7. Any other documents within your custody or control, including emails, letters, notes, minutes, memoranda, file notes, diary entries or otherwise, whether in electronic or hard copy, which might be relevant to the investigation of this complaint (see note below).

**NOTE:**

The word "document" means information recorded in any form. This will include, for instance, correspondence, handwritten or typed notes, diary entries and minutes and memoranda. It will also include electronic documents such as emails, text communications and recordings. In turn, this will also include relevant email and text communications sent to or from personal email accounts or telephone numbers, as well as those sent from official or business accounts or numbers.

A thing is under a person's control if it is in his or her possession or if he or she has a right to possession of it.

If you have any questions, please do not hesitate to get in touch.

Yours sincerely

A black rectangular box redacting the signature of Dr Melissa McCullough.

**Dr Melissa McCullough**  
**Northern Ireland Assembly Commissioner for Standards**

Document 6: Deirdre Hargey MLA response to request for information



**From: The Minister**

**Level 9**

**Causeway Exchange 1-7 Bedford Street Belfast**

**BT2 7EG**

Our ref: CORR 0336 2022 Your ref: 202100026/00007 Date: 24 March 2022

Dr Melissa McCullough Commissioner for Standards

Room 222 Parliament Buildings

Ballymiscaw

Stormont

Belfast

BT4 3XX

Via email: [standardscommissioner@niassembly.gov.uk](mailto:standardscommissioner@niassembly.gov.uk)

Melissa a chara,

**NOTICE TO PRODUCE DOCUMENTS**

Thank you for your letter of 8 March 2022 regarding information that might assist you in relation to an ongoing investigation relating to Ministerial non-attendance at NSMC and in particular, Language Body meetings. For ease of reference, I will respond to each of your requests in turn.

Please note there was a third proposed meeting within the timeframe you are investigating, scheduled for 2 June 2021. Documentation in respect of this has been included. Please also note in respect of the meeting that had been scheduled for 1 October 2022, my officials and I were given to understand that junior Minister Middleton was the anticipated attendee and not Minister Lyons.

**1. Any and all documents within your custody or under your control as Minister, relating to attendance at NSMC meetings on 31st March 2021 (Language Body) and 1st October 2021 (Language Body).**

My officials have compiled all related documentation and it is attached in the table at Annex A.

**2. Answers to the following:**

**1. Did you consider the 31<sup>st</sup> March meeting to be a 'scheduled' meeting? Why or why not?**

Yes. On 21 January 2021, The NSMC Joint Secretariat (JS) wrote to DfC Private Office (PO) to inform them that the JS had agreed a Language Body Sectoral meeting for late March 2021. The correspondence included a request for PO to hold several potential dates for a meeting, including 31 March 2021. On 24 January 2021, my PO officials informed the JS that the 24 or 31 of March was preferable and that I would be available for alternative dates if required.

**2. Did you consider the 31<sup>st</sup> March meeting to be a 'confirmed' meeting? Why or why not?**

Yes. On 27 January 2021 the JS wrote to my PO to confirm that the 31 March 2021 at 11.00am had been secured for the Language Body Sectoral meeting and that all other diary holds could be removed. On 10 February 2021 PO commissioned briefing for the meeting, as it had been confirmed by the JS.

**3. Did you consider the 1<sup>st</sup> October meeting to be a 'scheduled' meeting? Why or why not?**

Yes. On 12 August 2021, the NSMC JS wrote to the Sponsor Branch to confirm that PO had offered 24 September 2021 as the preferred date and that they were awaiting confirmation from Minister Chambers and Minister Middleton. On 17 August 2021 the NSMC JS asked Officials in the Sponsor Branch to commission draft papers for a proposed Language Body Sectoral Meeting planned for late September. On 09 September 2021 The NSMC JS informed Sponsor Branch Officials that a NSMC Language Body Sectoral meeting had been provisionally planned for 1 October 2021.

