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COMMITTEE ON MEMBERS' INTERESTS OF SEANAD ÉIREANN

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Seanad Éireann

Committee on Members' Interests of Seanad Éireann
An Coiste um Leasanna Chomhaltaí Sheanad Éireann

**Ethics in Public Office Act, 1995 as amended by the
Standards in Public Office Act 2001**

An tAcht um Eitic in Oifigí Poiblí, 1995 arna leasú leis
an Acht um Chaighdeáin in Oifigí Poiblí 2001

**Report of the Results of an Investigation into
Complaints concerning Senator Ivor Callely**
Tuarascáil ar Thorthaí Imscrúdaithe ar Ghearáin
maidir leis an Seanadóir Ivor Mac Ailghile.

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14 July 2010

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The Committee on Members' Interests of Seanad Éireann, having carried out an investigation under section 9 of the Ethics in Public Office Act 1995 (the "1995 Act") as amended by the Standards in Public Office Act 2001 (the "2001 Act") (collectively referred herein after as "the Acts") hereby reports the results of the investigation to the Seanad.

INTRODUCTION

The Committee on Members' Interests of Seanad Éireann ("the Committee") was appointed by an order of the Seanad on 25 October, 2007, pursuant to Standing Order 90 and section 8(1) of the 1995 Act as amended and was charged with performing the functions conferred on it by the Acts.

Briefly, those functions are, in relation to members who are not office holders:-

- (a) from time to time to draw up and publish to members guidelines concerning steps to be taken by members to ensure compliance by them with the Acts.
- (b) at the request of a member, to give advice to the member in relation to certain provision of the Acts.
- (c) to draw up codes of conduct for the guidance of Members in accordance with Section 10 of the 2001 Act.
- (d) where a complaint, that a member has contravened section 5 or 7 of the 1995 Act as amended or has done an act or made an omission under section 4 of the 2001 Act, is referred or made to the Committee, or if the Committee considers it appropriate to do so, to carry out an investigation.

For the purposes of its investigatory function, the Acts equip the Committee and its Chairman with powers, *inter alia*, to determine procedures, direct the attendance of witnesses and the production of documents and things and allows for the making of directions which the Chairman considers to be reasonable and just. The Acts also provide for a range of offences, such as perjury and contempt and confer the same privileges and immunities on witnesses as would apply in a court. The Committee must hold sittings for the purposes of its investigation and may receive submissions and such evidence as it thinks fit. The Acts permit decisions by a majority of the Committee's members.

The Acts require the Committee to prepare a written report of the results of its investigation into a complaint in which it must set out its findings and its determinations on a number of specified matters. If the Committee determines that a member has contravened section 5 or 7 of the 1995 Act as amended, or has done a specified act as referred to under Section 4 of the 2001 Act, it must lay a copy of its report before the Seanad. If the Committee considers it appropriate to do so, having regard to all the circumstances of the case, it may cause a motion to be moved in the Seanad for a resolution that action or actions specified in the Acts be taken by the Seanad in relation to the matter.

The members of the Committee are-

Senator Pat Moylan (Chairman)
Senator Dan Boyle,
Senator Camillus Glynn,
Senator Frances Fitzgerald,
Senator Denis O'Donovan,
Senator Joe O'Toole,
Senator Alex White,

Complaints

On 2 June 2010 two complaints (*Appendix (i)*) were received by the Clerk of Seanad Éireann. The Clerk of Seanad Éireann reviewed the complaints and referred them on 2 June 2010 and 3 June 2010 to the Committee pursuant to section 8 of the 1995 Act as amended (*Appendix (ii)*).

The Committee on 3 June decided that there was sufficient evidence to sustain a complaint under the Acts and that it would carry out an investigation in accordance with the provisions of the Acts.

Preparations for Investigation

Having decided to carry out an investigation, the Committee proceeded to make appropriate preparations. In this regard, the Committee met on three occasions. On these occasions the Committee –

- (i) obtained legal advice and examined a range of legal and procedural issues,
- (ii) requested and gathered documents,
- (iii) prepared the statutory and formal documents as required by the Acts.

Documents Obtained by the Committee

To assist it in confirming the facts relating to the complaints made against Senator Callely, the Committee obtained the following documents:

- (i) A copy of the information that was released to the Sunday Independent under the Freedom of Information Acts 1997 and 2003 regarding Senator Callely's parliamentary allowance claims.
- (ii) All documentary information circulated to Senators regarding the allowance system since August 2007.

These documents were also provided to Senator Callely.

Statutory Documents

(i) Statement of Contravention

In accordance with section 32(6)(b) of the 1995 Act as amended the Committee prepared a statement of the contravention alleged and provided this to Senator Callely.

The statement of the contravention read as follows:

Two complaints from members of the public have been referred to the Committee on Members' Interests of Seanad Éireann under the provisions of S8 of the Ethics in Public Office Act 1995 (as amended by the Standards in Public Office Act 2001) (the "Acts").

