



**Committee on Standards and Privileges**

# **Report on a complaint against then Junior Minister Gordon Lyons MLA**

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Report: NIA 42/22-27 Committee on Standards and Privileges

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# **Powers and Membership**

## **Powers**

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

The Committee has power:

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

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

## **Membership**

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

- Ms Carál Ní Chuilín MLA (Chairperson)

- Mr Stewart Dickson MLA (Deputy Chairperson)
- Miss Jemma Dolan MLA
- Ms Connie Egan MLA
- Mr Paul Frew MLA
- Mr Harry Harvey MLA
- Mr Brian Kingston MLA<sup>1</sup>
- Mrs Cathy Mason MLA
- Mr Colin McGrath MLA

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<sup>1</sup> From 8 April 2024 Mr Brian Kingston replaced Mr Stephen Dunne as a member of the Committee.

# List of Abbreviations and Acronyms used in this Report

DUP	Democratic Unionist Party
FM	First Minister
MLA	Member of the Legislative Assembly
NI	Northern Ireland
NSMC	North South Ministerial Council
The Assembly:	Northern Ireland Assembly
The Code:	Ministerial Code of Conduct
The Commissioner:	Assembly Commissioner for Standards
The Committee:	Committee on Standards and Privileges
The 1998 Act	Northern Ireland Act 1998

# Introduction

1. The Committee on Standards and Privileges (“the Committee”) has considered a report from the Assembly Commissioner for Standards (“the Commissioner”) on her investigation into a complaint against the then Junior Minister Gordon Lyons MLA (“the respondent”) of alleged breaches of the Ministerial Code of Conduct (“the Code”). A link to the Commissioner’s investigation report, which includes a copy of the complaint correspondence together with the evidence gathered during the investigation, is included at **Appendix 1** (a limited amount of information has been redacted from the Commissioner’s report to accord with legal obligations).
2. A link to the applicable minutes of proceedings of the Committee is included at **Appendix 2**.

## Role of the Committee

3. The arrangements for regulating the standards of conduct of Ministers include: the role of the independent Commissioner in investigating complaints of alleged breaches of the Code; the role of the Committee in considering and publishing the Commissioner’s investigation reports; and the role of the Assembly in plenary in deciding whether any sanction/s should be imposed, if the Assembly, in considering the findings of the Commissioner’s report, believes there has been a breach of the Code.
4. These arrangements have come about, in part, due to section 5 of the Functioning of Government (Miscellaneous Provisions) Act (Northern Ireland) 2021, which extended the powers of the Commissioner to include the investigation and reporting on complaints against Ministers of alleged breaches of the Code. The Commissioner’s new functions came into effect on 22 March 2021.

5. In light of the Commissioner's new powers, the Committee sought legal advice on its role in relation to the consideration of investigation reports from the Commissioner on complaints against Ministers. The Committee sought this advice not only prior to receiving the attached report from the Commissioner but prior to being made aware that the matters addressed in that report were being investigated. In that regard, the Committee noted that, unlike the position regarding complaints against MLAs of alleged breaches of the Assembly Code of Conduct, it does not have an adjudication role in complaints against Ministers of alleged breaches of the Ministerial Code of Conduct. However, the Committee has a duty, under Standing Order 69A, to consider *any* investigation report by the Commissioner, including reports on ministerial complaints, and to publish such reports (on behalf of the Assembly).

## Background

6. On 16 April 2021, the Commissioner received a complaint from the Committee on the Administration of Justice (CAJ) and Conradh na Gaeilge (CnG) ("the complainants"), alleging that the respondent breached the Code when he failed to attend the North South Ministerial Council (NSMC) Language Body on 31 March 2021.
7. The complaint contained the following three allegations:

**Allegation 1** – that the respondent's non-attendance at the NSMC Language Body meeting was in breach of the Pledge of Office, under which he had committed to 'participate fully...' in the NSMC.

**Allegation 2** – that the respondent was in breach of paragraph (v) of the Code, which requires Ministers to "comply with this Code" including being obliged to comply with the Seven Principles of Public Life (paragraphs (iv) and 1.6 of the Code), in particular the duty to "take decisions solely in terms of the public

interest” (Selflessness principle) and “be open as possible about all the decisions and actions that they take” (Openness principle).

