



Northern Ireland
Assembly

Committee on Standards and Privileges

Report on a complaint against Mr Barry McElduff MLA

Together with the Report of the Assembly Commissioner for
Standards and the Minutes of Proceedings of the Committee

Ordered by the Committee on Standards and Privileges to be printed on 18th November 2015

Committee Powers and Membership

1. 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 Order Nos. 51 and 57. The Committee has 11 members including a quorum of 5.
2. 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 arrangement for the compilation, maintenance and accessibility of the Register of Members' Interests and any other registers of interest 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 or declaring of interests referred to it;
 - to consider any matter relating to the conduct of Members;
 - to recommend any modifications to any Assembly code of conduct as may from time to time appear to be necessary.
3. 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.
4. The membership of the Committee is as follows:

Mr Paul Givan^{1 2} (Chairperson)
Ms Anna Lo (Deputy Chairperson)³
Mr Steven Agnew
Mr Robin Newton^{4 5 6}
Mr Cathal Boylan
Mr Gordon Dunne^{7 8 9 10}
Mr Colum Eastwood¹¹
Mr David Hilditch^{12 13}
Mr Declan McAleer^{14 15 16 17}
Mr Fra McCann
Mrs Sandra Overend¹⁸

¹With effect from 10 December 2014 Mr Jimmy Spratt replaced Mr Alastair Ross as Chairperson

²With effect from 28th September 2015 Mr Paul Givan replaced Mr Jimmy Spratt

³With effect from 1 October 2013 Ms Anna Lo replaced Mr Kieran McCarthy

⁴With effect from 7 May 2013 Mr Sydney Anderson replaced Mr David McIlveen

⁵With effect from 16 September 2013 Mr Mervyn Storey replaced Mr Sydney Anderson

⁶With effect from 6 October 2014 Mr Robin Newton replaced Mr Mervyn Storey

⁷With effect from 3 December 2012 Mr Ian McCrea replaced Ms Paula Bradley

⁸With effect from 8 December 2014 Mr Sammy Douglas replaced Mr Ian McCrea

⁹With effect from 18 May 2015 Mr Tom Buchanan replaced Mr Sammy Douglas

¹⁰With effect from 5 October 2015 Mr Gordon Dunne replaced Mr Tom Buchanan

¹¹With effect from 23 April 2012 Mr Colum Eastwood replaced Mr Patsy McGlone

¹²With effect from 15 April 2013 Ms Paula Bradley replaced Mr Jonathan Craig

¹³With effect from 6 October 2014 Mr David Hilditch replaced Ms Paula Bradley

¹⁴With effect from 3 July 2012 Mr Alex Maskey replaced Mr Pat Doherty

¹⁵With effect from 7 September 2012 Mr Francie Molloy replaced Mr Alex Maskey

¹⁶With effect from 7 April 2013 Mr Francie Molloy resigned as a Member

¹⁷With effect from 15 April 2013 Mr Declan McAleer replaced Mr Francie Molloy

¹⁸With effect from 26 September 2011 Mrs Sandra Overend replaced Mr Michael Copeland

5. The Report and evidence of the Committee are published by order of the Committee. All publications of the Committee are posted on the Assembly's website: (www.niassembly.gov.uk.)
6. All correspondence should be addressed to the Clerk to the Committee on Standards and Privileges, Committee Office, Northern Ireland Assembly, Room 254, Parliament Buildings, Stormont, Belfast BT4 3XX. Tel: 02890 520333; e-mail: committee.standards&privileges@niassembly.gov.uk

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Report

Introduction

1. The Committee on Standards and Privileges has considered a report from the Assembly Commissioner for Standards on his investigation into a complaint against Mr Barry McElduff MLA. A link to the Commissioner's report, which includes a copy of the complaint, is included [here](#).

The complaint

2. The complaint was made by Mr Ross Hussey MLA and relates to Mr McElduff sending letters to constituents on Assembly headed paper and in Assembly pre-paid envelopes. Mr Hussey referred to a letter from Mr McElduff which had been received by a constituent in the Drumragh Ward in West Tyrone. The stated purpose of Mr McElduff's letter (which Mr Hussey believed had been sent to over 550 homes) was:

“to highlight the need for the Omagh community to stand united together against Tory cuts”.