The two complaints relate to allegations that Senator Ivor Callely misrepresented his normal place of residence for the purposes of making claims for allowances. The allegations are such that they may give rise to a contravention under the Acts if it is determined that the act or omission complained of, or the circumstances of which, is a specified act (within the meaning of section 4 of the Standards in Public Office Act 2001) and is determined to be inconsistent with the proper performance by a member of the functions of the office of member or with the maintenance of confidence in such performance by the general public and the matter is one of significant public importance.

(ii) Memorandum of Procedure

Section 32(6) of the 1995 Act as amended provides, *inter alia*, that "the procedure of a Committee...in relation to an investigation by it under [the] Act shall, subject to the provisions of the Act, be such as shall be determined by the Committee..." The section goes on to specify matters for which the Committee must make provision in its procedures.

In accordance with the Acts, the Committee prepared a memorandum of procedure on the conduct of the investigation (*Appendix (ii)*). Senator Callely was provided with a copy of this document.

INVESTIGATION

Section 32(1) of the 1995 Act as amended provides that "A Committee...shall hold sittings for the purpose of an investigation by it under this Act and at the sittings may receive submissions and such evidence as it thinks fit."

The Committee determined to hear the investigation in public and held three sittings on 25 June 2010, 30 June 2010 and 13 July 2010. The Committee also met in private on 3 June 2010, 17 June 2010, 25 June 2010, 30 June 2010 and 6,7,8 and 14 July 2010 to determine what witnesses it would call and consider its next steps.

Statement and Evidence from Senator Callely

Senator Callely was invited to attend a public meeting on 25 June 2010 to give evidence to the Committee.

In accordance with the Memorandum of Procedure the oath was administered to Senator Callely by the Clerk to the Committee. Senator Callely read out the statement he submitted to the Chairman of the Committee (*Appendix (iii)*) and responded to questions put to him by the Committee. Following the questions, Senator Callely made a closing statement to the Committee.

Senator Callely was also directed to attend a public meeting on 13 July 2010 to give further evidence to the Committee. Senator Callely was reminded that he remained under oath. The Committee put questions to the Senator and he responded to these questions.

At the end of the meeting on 13 July 2010, as the evidence before the Committee had concluded, Senator Callely was invited to make a closing submission. Senator Callely exercised this right and made a closing submission.

Senator Callely's witnesses

Senator Callely was informed by letter on 17 June 2010, 6 July 2010 and 8 July 2010 that he had a right to call witnesses to give evidence. He informed the Clerk to the Committee on 21 June 2010 that would not be calling witnesses at the meeting on 25 June 2010. Otherwise, the Committee were not notified that he wished to call any witnesses.

Evidence from Mr. Derek Dignam, Principal Officer, Members Services

Mr. Derek Dignam, Principal Officer, Members Services was invited to attend a public meeting on 30 June 2010 to give evidence to the Committee. Senator Callely was informed of this meeting and enabled to attend. Senator Callely was also reminded that the Memorandum of Procedures adopted by the Committee allowed for him to cross-examine Mr. Dignam. He declined to avail of this right.

In accordance with the Memorandum of Procedure the oath was administered to Mr. Dignam by the Clerk to the Committee. Mr. Dignam provided the Committee with additional correspondence that dated from the date of the Freedom of Information

request to the date of this meeting. As Senator Callely was not present at this meeting the documentation was circulated to Senator Callely immediately following the meeting.

Mr. Dignam answered questions from the Committee. During the course of the questions Mr. Dignam detailed that he would provide further documentation to the Committee. This additional documentation was supplied by Mr. Dignam on 6 July 2010 and was circulated to the Committee. The documentation was also forwarded by the Committee to Senator Callely.

Houses of the Oireachtas

FINDINGS AND DETERMINATIONS

1. The Committee determines that Senator Ivor Callely has done a specified act as contemplated by section 4 of the 2001 Act by misrepresenting his normal place of residence for the purpose of claiming allowances. The Committee finds that such action was inconsistent with the proper performance by Senator Callely of the function of the office of Senator, was inconsistent with the maintenance of confidence in the performance by Senator Callely of the function of the office of Senator by the public and was of significant public importance.
2. The Committee determines that the aforementioned specified act on the part of Senator Callely is continuing.
3. In order to cease the specified act the Committee determines that Senator Callely, in conjunction with the relevant authorities, take account of the findings of this report and regularise and make good his allowance affairs and ceases to misrepresent his normal place of residence. In this context the Committee records Senator Callely's clear undertaking given in his evidence on 25 June 2010 that he would "reimburse" or "repay" any overpayment of allowances.
4. The Committee determines that the specified act on the part of Senator Callely was done intentionally.
5. The Committee determines that the specified act on the part of Senator Callely, in all the circumstances, was of a serious and grave nature.
6. The Committee determines that Senator Callely did not act in good faith having regard to all of the circumstances.