**4. Did you consider the 1<sup>st</sup> October meeting to be a 'confirmed' meeting? Why or why not?**

Yes. On 30 September 2021, The NSMC JS wrote to PO to advise that the NSMC Language Body meeting, which had been planned to take place in person, was to take place virtually. Joining instructions and Zoom details were included in the email. At 11.00am on 1 October 2021 I used the Zoom details to join the meeting.

**5. Did other participants consider this to be a scheduled and/or confirmed meeting?**



Yes. In respect of each of the meetings scheduled for 31 March 2021, 2 June 2021 and 1 October 2021, it is my understanding that officials in my Department, the two North South Language Bodies, the Joint Secretariat, the

**6. How many participants, if any, were convened for each of the meetings prior to postponement?**

Minister of State for Sport and the Gaeltacht and his officials considered these to be scheduled and confirmed meetings that were anticipated to progress until notification of the failure to agree a supporting Minister was given. In respect of the meeting of 1 October, at least 12 participants were convened in the Zoom meeting room prior to postponement.

**7. Was there an agreed agenda?**

Agendas form part of the papers which are required to be approved by First and deputy First Minister.

**8. Did then Junior Minister Lyons (31st March) and current Minister Lyons (1st October) provide any further details to you and/or the other participants in relation to his non-attendance at either of these meetings?**

In respect of the meetings of 31 March, 2 June the Joint Secretariat was advised by junior Minister Lyons' office that he had become unavailable, and alternative diary dates were sought with his office on both these occasions. In respect of the meeting of 1 October, junior Minister Middleton's office advised he was no longer available.

**9. Were attempts made by you or any other person to reschedule the meeting? If so, please explain.**

As you will note from the correspondence, all attempts to reschedule the meetings were facilitated by my office and alternative Ministers were sought as a preference to cancelling/ postponing meetings.

If you require any further information please do not hesitate to contact my office. Is mise le meas,

**Deirdre Hargey MLA Minister for Communities**

**Document 7: Letter and Notice to DUP requesting DUP's 2 February 2021 five-point plan**



**Commissioner for Standards**

222 Parliament Buildings  
Ballymiskaw  
Stormont  
Belfast  
BT4 3XX

Tel: 028 9052 1220  
Email: standardscommissioner  
@niassembly.gov.uk

Mr Timothy Johnston  
Chief Executive, DUP  
[REDACTED]

20 September 2022

**Case ID: 202100007**

Dear Mr Johnston

I am writing to request a document, the DUP's February 2021 5-point plan announced by then FM Arlene Foster. I realise my PA, Elizabeth McKenna, has requested this on my behalf and has yet to receive it. I am hoping you will provide this as soon as possible.

Yours sincerely

[REDACTED]

**Dr Melissa McCullough**  
**Northern Ireland Assembly Commissioner for Standards**



**Commissioner for Standards**

222 Parliament Buildings  
Ballymiscaw  
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**Notice to Produce Documents**  
**Case ID: 202100007**

Mr Timothy Johnston  
Chief Executive, DUP

[REDACTED]

13 October 2022

Further to my letter of 20 September 2022, in the exercise of the statutory powers I have under section 28(b) of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011, I hereby require you to produce to me within 21 days from the date of this Notice (on or before 3<sup>rd</sup> November 2022), the following documents relating to my investigation of the above complaint.

1. The DUP Five Point Plan of February 2021 that was announced by then FM Arlene Foster.

Please be in touch should you have any questions.

Yours sincerely

[REDACTED]

**Dr Melissa McCullough**  
**Northern Ireland Assembly Commissioner for Standards**

## Document 8: DUP Five-point Plan 2 February 2021

2/2/21

## Statement

## Democratic Unionist Party

The decision by the European Union on Friday evening to announce its intention to trigger Article 16, and then its subsequent announcement that while not deploying this mechanism, that it reserved the right to use all instruments at its disposal for the future, was both revealing and a very significant game-changer for those who have opposed the Protocol from its inception.

By announcing its intention to override elements of the Protocol the EU has demonstrated a number of things for all to see, and particularly for people in Northern Ireland.