3. Paragraphs (8) - (15) of section 28 of the Financial Support for Members' Handbook deal with the issue of postage and stationery (see Annex A). Among the specific provisions in that section highlighted by the Commissioner as being particularly relevant to this complaint were the following:

- (9) ***The cost of purchasing and posting items of a political or personal nature must not be claimed from OCE [Office Cost Expenditure] under any circumstances.***
- (11) ***Stationery supplied by the Assembly Office Resources team must not be used to issue circulars.***
- (12) ***A circular is defined as:***
 - (a) ***a letter sent in an identical or near identical form to a number of addresses (whether or not it is individually signed and addressed), if it is not sent in response to a query or correspondence from those addresses;... and***
- (13) ***However, a Member may issue a letter to a number of individuals or groups regarding Constituency business and charge the cost of stationery and postage/delivery to OCE. A Member must be able to clearly demonstrate that the material is not of a Party political nature in content and that it is directly related to his/her Assembly duties. For the avoidance of doubt the content of such letters must not be of a Party political nature and stationery provided by the Assembly Office Resources team MUST NOT be used for this purpose (including paper and pre-paid envelopes).***

The Commissioner's Investigation and findings of fact

4. Having interviewed Mr McElduff and further investigated the matter, the Commissioner established, *inter alia*, that:
 - On or about 26 June 2015 Mr McElduff caused letters, of which Document 3 (in the Commissioner's report) is an example, to be sent to all households in the Drumragh Ward in Omagh.
 - As at 3 September 2015 there were 1,163 households in the Drumragh Ward recorded on the database of the Electoral Office for Northern Ireland. The number of households on 26 June 2015 was not significantly different.
 - The total cost to the taxpayer of sending the letters, inclusive of VAT but exclusive of staff and other costs, was between £876.77 and £899.91.
 - Mr McElduff is willing to repay the cost of sending the letters if it is found that his actions were in breach of the Code of Conduct.
5. Mr McElduff told the Commissioner that when he decided to send the letters he did not consider them to be circulars. Mr McElduff said that they were an attempt to engage with the constituents of the Drumragh Ward on issues that were of importance to them. However, when the Commissioner referred to the definition of a circular in paragraph 28.12 of the Handbook (set out above) Mr McElduff said that he would '*want to reflect*' on whether the letters were within that definition. He said he had taken a conscious decision to use first-class envelopes for all the letters because it '*was a better message to the receiving party than to send a second-class envelope*'. Mr McElduff stated that if he was found to have breached the rules he would regret that and that he would be willing to repay any improper expenditure.
6. The Commissioner has told the Committee that he has no doubt that the letters issued by Mr McElduff were circulars as defined in paragraph 28.12 of the handbook. As stationery supplied by the Assembly Office Resources team must not be used to issue circulars the Commissioner is satisfied that Mr McElduff contravened the provisions of the Handbook and so breached the Code of Conduct.

The Committee's considerations

7. The Committee agrees with the Commissioner's conclusion. Mr McElduff has breached the rule in the Code of Conduct which requires that:

'No improper use shall be made of any payment or allowance made to Members for public purposes and the administrative rules applying to such payments, allowances and resources must be strictly observed.'
8. Mr McElduff has been informed of the Committee's finding and has arranged for the Assembly to be repaid the sum of £899.91. The Committee welcomes this prompt repayment and considers the matter to be resolved.

9. The Committee takes this opportunity to remind Members that stationery supplied by the Assembly Office Resources team must not be used to issue circulars. The cost of purchasing and posting items of a political or personal nature must not be claimed from OCE under any circumstances. In fact, all expenditure from OCE must be wholly, exclusively and necessarily incurred by Members in relation to their role as a Member of the Legislative Assembly, as opposed to any personal capacity or in a party political role, or in any other official role.