In making all of these determinations and findings the Committee took into account all of the evidence before it and on balance agreed that the weight of all the facts taken together including but not limited to the facts that Senator Callely:-

- describes his Clontarf residence as his family home;
- maintains a constituency office in Dublin which has regular weekly opening hours and at which Senator Callely advertises on his website that he is available to attend Mondays, Wednesdays and Fridays;
- represents on his website that he is continuing to work in the constituency of Dublin North Central and that he continues to live in Dublin North Central;
- has directed the Seanad to send his post to his family home in Clontarf;
- used his family home in Clontarf for the purposes of receiving post in relation to his ministerial pension;
- uses his family home in Clontarf for the purposes of correspondence with the Revenue Commissioners; and
- is registered to vote in Dublin,

link Senator Callely to his family home in Clontarf rather than to Kilcrohane, County Cork.

The Committee is strengthened in its conclusion by the fact that Senator Callely entered nil claims for September, October, November and December 2008 and 2009 and has not cashed certain cheques in 2010.

The Committee believes that the expenses regulations would benefit from a clearer and more robust definition of "normal place of residence". In the interest of maintaining public confidence in the Houses the Committee would recommend that this matter is addressed.

Houses of the Oireachtas

ACTION TO BE TAKEN BY SEANAD ÉIREANN

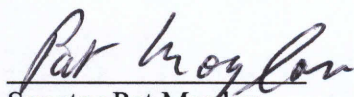
Section 10 of the 1995 Act as amended requires the Committee to prepare in writing a report of the results of its investigation and, *inter alia*, if it determines that the member has done a specified act as contemplated by section 4 of the 2001 Act, it must cause a copy of the report to be laid before the Seanad. Section 28 of the 1995 Act as amended provides, *inter alia*, that where a copy of a report of the Committee is laid before the Seanad, "the Committee may, if it considers it appropriate, having regard to all the circumstances of the case, to do so...cause a motion to be moved in [the Seanad] for a resolution that such action or actions specified in *subsection(2)* as may be specified in the resolution and is or are reasonable in all the circumstances be taken by [the Seanad] in relation to the matter."

As the Committee has determined that Senator Callely has done a specified act it is bound to cause a copy of its report of the results of its investigation to be laid before the Seanad.

The Committee considers it appropriate, having regard to all the circumstances to cause a motion to be moved in the Seanad that the actions as specified below, being reasonable in the circumstances, be taken by the Seanad in relation to this matter:-

- a) that the Seanad note this report of the Committee,
- b) that the Seanad censure Senator Callely, and
- c) that the Seanad suspend Senator Callely from the service of the Seanad for a period of 20 days on which the Seanad shall have sat.

Considering the Committee has determined that in their opinion the specified act on the part of Senator Callely was done intentionally and was of a grave nature and considering it reasonable in all the circumstances, the Committee would recommend that the Seanad also resolve to withhold from Senator Callely so much of the annual sum by way of salary payable to Senator Callely under the Oireachtas (Allowances to Members) Act 1938 during the period of the 20 days of suspension.


Senator Pat Moylan
Chairman

Committee on Members' Interests of Seanad Éireann

14th July 2010

Appendix (i)

Complaints from Mr John Mulligan and Mr Patrick Hurley

Houses of the Oireachtas



Kiltycreighton
Boyle
County Roscommon
31st May 2010.

Ms. Deirdre Lane, Clerk of Seanad Éireann
Leinster House
Dublin 2.

Re: Senator Ivor Callely, expenses claims.

Dear Ms. Lane,

I refer to the article published in yesterday's Sunday Independent (attached), concerning the expenses claims made by Senator Ivor Callely.

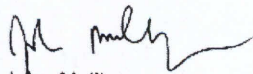
The article suggests that the Senator has made claims for expenses based on his being domiciled in Cork and not in Clontarf in Dublin. It appears from the article that the Senator filled out the "home details and allowance" form with information showing his domicile as being in Cork. Anecdotal evidence would suggest that Senator Callely lives in Clontarf in North Dublin, and that his Cork address is simply a holiday home. However I am sure that analysis of his home telephone account and utilities usage will establish the veracity of this.

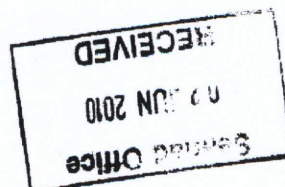
From the information contained in the Sunday Independent article, I want to make a formal complaint under section 8 of the Ethics in Public Office Bill 1995 in respect of Senator Callely's expenses claims. I am sending you this complaint in email format but I am also posting you a hard copy, given that the Act specifically states that any such complaint should be in writing. While an email does constitute a written complaint, I am also sending the hard copy in case of any other interpretation of the Act.

I would ask you to treat this complaint with the seriousness with which I take it. I have no issue with Senator's politics, I simply feel that his actions in this instance reflect badly on all politicians and undermine public confidence in the political system. I believe that his apparent subterfuge of claiming to live in Cork is a blatant attempt to maximise his personal enrichment from the political process and shows utter contempt for taxpayers and citizens. In this context, I would respectfully request that you process this complaint and let me know of any outcome by email to this email address.