1. That the Protocol can be changed and either party to it can make immediate changes without prior consultation with the other. Such behaviour without regard to the very rules it had signed up to further undermined the EU's previous vacuous arguments.
2. Confirmed the notion that the EU Commission will, without hesitation, act to suit its own interests.
3. Lowered the threshold of how the mechanism can be used, particularly as in our view it is designed to alleviate Northern Ireland consequences defined as "serious economic, societal or environmental difficulties that are liable to persist, or to diversion of trade, the Union or the United Kingdom may unilaterally take appropriate safeguard measures".
4. Revealed that the Northern Ireland arguments advanced by the EU were not borne out of principle but rather political opportunism.

The revealing actions on Friday by the EU have caused very significant anger and harm within Northern Ireland and has compounded the notion that the EU is playing fast and loose with Northern Ireland, attempting on the one hand to require the UK Government to enforce its obligations whilst being prepared to waive elements of the Protocol when it suits the needs of the EU. This is unsustainable. It is evident that the EU's priority is not protecting the Belfast Agreement but is entirely about protecting its own single market.

Northern Ireland is already suffering real economic and societal difficulties as a consequence of the first month of the Protocol.

The Democratic Unionist Party opposed the Protocol in Parliament and when its votes mattered on the floor of the House of Commons prevented the passage of the Withdrawal Agreement, containing the Protocol. As Unionists we find the

imposition of this Protocol and its outworkings offensive and running contrary to everything we stand for. No sovereign country should have barriers to trade and customs arrangements placed within it. When others were campaigning for a backstop we strongly warned of the dangers.

From the Protocol came into force on 1<sup>st</sup> January 2021 our Ministers, MLAs and Members of the Commons and Lords have worked to highlight the problems and barriers imposed by the Protocol.

Since Friday evening's EU threats we have been in contact with the UK Government from the Prime Minister, to the Secretary of State for Northern Ireland and the Chancellor of the Duchy of Lancaster Michael Gove. At a meeting with the NI Secretary of State and senior officials from Downing Street yesterday afternoon we made it clear that the UK Government has an *obligation* to defend Northern Ireland's place within the UK internal market which is being severely undermined by the growing barriers and impediments to trade in the Irish Sea.

We have indicated to the Government that both the actions of the EU on Friday and the damage being inflicted on our East-West links within the United Kingdom cannot be sustained if Northern Ireland's political and economic links to the rest of the United Kingdom are to be maintained and respected in all their parts. The Protocol has upset the balance of relationships flowing from the Belfast Agreement that many others claimed were unalterable.

The Government needs to be bold and be prepared to act to bring about outcomes that underpin Northern Ireland's full place in the most important internal market for us – that of the United Kingdom. **The Prime Minister must now directly address the people of Northern Ireland on the growing crisis arising from the Protocol.**

For our part, the Democratic Unionist Party has been working to minimise disruption caused by something we opposed while pressing for more radical steps to be taken to negate it completely.

**In response** to the approach adopted by the EU and welcoming the total opposition by all NI Unionist representatives in both the Assembly and Westminster to the Protocol **the DUP will pursue the following:** -

- We will work with other Unionists to send a united message to our Government, to the European Commission and the Dublin Government that Northern Ireland must be freed from the Protocol and its problems.
- The Protocol was passed by the Westminster Parliament and not at Stormont. Our elected representatives in the Northern Ireland Assembly, while careful

not to act in a way that would harm the people of Northern Ireland at this time of public health and economic crisis, will actively oppose at every opportunity any negative measures, laws or bills that continue to flow from the Protocol and which undermine Northern Ireland's place in the UK internal market. We will work in common purpose with all those other MLAs who are prepared to support us. Collectively unionism can make a difference.

- Our Ministers, Members of the Commons and the Lords will actively work to press the Government and hold it to account in support of Northern Ireland's place in the internal UK market as well as building support to free us from the Protocol and its problems.
- We have launched an online petition calling on the UK Government to use all powers at its disposal to immediately remove any barriers to unfettered trade within the United Kingdom. We are asking all citizens concerned about these issues to show the Government the strength of feeling by signing the Trigger Article 16 – We want unfettered GB-NI Trade online petition at [petition.parliament.uk](https://petition.parliament.uk)
- We have indicated to our own Government that they now need to act but as the largest unionist party at Stormont we also intend to send a strong signal to the Government of the Republic of Ireland that North-South relationships are also impacted by the implementation of a Protocol which they supported. Our members cannot and will not continue to act as though relationships are normal.