Extract from section 28 of the Financial Support for Members' Handbook

Postage and Stationery

- (8) A Member may claim the cost of stationery and postage from OCE. This **must** be used strictly in relation to his/her Assembly business.
- (9) **The cost of purchasing and posting items of a political or personal nature must not be claimed from OCE under any circumstances.**
- (10) In addition, stationery or postage (**including the use of pre-paid envelopes**), funded from OCE **must not** be used for the following purposes:
- (a) Communications of a business or commercial nature; or
 - (b) Correspondence on behalf of a group or organisation that a Member is associated with other than the Assembly; or
 - (c) In connection with fund raising for the benefit of any organisation, Advocating membership of **any** organisation, or supporting the return of **any** person to public office; or
 - (d) Issuing greeting cards or personal messages of well wishes.
- (11) Stationery supplied by the Assembly Office Resources team **must not** be used to issue circulars.
- (12) A circular is defined as:
- (a) A letter sent in an identical or near identical form to a number of addresses (whether or not it is individually signed and addressed), if it is not sent in response to a query or correspondence from those addresses; or
 - (b) A standardised greeting card or letter; or
 - (c) A standardised letter sent to new constituents; or
 - (d) A letter sent in an identical or near identical form to a number of addresses acknowledging a reply to a letter, questionnaire or survey that itself was not requested.
- (13) However a Member may issue a letter to a number of individuals or groups regarding constituency business and charge the cost of stationery and postage/delivery to OCE. A Member must be able to clearly demonstrate that the material is not of a party political nature in content and that it is directly related to his/her Assembly duties. **For the avoidance of doubt the content of such letters must not be of a party political nature and stationery provided by the Assembly Office Resources team MUST NOT be used for this purpose (including paper and pre-paid envelopes).**
- (14) As noted in paragraph 28.0 (11) above there are specific guidelines issued by the Assembly Office Resources team on the use of Assembly stationery (including pre-paid envelopes) and postal arrangements, contained on the Office Resources pages on AsslSt. All Members should familiarise themselves with these guidelines.
- (15) If the Finance Office is made aware of any improper use of Assembly stationery or if expenditure has been claimed incorrectly, a Member will be asked to reimburse the expenditure claimed, or the cost of the stationery improperly used (including pre-paid envelopes).

Report by the Northern Ireland Assembly Commissioner for Standards

7th October 2015

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report-on-a-
complaint-against-
mr-barry-mcelduff-
mla/](http://www.niassembly.gov.uk/assembly-business/committees/2011-2016/standards-and-privileges/reports-2011-2016/report-on-a-complaint-against-mr-barry-mcelduff-mla/)

Minutes of Proceedings of the Committee Relating to the Report

WEDNESDAY, 4TH NOVEMBER 2015

ROOM 21, PARLIAMENT BUILDINGS

- Present: Mr Paul Givan (Chairman)
Mr Steven Agnew
Mr Gordon Dunne
Mr Colum Eastwood
Mr David Hilditch
Mr Fra McCann
Mrs Sandra Overend
- In Attendance: Mr Paul Gill (Assembly Clerk)
Mrs Hilary Cleland Bogle (Assistant Assembly Clerk)
Miss Alison Ferguson (Clerical Officer)
- Apologies: Ms Anna Lo (Deputy Chairperson)
Mr Cathal Boylan
Mr Declan McAleer
Mr Robin Newton

The meeting commenced at 1.30pm in closed session.

5. Report from the Assembly Commissioner for Standards

Members noted the Clerk's Paper; the Report from the Assembly Commissioner for Standards; and associated correspondence.

The Chairman welcomed Mr Douglas Bain, Northern Ireland Assembly Commissioner for Standards, and invited him to brief the Committee on his report.

The Commissioner declared an interest as the Member who is the subject of his report had been a member of the panel which had recommended his appointment.

The Commissioner briefed the Committee on his report.

1.45pm Mrs Overend joined the meeting

Agreed: Following discussion the Committee agreed with the Commissioner's conclusion that the Member had breached the Code of Conduct.

Agreed: The Committee agreed to write to the Member complained of informing him that the Committee has agreed that, prior to it reporting on this complaint, the Member should repay the Assembly the full cost of sending the letters. The Committee also agreed that should the Member make this payment by a specified date such action would allow it to report that the matter had been resolved.

Agreed: The Committee agreed that the Clerk should prepare a draft report for the Committee's consideration, taking into account the response received from the Member.

[EXTRACT]

WEDNESDAY, 18TH NOVEMBER 2015

ROOM 21, PARLIAMENT BUILDINGS

Present: Mr Paul Givan (Chairman)
Ms Anna Lo (Deputy Chairperson)
Mr Cathal Boylan
Mr Gordon Dunne
Mr David Hilditch
Mr Declan McAleer
Mr Fra McCann
Mrs Sandra Overend

In Attendance: Mr Paul Gill (Assembly Clerk)
Mrs Hilary Cleland Bogle (Assistant Assembly Clerk)
Miss Alison Ferguson (Clerical Officer)

Apologies: Mr Steven Agnew
Mr Robin Newton

The meeting commenced at 1.34pm in closed session.

5. Consideration of a Committee Report on a complaint against a Member

Agreed: Members discussed and agreed the draft Committee Report and ordered that the report be printed today.

[EXTRACT]

The information contained in this document is available online at:

www.niassembly.gov.uk

This document can be made available in a range of alternative formats including large print, Braille etc. For more information please contact:

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