In the event that the newspaper article is incorrect and that the Senator has indeed relocated permanently to Cork, I offer my apologies for wasting your time on this matter.

Yours sincerely,


John Mulligan.



The follies of Sarah
iving Section, page 2

Maevie Shochan Begging, organised crime and
the fatal consequences. This Section, Page 18

dependent

1,000 READERS

May 20, 2010

€2.50 (€1.50 in Northern Ireland)

FILTH AND A FLASHER - DUBLIN'S MAIN STREET ON A SUMMER'S EVENING

LOVELY LEAH

Callely got €80,000 mileage from Cork

Ex-Dublin TD has Bantry address

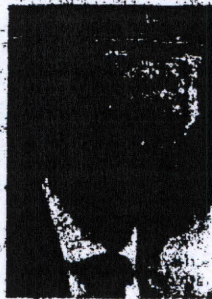
JOHN DUFFY

CONTROVERSIAL Fianna Fáil Senator Ivor Callely has been claiming overnight and travel expenses from a property owned by his wife in Cork since he was appointed to the Seanad in 2007.

Documents secured under the Freedom of Information Act reveal that in 2008 alone Senator Callely claimed more than €80,000 under the scheme.

As controversy escalated over political expenses from 2009 onwards, the accident-prone senator made increasingly frantic attempts to replace his expenses.

He recently returned an expenses cheque to the Dail of €3,987 - but still managed to collect €11,000 since 2007. Senator Callely said yesterday: "Following the loss of my Dail seat, I took up residence



CONTROVERSIAL: Ivor Callely

in Cork and received my appointment from that residence. He had no other cause for Freedom of Information, I do not claim any entitlement on expenses."

The curious affair began when the former Dublin north TD moved out of his home details and allowance form

which allows TDs and Senators to claim for travel and subsistence.

The money politicians can claim varies significantly.

If they are living within 24 kilometres from the Dail, then they are only entitled to a relatively modest daily allowance of some €35.

By contrast, however, those who live beyond this threshold can qualify for the highly lucrative overnight and travel allowance scheme.

Prior to the cutbacks of August 2009, this meant that TDs and senators could claim €139.47 in respect of the preceding night.

They were (and still are) entitled to overnight allowances on any day the Dail, Seanad or an Oireachtas committee sits.

The mileage rates of €9.07

Continued on Page 2

Callely caught up in expenses row

Continued from page 1

cents per litre — up to 6,437 kilometres and 28.46 cents — for all subsequent travel are even more lucrative.

In the aftermath of his nomination to the Seanad, Senator Callely told the Oireachtas in December 2007 that his "current principal residence" was Kilkrohane, Bantry, Co Cork, which is 370km from Leinster House.

This will come as a surprise to his political rivals in Dublin north-central, where sources told the *Sunday Independent* that Mr Callely "continues to engage in political activities".

In a letter sent on the same date, Callely informed the Oireachtas that his "personal situation has changed since June 2007 and while I retain my Dublin home and my constituency office, my current principal residence is Kilkrohane."

Mr Callely's address is listed in Nelson's Guide to Irish Politics as Glonsart, Dublin. On his website, Senator Callely says he was "educated and continues to live in Dublin".

On September 28, 2008, Senator Callely returned a second-home details and allowance option form, confirming that Kilkrohane was still his "home address".

Intriguingly, the members' services department of the Oireachtas sent the politician a letter on October 2, asking: "For the avoidance of doubt and absolute certainty for future auditing purposes, I would be grateful if you would certify in writing that this house in Bantry was your normal place of residence."

Significantly, a first hint of uncertainty emerges in the senator's reply, which confirms that Kilkrohane is his "normal place of residence for the time being" but not normally "one's permanent and principal abode at all times".

Responding on the November 11, 2008, the Oireachtas informed him that if he wished to switch "from your current chosen method of

recompment, you must notify members' services section in writing of this".

The senator promptly replied and indicated that he would be continuing under the current expenses regime.

In four months in 2007, Senator Callely claimed €7,970 in mileage expenses and a further €5,307 in overnight and subsistence — a total cost of just over €13,000.

In 2008, he claimed €19,888 in mileage and a further €20,112 for over-nights.

On July 2, 2009, the members' services section told Mr Callely that "following on from your recent enquiry" the senator could not "change his travel and subsistence option for 2009 as (you have) already selected (your) option."

On November 30, an obviously concerned Mr Callely claimed he had now been indicating "for some time that I wish my travel expenses to reflect my actual incurred travel expense and appropriate subsistence". Such was his concern that he had spoken "to the Minister for Finance".

This was followed by a subsequent letter by the senator on December 16, 2009, where he said he would not be making a claim for travel and subsistence for September, October, November and December 2008, because he would prefer "my travel to reflect my actual and/or to be touched to reflect actual expense".

