



COMMITTEE ON STANDARDS AND PRIVILEGES

WEDNESDAY, 5TH FEBRUARY 2014
ROOM 21, PARLIAMENT BUILDINGS

- Present: Mr Alastair Ross (Chairperson)
Mr Steven Agnew
Mr Cathal Boylan
Ms Paula Bradley
Mr Colum Eastwood
Mr Declan McAleer
Mr Fra McCann
Mr Ian McCrea
Mrs Sandra Overend
Mr Mervyn Storey
- In Attendance: Mr Paul Gill (Assembly Clerk)
Mr Simon Kelly (Assembly Legal Services)
Mr Ray McCaffrey (Assembly Research)
Ms Hilary Cleland-Bogle (Assistant Assembly Clerk)
Mr Jonathan Watson (Clerical Supervisor)
- Apologies: None

The meeting commenced at 1.30pm in closed session.

Chairperson's Introduction

Agreed: The Committee agreed that the meeting should be held in closed session.
The Chairperson welcomed Committee members to the meeting.

1. Apologies

As above.

2. Declaration of Interests

The Chairperson reminded Members of their obligation to declare any relevant financial or other interests before and during each Committee meeting.

3. Draft minutes of the meeting held on 29th January 2014

Agreed: The draft minutes of the meeting held on 29th January 2014 were agreed by the Committee.

4. Matters arising

There were no matters arising.

5. Review of the Code of Conduct

Members noted that any decision or view taken by the Committee at this stage would be reflected in the Committee's consultation document. However, they would not be binding as far as the future Code is concerned. Final decisions will not be taken until after the Committee has considered the responses to the consultation.

Members noted the Clerk's Paper on the Purpose of the Code.

The Clerk briefed the Committee on this issue.

Agreed: Following discussion the Committee agreed that the consultation document should propose that the purpose of the Assembly's Code should be as follows–

The purpose of this Code of Conduct is to assist all Members in the discharge of their obligations to the Assembly, their constituents and the public at large by:

- (a) Establishing the principles of conduct expected of all Members in undertaking their duties;*
- (b) Setting the rules of conduct which flow from these principles and to which all Members must adhere; and in so doing*
- (c) Providing openness and accountability to ensure public confidence in the standards regime at the Assembly.*

Members noted the Clerk's Paper on the Scope of the Code; the Paper from the Commissioner; the memo to the Commissioner on the application of the Code to Ministers; and the papers on the application of the Code to committees.

The Clerk briefed the Committee on the scope of the Code only covering Members in that capacity.

Agreed: The Committee considered the issue of whether the scope of the Code should be extended to apply when it could reasonably be presumed that a Member was acting in that capacity. The Committee agreed to invite comments on this matter in its consultation document.

The Clerk briefed the Committee on issues in relation to the application of the Code to the conduct or activities of Members in their private and family life.

The Committee considered whether the scope of the Code should in any circumstances extend to the conduct of Members in their private and family life. The Committee agreed to defer taking a decision until after it had received legal advice on the disqualification of Members.

1.58pm Mr McCann left the meeting

1.58pm Colum Eastwood joined the meeting

The Clerk briefed the Committee on the current application of the Code to Ministers.

Agreed: Following discussion the Committee agreed that the wording of the scope of the Code in relation to its application to Ministers should be clarified.

The Clerk briefed the Committee on the current position on the scope of the Code in respect of complaints about the quality of service provided by Members.

Agreed: The Committee agreed the existing position should be reflected in the scope of the new Code.

The Clerk briefed the Committee on the application of the Code to members in committee.

Agreed: Following discussion the Committee agreed that the scope should continue to extend to members' conduct in committees. However, the Committee also agreed that the Code should clarify that members of committees should not feel inhibited from subjecting witnesses to challenging questioning.

2.10pm Mr McAleer left the meeting.

2.10pm Mr Eastwood left the meeting.

Members noted the Clerk's Paper on Staff Conduct and Sanctions and the Assembly Research Paper.

The Clerk briefed the Committee on this issue.

The Chairperson invited Mr Ray McCaffrey, Assembly Research to brief the Committee on the Research Paper.

The Committee considered the issue of Staff Conduct and agreed that steps should be taken to ensure that Members' staff cannot and do not act in a manner that places private interest before public interest when carrying out official duties on behalf of the Member. The Committee agreed that Members' staff should be expected to adhere to the standards expected of Members. However, the Committee expressed concern about how in practice Members might be held to account for the actions of their staff in circumstances where the Members had no knowledge of these actions.

Agreed: The Committee agreed to give particular consideration to this issue during its review and to invite comments on it in its consultation paper.

2.28pm Mr Storey left the meeting.

The Committee considered the issue of Sanctions –

Agreed: The Committee agreed that the existing sanctions at the Assembly's disposal are effective, proportionate and dissuasive.

Agreed: The Committee agreed that while the most serious sanctions should be reserved for the most serious offences, the Committee should retain some discretion when deciding which sanctions are applicable in particular cases.

Agreed: The Committee agreed that where a Member has sought advice from the Clerk of Standards within 28 days of acquiring an interest and has acted in accordance with that advice (having fully disclosed the circumstances of the interest) it would not generally expect to recommend sanctions on any breach found by the Commissioner.

The Chairperson thanked Mr McCaffrey for his briefing.

Members noted the Clerk's Paper on the Principles of Conduct and the Legal Advice.

The Clerk briefed the Committee on this issue.

2.40pm Mr McCrea left the meeting

The Chairperson invited Mr Simon Kelly, Assembly Legal Services, to brief the Committee on the Legal Advice.

2.44pm Mr McAleer returned to the meeting

Following discussion the Chairperson thanked Mr Kelly for attending the meeting.

The Committee considered the public duty principle and the issue of free speech.

Agreed: The Committee agreed that complaints about Members' comments and opinions should be outside the scope of the Code as long as the comments are lawful.

Agreed: The Committee agreed that the duty to uphold the law should become an enforceable rule and should mean that any Member found to have committed an offence in their capacity as a Member would also have breached the Code of Conduct.

The Committee considered the principles of equality and promoting good relations.

Agreed: The Committee agreed that the Code of Conduct should not impose additional duties upon Members over and above the existing duties in discrimination legislation in Northern Ireland which already apply to Members. The Committee agreed that consideration should be given to removing these principles lest they give the impression that Members had additional duties above those set out in legislation.

Agreed: The Committee considered the principles of Respect and Good Working Relationships and agreed these could be recast as a single principle.

Agreed: The Committee agreed to invite comments on the introduction of an enforceable rule which would require Members not to subject others to unreasonable behaviour.

6. Any other business

The Clerk updated the Committee on the proposed Committee visit to Washington DC on 13th and 14th March 2014 to meet with the House Ethics Committee, the Senate Ethics Committee and the General Assembly of Maryland.

Agreed: Members should confirm to the Clerk who wishes to attend to enable him to prepare and submit a business case.

7. Time, date and place of next meeting

The next meeting of the Committee will be held on Wednesday, 19th February 2014 at 1.30pm in Room 21 (**lunch will be available from 1.15pm**).

The Chairperson adjourned the meeting at 2.55pm.

Mr Alastair Ross MLA

Chairperson, Committee on Standards and Privileges

19th February 2014