Progress in Northern Ireland was hard won and in recent times it was a well-established principle that in order to respect the delicate community balance within Northern Ireland no governance arrangements could advance unless they had the support of **both** unionists and nationalists as to do otherwise would result in failure and greater division.

It is now the solemn responsibility of all those in leadership but, particularly the UK Government, to move quickly to bring about solutions caused by a Protocol that is without any unionist support whatsoever.

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**Document 9: Letter to Gordon Lyons MLA requesting information**



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

**Minister Gordon Lyons MLA**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Notice to Produce Information/Documentation**

**Case ID: 202100007**

8 March 2022

Dear Minister Lyons

As I mentioned when we last met, having received the documentary evidence in December 2021 via the Executive Office, I am now writing to request further information and clarification from you.

Under the statutory powers I have under section 28(b) of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011, I hereby require you to produce to me on or before 24<sup>th</sup> March 2022, the following information and/or documentation relating to my investigation of the above complaint against you.

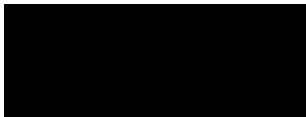
1. As the NSMC meeting on 31<sup>st</sup> March 2021 was to be held virtually, why could you not have taken time out from constituency work that day to conduct the meeting from your constituency office?

2. Is there any corroborating evidence to support your contention that this is how you spent your day, either from your private office diary or your constituency office diary or some other form of documentary or witness evidence?
3. Why was it necessary to do the constituency work that day when it would give rise to the diary clash with the important NSMC meeting?
4. Why did it take from 10<sup>th</sup> March to 23<sup>rd</sup> March for the non-availability to be set out?
5. Was there any contemporaneous explanation or detail offered in any setting (including to the other participants) as to the reason for non-availability?
6. Did you provide any further details to the other participants, including the Minister for Communities?
7. At your interview, you stated that it was not a matter of non-attendance as the meeting had not been confirmed. However, in the email trail received from the Executive Office (attached), it appears to say that the meeting was confirmed. Can you please explain this discrepancy?
8. You suggested at your interview that subsequent to the failed meeting, you offered dates to facilitate its being rearranged. Is there any relevant documentary proof of that?

Please be in touch should you have any questions.

Yours sincerely

**Dr Melissa McCullough**  
**Northern Ireland Assembly Commissioner for Standards**



**PRIVATE AND CONFIDENTIAL**



**Document 10: G Lyons MLA response to letter requesting information**

23/03/2022

From G Lyons, DfE Minister

Dear Commissioner

Thank you for your email. I will answer your questions in order.

1. There was no meeting confirmed for 31<sup>st</sup> March. Meetings are not confirmed until attendance is confirmed by attendees, agendas are agreed by participants and FM and dFM agree that the meeting takes place.
2. I do not record in my diary when I am in my constituency office. I do not have access to the private office diary, but I believe it would show I had no other ministerial business that day. My constituency office staff would have been present in the office on the day in question. I doubt they would recollect a year later where I was on a particular day.
3. I do not believe there was a clash, as the meeting, was not confirmed.
4. I have no recollection of when the non-availability was communicated or reasons for the timing of replies.
5. It would have been a matter for the private office to let the NSMC secretariat know availability.
6. No. As far as I am aware, meetings are organised via NSMC secretariat, not between private offices.
7. In the other email chain you sent to me, Ruth Galway asks if I am content that the meeting proceeds. It is therefore clear from that email that the meeting is not confirmed.
8. I had a conversation with a SpAd about dates for rescheduling in mid-April. My understanding is that Spad spoke with Tim Losty of the NSMC and dates were discussed. I had offered some but they didn't suit the ROI minister, who had business in the Dail. Tim Losty may have more information on this.