The decision resulted in Callely claiming far more modest travel expenses of €12,791 for 2009 and overnight expenses of €14,944 in overnights. The total figure of just under €28,000 represented a drop of just under a third on the 2008 expenses.

In a letter on April 2, 2010, Senator Callely returned a cheque of €3,987.50 and said he had been "hoping my new allowance system would accommodate my situation where my appointment to the Seanad was from my Kilkrohane abode but I do also reside in my Dublin abode" but the new system "only accommodates one address".

COMMITTEE ON MEMBERS' INTERESTS OF SEANAD ÉIREANN



Patrick Hurley
<phurley@iol.ie>
02/06/2010 14:46

To deirdre.lane@oireachtas.ie
cc
bcc
Subject Senator Ivor Callely

Dear Ms Lane,
Below, is the content of a letter that I have sent to you by post today.
Kind regards,
Patrick Hurley

Seanad Eircann Committee on Procedure and Privileges

Houses of the Oireachtas

Leinster House

Kildare Street

Dublin 2

2 June 2010

STRICTLY CONFIDENTIAL

IVOR CALLELY, Senator - DUBLIN NORTH CENTRAL

Dear Sirs:

I wish to lodge a complaint under Section 8 of the Ethics Act 1995 as amended by the Standards in Public Office Act 2001.

Senator Callely has recovered expenses from the Irish taxpayer based on an erroneous claim that he lives in County Cork. This is a falsehood on two counts. They are:

1. Senator Callely states on his website that he lives in Dublin. I attach evidence of this.

<http://www.ivorcallely.ie/profile.htm>

He notes... educated and continues to live in Dublin North Central.

2. On the Oireachtas website, it gives Senator Calley's address as Dublin.

<http://www.oireachtas.ie/members-hist/default.asp?housetype=1&HouseNum=23&MemberID=156&ConstID=210>

Address

"Landsdale House"

7 St. Lawrence Road

Clontarf, Dublin 3

I request the matter be reviewed and the appropriate action be taken against Senator Callely

Yours sincerely,

Patrick Hurley

'Acadia'

Rathmichael Dales

Rathmichael

Dublin 18

Houses of the Oireachtas

IVOR CALLELY, Senator. -- DUBLIN NORTH CENTRAL

Ivor Callely was first elected to Dublin City Council in 1985. His election to Dáil Éireann followed in 1989, and he has topped the poll on numerous occasions. He is typical of the newer generation of Public Representative, having forged his career based on commitment to his constituents and grass roots issues.

Ivor has been a key figure for Fianna Fáil in North Dublin and is regarded as having personally delivered the third Fianna Fáil seat in the 1989 General Election, considered as one of the most difficult election of all time for Fianna Fáil.

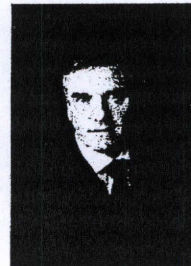
His hard work and vote attraction was recognized with a string of appointments to key positions through the years. In 1991, he became the youngest ever elected Chairman of the Eastern Health Board, Chairman of the Child Care Advisory Committee and in 2000 the first Chairman of the Eastern Regional Health Authority.

From 1993 to 1995, Ivor was Fianna Fáil Assistant Whip and in 1995 was appointed Policy Coordinator, position which gave him a deep insight into fundamental Fianna Fáil Party issues. Following the 1997 General Election where Ivor topped the poll, he was appointed Chairperson of the Oireachtas Joint Committee on Enterprise and Small Business.

The 2002 General Election saw Ivor manage the Fianna Fáil vote in Dublin North Central in an effort to deliver a third seat for the party. The strategy, while failing narrowly, received many plaudits from commentators and party officials.

Ivor's appointment to the position of Minister of State at the Department of Health and Children in 2002 was a further recognition of his work ethic and organisational capabilities. In 2004, Ivor was appointed as Minister of State at the Department of Transport where he remained until December 2005. He was nominated to Seanad Éireann in 2007 and appointed Government Spokesman on Enterprise, Trade and Employment.

Married to Jennifer, they have three children. He was educated and continues to live in Dublin North Central.



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ivor.callely@oireachtas.ie
Constituency Office, 191 Howth Road, Killester, Dublin 3 - Tel: 353 1 8334331 - Fax: 353 1 8334332

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Seanad Members Database

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within Seanad



Mr. Ivor Callely

(06/05/1958 -)

Profession: Full-Time Public Representative, formerly Representative for Pharmaceutical Firm

Party: Fianna Fáil (*Website / Fianna Fáil members of the 23rd Seanad*)

Membership

House Number	Constituency	Period	Party
23rd Seanad	Nominated by the Taoiseach	2007	Fianna Fáil
29th Dáil	Dublin North Central	2002-2007	Fianna Fáil
28th Dáil	Dublin North Central	1997-2002	Fianna Fáil
27th Dáil	Dublin North Central	1992-1997	Fianna Fáil
26th Dáil	Dublin North Central	1989-1992	Fianna Fáil