**Allegation 3:** that the respondent’s failure to partake in the NSMC Language Body meeting was part of the strategy by the Democratic Unionist Party (DUP) to boycott NSMC meetings as part of protest action relating to the consequences of Brexit and specifically the NI Protocol.

8. The Code, including the Seven Principles of Public Life, can be accessed at the following link:

<https://www.northernireland.gov.uk/topics/your-executive/ministerial-code>

9. The Commissioner considered the complaint and decided it was admissible, before commencing her investigation on 14 June 2021. On 19 January 2023, the Commissioner forwarded her report on the investigation to the Committee for consideration. The current Committee was appointed in February 2024.
10. Prior to the Committee commencing its consideration and in accordance with its established disclosure process, on 10 May 2024, the Committee Clerk sent the Commissioner’s full investigation report to the respondent, for written comment in respect of any matter raised within the report (where applicable, any written comments received from the respondent in such complaint cases are provided to the Committee at the same time as it receives the Commissioner’s investigation report).
11. The respondent made a submission to the Committee in response, outlining a number of issues he had with the Commissioner’s report. The submission from the respondent can be found at **Appendix 3**. The Commissioner subsequently responded to the submission received from the respondent, which can be found at **Appendix 4**. For completeness, the Committee also provided the respondent with a copy of the Commissioner’s written response to his submission.



## The Commissioner's findings of fact and reasoned decision

12. As a result of her investigation, the Commissioner made various findings of fact (at page 5 of her report) which are outlined below:

“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 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.”
13. In terms of her reasoned decision in relation to **Allegation 1: Pledge of Office**, the Commissioner explains (at paragraphs 4 and 31 of her report) why this allegation cannot be considered by her as it is not within the scope of the Code.
14. In relation to **Allegation 2: The Seven Principles of Public Life**, the Commissioner sets out (at pages 10 – 12 of her report) why she upholds the allegation of a breach of the Code. The Commissioner explains that the Seven Principles of Public Life include selflessness, accountability and openness and that it is the personal responsibility of Ministers within the Executive to comply with their Pledge of Office, the Ministerial Code, including the Code of Conduct, and adhere to the Seven Principles of Public Life *at all times*.
15. The Commissioner adds that the Seven Principles are part of the obligations of leadership in public life and 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 the complaint.

16. It is noted that, during the interview with the respondent on 7 July 2021, he advised the Commissioner that he could not recall the exact reason why he was unable to attend the NSMC Language Body meeting but later concluded that it was because he had constituency business to attend to. The respondent also added that the NSMC Language Body meeting had not been confirmed, therefore there was no meeting to attend.
17. Subsequent to the interview, the Commissioner wrote to the respondent on 8 March 2022 with a number of questions requiring clarification. In response to the questions as to why he could not have taken time out from his constituency work on 31 March 2021 to join the virtual NSMC Language Body meeting, the respondent stated that “There was no meeting confirmed for 31 March”. However, the Commissioner concluded that the defence that there ‘was no meeting’ and that the meeting was not confirmed is unconvincing.
18. In her reasoned decision in relation to Allegation 2, the Commissioner explains why she believes, on the balance of probabilities, that the respondent’s actions were not in keeping with the Seven Principles of Public Life, including in terms of showing a lack of leadership as regards openness and selflessness by deprioritising his legal obligation to attend the NSMC Language Body meeting, not being open about his motivation for his non-attendance and, in failing to attend the meeting, not acting in the public interest.
19. In relation to **Allegation 3: Mr Lyons’ decision not to attend the Language Body NSMC sectoral meeting was part of the DUP’s political strategy**, the Commissioner points out (at page 12 of her report) that the incident happened against the backdrop of the DUP’s publicly stated five-point plan of 2 February 2021, which included the intention of “sending a strong signal” to the Irish Government that DUP members “cannot and will not continue to act as though relationships are normal” following the implementation of the NI Protocol.
20. The Commissioner found that, whatever the respondent’s 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.