I hope this information is helpful to you.

Gordon

**Document 11: Email 21 January 2021**

**From:** TEO NSMC Admin  
**Sent:** 21 January 2021 15:21  
**To:** [REDACTED]@executiveoffice-ni.gov.uk>; TEO PS Ministers  
<[REDACTED]@executiveoffice-ni.gov.uk>  
**Cc:** [REDACTED]@executiveoffice-ni.gov.uk>  
**Subject:** NSMC Language Body meeting Spring 2021

Kevin

At the NSMC Plenary meeting on 18 December Ministers agreed a schedule of meetings for the spring.

I am now in the process of arranging the Language Body Sectoral meeting which the Council agreed for late March.

Junior Minister Lyons is the Executive accompanying Minister in this sector. Minister Hargey will host the meeting.

We are planning on the basis that this meeting will be virtual but should public health advice change regarding meetings we will consider an 'in person' meeting in Armagh. You should take this into consideration in your diary planning.

Can you please let me know if your Minister would be available on 24, 26 or 31 March to host a Language Sectoral meeting in the morning or afternoon. Can you please hold any available dates in his diary until we can decide which suits all relevant Ministers.

Minister Hargey has indicated that she is available on all dates but the 26<sup>th</sup> or 31<sup>st</sup> would work best for her.

I would be grateful if you could confirm availability and the Ministers preferred date/time by 28 January 2021 to [nsmc.admin@executiveoffice-ni.gov.uk](mailto:nsmc.admin@executiveoffice-ni.gov.uk)

Many thanks Ruth

[REDACTED]

**North/South Ministerial Council Joint Secretariat**  
58 Upper English Street  
Armagh

BT61 7LG

**Document 12: Emails 27 January**

**From:** [REDACTED]  
**Sent:** Wed, 27 Jan 2021 11:03:35 +0000  
**To:** TEO NSMC Admin  
**Cc:** TEO PS Ministers; [REDACTED]  
**Subject:** FW: NSMC Language Body meeting Spring 2021

Hi Ruth,  
Thanks for this, I can confirm the date and time works well and I have noted JM Lyons diary.

Thanks Steph

**From:** TEO NSMC Admin  
**Sent:** 27 January 2021 10:22  
**To:** [REDACTED]@executiveoffice-ni.gov.uk>; TEO PS Ministers  
<PS.Ministers@executiveoffice-ni.gov.uk>  
**Cc:** [REDACTED]@executiveoffice-ni.gov.uk>  
**Subject:** RE: NSMC Language Body meeting Spring 2021

Kevin

Ministers have now agreed 31 March as the date for the Language Body meeting. I'm going to propose the time as 11am. Will this work for JM Lyons?

Thanks Ruth

Document 13: Emails 10 March and 15 March

**From:** TEO NSMC Admin  
**Sent:** Mon, 15 Mar 2021 10:33:15 +0000  
**To:** [REDACTED]  
**Cc:** TEO PS Ministers  
**Subject:** FW: NSMC meetings - Language Body and Transport sectors

Kevin, Stephanie

Just a reminder on the email below particularly the nomination forms for the Language Body meeting on 31<sup>st</sup>. We are preparing the sub to FM and dFM and need to confirm the forms have been submitted in it.

Thanks  
 Ruth

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**From:** TEO NSMC Admin  
**Sent:** 10 March 2021 10:43  
**To:** [REDACTED]@executiveoffice-ni.gov.uk>; [REDACTED]  
 [REDACTED]@executiveoffice-ni.gov.uk>  
**Cc:** TEO PS Ministers <PS.Ministers@executiveoffice-ni.gov.uk>; [REDACTED]  
 [REDACTED]@executiveoffice-ni.gov.uk>; [REDACTED]@executiveoffice-ni.gov.uk>  
**Subject:** NSMC meetings - Language Body and Transport sectors

Kevin, Stephanie

I understand Junior Minister Lyons has returned to TEO this week.