Address

"Landsdale House"
7 St. Lawrence Road
Clontarf
Dublin 3
W: <http://www.ivorcallely.ie>

<http://www.oireachtas.ie/members-hist/default.asp?housetype=1&HouseNum=23&M...> 02/06/2010

COMMITTEE ON MEMBERS' INTERESTS OF SEANAD ÉIREANN

Details

28th Dáil - Chairman of the Enterprise and Small Business Committee [1997 to 2002]
29th Dáil - Minister of State at the Department of Health and Children [18 June 2002 to 29 September 2004]
Minister of State at the Department of Transport [29 September 2004 to 8 December 2005]
(Resigned as Minister of State 8 December 2005)
Defeated in the 2007 General Election

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<http://www.oireachtas.ie/members-hist/default.asp?housetype=1&HouseNum=23&M...> 02/06/2010

Appendix (ii)

Letters of referral of complaints from the Clerk of Seanad Éireann to the Committee on Members' Interest of Seanad Éireann

Houses of the Oireachtas

COMMITTEE ON MEMBERS' INTERESTS OF SEANAD ÉIREANN



OIFIG CHLÉIREACH AN tSEANAID
OFFICE OF THE CLERK OF THE SEANAD

TEACH LAIGHEAN
LEINSTER HOUSE

BAILE ÁTHA CLIATH 2
DUBLIN 2

TEL: (01) 618 3357
FAX: (01) 618 4101

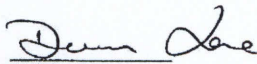
STRICTLY CONFIDENTIAL

Ref 8/45
2 June, 2010

Ms Jody Blake,
Clerk to the Committee on
Members Interests of Seanad Éireann.

Please see attached correspondence which I am referring to the above Committee pursuant to section 8 of the Ethics in Public Office Act 1995 as amended by the Act of 2001.

Yours sincerely.


Deirdre Lane
Clerk of the Seanad

Houses of the Oireachtas

COMMITTEE ON MEMBERS' INTERESTS OF SEANAD ÉIREANN



OIFIG CHLÉIREACH AN tSEANAID
OFFICE OF THE CLERK OF THE SEANAD

TEACH LAIGHEAN
LEINSTER HOUSE

BAILE ÁTHA CLIATH 2
DUBLIN 2

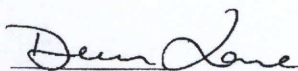
TEL: (01) 618 3357
FAX: (01) 618 4101

Ref 8/45
3 June, 2010

Ms Jody Blake,
Clerk to the Committee on
Members Interests of Seanad Éireann.

Please see attached correspondence which I am referring to the above Committee pursuant to section 8 of the Ethics in Public Office Act 1995 as amended by the Act of 2001.

Yours sincerely,


Deirdre Lane
Clerk of the Seanad

Houses of the Oireachtas
STRICTLY CONFIDENTIAL

Appendix (iii)

Memorandum of Procedure

Memorandum of Procedures on the conduct of the investigation by the Committee on Members' Interests of Seanad Éireann (the "Committee") in relation to complaints made against Senator Ivor Callely.

1. The Committee will conduct its investigation in accordance with this memorandum of procedures and in accordance with the provisions of the Ethics in Public Office Acts 1995 – 2001 (the "Acts").
2. The Committee shall notify Senator Callely or his nominated representative of the date, time and place of each sitting of the Committee at which it is proposed to call witnesses to give evidence or to hear submissions.
3. The Committee shall notify the complainant(s) or the complainant(s) representative of the date, time and place of each sitting of the Committee at which it is proposed to call witnesses to give evidence or to hear submissions.
4. The Committee shall enable Senator Callely and the complainant(s) to be present at the relevant sittings of the Committee at which it is proposed to call witnesses to give evidence or to hear submissions.
5. Senator Callely or his nominated representative will be afforded the opportunity to call witnesses to give evidence and to present his case to the Committee.
6. Sittings of the Committee for the purposes of hearing evidence and submissions will be held in public except when otherwise directed by the Committee.
7. The Committee may also from time to time adjourn to private session for the purposes of assessing the work that must be done to prepare for the investigation, deliberating as to what step(s) may be required to progress the investigation or for any other reason as determined by the Committee.
8. In general, neither Senator Callely nor the complainant(s) will be entitled to be present during any private session of the Committee. However, this is subject to the exception that they will be enabled to attend any private sitting of the Committee at which the Committee will hear evidence or submissions. For the avoidance of doubt, neither Senator Callely nor the complainant(s) will be permitted to be present during the deliberations of the Committee for the purposes of the Committee making a determination in relation to the investigation.
9. The Committee may invite or direct in writing Senator Callely or any other person whose evidence is required by the Committee to attend before the Committee on a date and at a time and place as specified in the invitation or direction.