21. The Commissioner has concluded that, 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 Northern Ireland Act 1998 (“the 1998 Act”), it is her view that the respondent showed a lack of leadership, including a lack of openness, accountability and selflessness.
22. The Commissioner has also concluded that, by ignoring his legal duties and responsibilities, the respondent failed to “promote and support the Seven Principles by leadership and example”. The Commissioner is satisfied on the basis of her analysis of the facts and evidence that, on the balance of probabilities, the respondent acting as then Junior Minister was in breach of paragraph (iv) of the Code – to at all times “follow the seven principles of public life” – when he failed to comply with his legal duties and responsibilities contained within Part V of the 1998 Act (in particular sections 52A and 52B).

## **The Committee’s consideration and conclusions**

23. At its meeting on 29 May 2024, the Committee was briefed by the Commissioner on her investigation report and also considered the written submission received from the respondent.
24. Following the briefing, the Committee discussed the current procedural arrangements for complaints against Ministers, which are different for those for complaints against Members. The Committee noted that it is required to consider the Commissioner’s reports under Standing Order 69A(3)(a). However, as alluded to above, under the current procedural arrangements, the Committee has no adjudication role in relation to such complaints – in terms of

deciding on whether there has been a breach of the Code (consequently that role rests with the Commissioner) – and the Committee cannot recommend the imposition of sanction/s on Ministers to the Assembly in cases, such as this, where the Commissioner’s report has concluded that the Code has been breached.

25. The Committee agreed, at its meeting on 29 May 2024, to publish a report to include: the Commissioner’s investigation report; the written response from the respondent to the investigation report; the written response from the Commissioner to the issues raised in the response from the respondent; and an explanation of how it is a matter for the Assembly to consider whether any sanction/s should be imposed on the respondent, if the Assembly, in considering the findings of the Commissioner’s report, believes there has been a breach of the Code.
26. In terms of the latter, from the legal advice it received, the Committee noted the range of sanctions which may be imposed on Ministers by the Assembly, should the Assembly believe that there has been a breach of the Code in line with the relevant provisions of the Northern Ireland Act 1998 (“the 1998 Act”) and Assembly convention. In terms of the 1998 Act, provision is made for the following sanctions for breaches of the Code to be imposed by resolution of the Assembly:
  - Section 30 – exclusion of a Minister/Junior Minister from office for 3 - 12 months;
  - Section 47A(1) – reduction in the salary of a Minister/Junior Minister; and
  - Section 51D – censure of a Minister/Junior Minister.
27. A motion for an Assembly resolution in relation to these statutory sanctions requires either to be moved by the First Minister and the deputy First Minister acting jointly or to be supported by at least 30 members of the Assembly.<sup>2</sup>

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<sup>2</sup> A motion in respect of these sanctions can also be moved by the Presiding Officer in pursuance of a notice from the Secretary of State that he is of the opinion that the Assembly ought to consider a resolution in this regard.

Also, such statutory motions cannot be passed without cross-community support.

28. The Committee further noted that other motions relating to the conduct of Ministers – for example, a motion to take note of a report by the Commissioner or a motion of no confidence based on such a report – are not subject to the abovementioned conditions which apply to statutory motions. Also, petitions of concern can no longer be presented in respect of motions dealing with sanctions relating to the conduct of a Minister (or other member of the Assembly), which must be dealt with by simple majority vote.<sup>3</sup>
29. To conclude, the Committee therefore notes the Commissioner's investigation report and publishes it by way of this report. This fulfils the Committee's function in relation to considering any investigation report by the Commissioner and publishing all investigation reports submitted by the Commissioner.

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<sup>3</sup> Following changes to the 1998 Act made by the Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022, petitions of concern are no longer available if a motion '*concerns a sanction in relation to the conduct of a Minister or other member of the Assembly*'. However, this does not affect the threshold for statutory motions, since these require cross-community support whether or not a petition of concern is presented.

## Links to Appendices

### **Appendix 1: The Commissioner for Standards Report on a complaint against then Junior Minister Gordon Lyons MLA**

[View the Commissioner on Standards Report.](#)

### **Appendix 2: Minutes of Proceedings**

[View Minutes of Proceedings of Committee meetings related to the report \(meetings on 29<sup>th</sup> May 2024 and 26<sup>th</sup> June 2024\).](#)

### **Appendix 3: Written submissions from the respondent in response to the Commissioner's investigation report**

[View the respondent's written submissions.](#)

### **Appendix 4: Written response from the Commissioner for Standards to the submission received from the respondent**

[View the Commissioner's written response.](#)

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