Can you please confirm he remains content with the arrangements for NSMC meetings:

Language Body – 31 March at 11am  
 Transport – 16 April at 11am

I also enclose the attendance nomination form for the Language sector meeting on 31 March for completion. I would be grateful if these could be returned as soon as possible.

Many thanks  
 Ruth

[REDACTED]  
**North/South Ministerial Council**  
**Joint Secretariat**  
 58 Upper English Street  
 Armagh  
 BT61 7LG

1



Document 15: Evidence of seeking alternative ministers

[REDACTED]  
**From:** [REDACTED]  
**Sent:** 29 March 2021 16:34  
**To:** DoH Private Office [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** URGENT: NSMC Language Sectoral meeting

Kim

Junior Minister Lyons is the nominated accompanying Minister for the NSMC Language Sector. A meeting in this format is due to take place on Wednesday 31 March at 11.00am but unfortunately JM Lyons is not available to attend.

In order for the meeting to take place, there is a requirement for cross-community participation and as such I need to seek alternative representation from the Unionist designation.

Grateful if you could check with your Minister if he would be available to attend on this occasion. An urgent response would be appreciated.

Thanks

Kevin

[REDACTED]  
Private Secretary to Junior Minister Gordon Lyons MLA  
Stormont Castle, Stormont Estate, Belfast BT4 3TT  
[REDACTED]

All e-mails and attachments sent by a Private Secretary, or member of the Private Office, to an official must be saved appropriately by the main recipient/Business Area. The Private Office do not keep official records of such e-mails or attachments.

**From:** [REDACTED]  
**Sent:** 31 March 2021 09:06  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: NSMC Language Sector meeting- Accompanying Minister

Donal

All e-mailist designated Ministers were asked on Tuesday about their availability to attend the meeting. All indicated that they were unable to attend.  
Deirdre

[REDACTED] | Principal Private Secretary to the First Minister  
Rt Hon Arlene Foster MLA | The Executive Office  
Room GD11 | Stormont Castle | Belfast | BT4 3WQ  
[REDACTED] (028) 90378221 | DD: 88221

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**From:** [REDACTED]  
**Sent:** 30 March 2021 19:53  
**To:** [REDACTED]@executiveoffice-ni.gov.uk; [REDACTED]@executiveoffice-ni.gov.uk  
**Cc:** [REDACTED]@executiveoffice-ni.gov.uk; [REDACTED]@executiveoffice-ni.gov.uk; [REDACTED]@executiveoffice-ni.gov.uk  
**Subject:** RE: NSMC Language Sector meeting- Accompanying Minister

Deirdre,  
Further to your e-mail regarding the NSMC Language Sectoral tomorrow.

dFM has consider the request and responds as follows:

1

- I do not consent to postponing this scheduled meeting of the NSMC Language sectoral, which is an important meeting between both administrations under the NSMC/Strand 2 GFA Framework.
- I would ask Minister Lyons to prioritise his participation as Accompanying Minister to facilitate this meeting going ahead.
- If that is not possible the onus is on FM to nominate a replacement from the numbers at her disposal.

For FM's consideration please.

Thanks  
Donal

**From:** [REDACTED]  
**Sent:** 30 March 2021 18:28  
**To:** [REDACTED]@executiveoffice-ni.gov.uk; [REDACTED]@executiveoffice-ni.gov.uk  
**Cc:** [REDACTED]@executiveoffice-ni.gov.uk; [REDACTED]@executiveoffice-ni.gov.uk; [REDACTED]@executiveoffice-ni.gov.uk  
**Subject:** RE: NSMC Language Sector meeting- Accompanying Minister

Donal  
It has not been possible to identify an accompanying Minister for the meeting tomorrow. The First Minister has asked if the meeting could be postponed?  
Thanks  
Deirdre

[REDACTED] | Principal Private Secretary to the First Minister  
Rt Hon Arlene Foster MLA | The Executive Office  
Room GD11 | Stormont Castle | Belfast | BT4 3WQ  
[REDACTED]@executiveoffice-ni.gov.uk | [REDACTED]

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