10. The Committee may invite or direct in writing any person (other than Senator Callely) to attend before the Committee and to produce any document or thing in his or her possession or power as specified in the invitation or direction.
11. The Committee may direct any person (other than Senator Callely) who is in attendance before the Committee to produce any document or thing in his or her possession or power specified in the direction.
12. The Committee may invite or direct in writing any person (other than Senator Callely) to send to the Committee any document or thing in his or her possession or power specified in the direction.
13. Without prejudice to the foregoing, the Committee may give any other direction for the purposes of the proceedings that appear to be reasonable and just.
14. The Committee may, for sufficient reason if it considers it appropriate to do so, arrange for the examination of a person in or outside the State by a member of the Committee or the Committee's legal representative. The Committee may receive, in such form as it may determine, the evidence of a person taken at the examination, and the relevant rules of court relating to evidence in proceedings in the High Court shall apply in relation to the matters aforesaid with any necessary modification.
15. The Committee shall provide to Senator Callely the following documents as they become available during the course of the investigation:
 - a) a statement of the alleged contravention of the Acts ;
 - b) a list of the names of the witnesses whom it is proposed to call to give evidence before the Committee;
 - c) a copy of each or any statement intended to be used at the Committee;
 - d) an indication in writing of the nature and source of any information relating to the alleged matter which has come to the notice of the Committee in the course of the investigation which may be favourable to Senator Callely and of which he may be unaware.
16. With the consent of Senator Callely, written statements and other documents may be admissible in evidence before the Committee.
17. Any signature appearing on a document produced before the Committee may be taken, in the absence of evidence to the contrary, to be the signature of that person whose signature it purports to be.
18. Witnesses invited or directed by the Committee to attend before the Committee or who make themselves available to the Committee may be examined by members of the Committee or on behalf of the Committee by a solicitor and/or Counsel on behalf of the Committee. Senator Callely or a nominated representative may cross-examine any such witnesses called by the Committee.

19. Witnesses called by Senator Callely may be examined by him or by a nominated representative. Members of the Committee and/or their legal representative may cross-examine any witnesses called by Senator Callely.
20. Evidence before the Committee shall be given on oath. The oath shall be administered by the Chairman of the Committee. Prior to the Committee hearing evidence from a witness, the Chairman shall direct each witness to swear an oath on the Bible or to make an affirmation (for those who are not Christians) in the following terms:-

Oath: *I swear by Almighty God that the evidence I shall give shall be the truth, the whole truth and nothing but the truth.*

Affirmation: *I, do solemnly, sincerely and truly declare and affirm that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth.*
21. Each witness shall be advised in advance of giving their evidence of the privilege attaching to their evidence.
22. Committee proceedings will be recorded in writing.
23. The Committee may adjourn or postpone proceedings in relation to its investigation as it deems fit.
24. Decisions of the Committee in relation to its investigation or any question arising in the course of the investigation will be that of the majority of the members. In addition, pursuant to Standing Order 90(4) of the Standing Orders of Seanad Éireann, in the event of there being an equality of votes, the question shall be decided in the negative.
25. At the conclusion of the evidence before the Committee a closing submission may be made by or on behalf of Senator Callely. Thereafter the Committee will meet in private for the purposes of deliberating on the evidence before them and any submissions made.
26. When the Committee has concluded their deliberations they will draft a report as is required and in the format as specified in the Acts.
27. Any notification in writing under this procedure shall be delivered by hand or sent by ordinary prepaid post or facsimile transmission or by electronic mail. Any such notice or other document shall be deemed to have been delivered at the time of delivery, if delivered by hand, or if sent by post, 48 hours after posting or, if sent by facsimile transmission, upon receipt by the sender of a confirmation sheet confirming that the said transmission has been sent or if sent by electronic mail at the time of sending the electronic mail (provided that no report of transmission or other message transfer failure is received by the party sending the electronic mail).
28. The Committee will be assisted in the course of the conduct of its investigation by the solicitor from the Office of the Parliamentary Legal Adviser and such Junior

and/or Senior Counsel as may be briefed by the solicitor as necessary. The solicitor and/or any Counsel will have no role in any decision making by the Committee but may give legal advice thereto.

29. The Committee may by resolution amend these procedures as may be deemed necessary by the Committee during the course of the investigation.

Houses of the Oireachtas

Appendix (iv)

Statement by Senator Ivor Callely to the Chairman of the Select Committee on Members Interests.

Houses of the Oireachtas



Senator Pat Moylan
Cathaoirleach
Select Committee on Members Interests
Seanad Éireann
Dublin 2

STRICTLY CONFIDENTIAL

03 June 2010

Dear Cathaoirleach,

I refer to my statement in the Seanad Chamber and my request for your Committee to consider the subject matter regarding expenses I now attached the detailed statement that I was requested to supply.

Again I wish to state that I will fully co-operate with the Select Committee.

Yours sincerely,

SENATOR IVOR CALLELY



Seanad Éireann
Leinster House
Kildare Street
Dublin 2

Seanad Éireann
Teach Laighnean
Sráid Chill Dara
Baile Átha Cliath 2

Confidential

Statement by Senator Ivor Callely to the Cathaoirleach of The Select Committee on Members' Interests.

Arising out of the presentation of a Sunday newspaper article, there has been considerable speculation about my expenses.

Since my nomination to Seanad Éireann, I have been open and transparent with my expenses and communication with The Houses of the Oireachtas. Contrary to public perception, I am not currently in receipt of subsistence and travel from Cork. I was residing in my Cork residence in 2007, part of 2008 and periods of 2009. I did attempt to change my chosen option for subsistence and travel allowance for attendance in Leinster House, but was unable to do so.

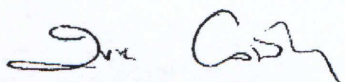
I now put the most relevant parts in chronological order and will fully cooperate with the Select Committee. It is my intention to wholesomely address and respond to all matters.

- 1 On the 24th May, 2007, I lost the seat I held for 18 years for the Constituency of Dublin North Central. This had a immediate and devastating effect on my social, domestic and personal life. It had been a long and difficult campaign as the constituency had been reduced to a 3 seater and for that period, I resided mainly in my Clontarf home.
- 2 Once the formal matters were attended to, I then had to attend to a difficult campaign for the Seanad elections. For a significant period, my home and base was my residence in Kilcrohane, County Cork. I found that residence with the well known warm and sense of community to be a great source of assistance to me at that time.
- 3 I continued to reside in Kilcrohane, after I was unsuccessful in the Seanad race and for the period June onwards, it was my normal place of residence, so much so that when I was appointed to the Seanad on the Taoiseach's nomination on the 2nd August, 2007, I was resident there and this is reflected in the letter of appointment(See document 1).
- 4 Following my appointment to the Seanad, I maintained myself in West Cork. I decided to remain in West Cork, commute to Dublin to fulfil my duties in the Seanad, retain my home in Clontarf and maintain my Constituency Office in Dublin North Central.
- 5 In December 2007, I informed the Member's Services that "while I retain my Dublin residence and constituency office, my principal residence is Kilcrohane, as per my letter of appointment to Seanad Éireann"(see document 2).

- 6 In completing forms for the Oireachtas, I advised them that this was my address and the forms were processed in the normal way by independent officers of the Public Service, doing their job in a professional manner and payments were made on this basis. On the 2nd October 2008, I was advised in very clear terms by the Member's services to confirm my "normal place of residence" and the officer helpfully defined it, as per s. 4(1)(c) of the Oireachtas (Allowances to Members) Act 1938. I confirmed this on correspondence of the same date. In stating that Kilcrohane was my "normal place of residence for the time being, though not necessarily my permanent and principal abode at all times" I replied honestly and properly and this reflected my personal, domestic and social circumstances which existed from June 2007, to that date (see documents 3 and 4).
- 7 During the period of late 2008 and 2009, I began to spend more time in my home in Clontarf. This was due to changing personal and domestic circumstances. I also answered the Taoiseach's call to Fianna Fail Oireachtas members to "put the shoulder to the wheel" in relation to the second Lisbon Referendum and because my son, was a candidate in the Local Elections 2009 for the constituency of Clontarf.
- 8 Accordingly, in 2009 I reflected on what my normal place of residence was and on 2nd July, I contacted the Member's Services to re-consider the position as to the expenses regime. I was advised by a member of the Members' Services Section, that "section 5 of SI 101 of 1998 states that a "member whose normal place of residence is more than 15 miles (24.135km) from Leinster House, may opt for the Daily allowance of Travel and Overnight Allowance "once and only once" within a normal calendar year(see document 5).
- 9 I acknowledged this situation in a response by email(see document 6) dated the 7th October, 2009, and noted that the Minister for Finance was considering amendments and or a new scheme for expenses. I was optimistic that whether amendments to the old expense regime or a new system was introduced, that it would reflect members' circumstances and travel, such as in my case, travel between my residence in Cork and my home in Clontarf.
- 10 On the 16th December 2009, I wrote to the Members' Services Section. I advised them that "In order to reflect the travel between my Kilcrohane and Dublin abode, and the expenses incurred, I wish to indicate that my claim up to August '08 is my last claim for 2008, I am claiming for eight months only in 2008 and do not intend to claim for September, October, November or December 2008, as I feel this best reflects my particular situation". (see document 7).
- 11 I honestly feel that this was a fair way of dealing with the anomaly in the old expenses regime, which was inflexible for those who may find

themselves with a normal place of residence separate from their family home. The complexity of such situations was not reflected in the Statutory Instrument or administrative scheme pursuant to it.

- 12 When the new expenses and allowance did come into effect, I was disappointed that while the new scheme was a vast improvement, it still could only reflect one address. I immediately returned the full allowance cheque I received for March, 2010. (See document 8). On the 31st May 2010, I received the standard Personal Representatives Allowance of €1,250.00 for the months of March, April and May, 2010, which I have not cashed and have retained on file, as I am determined to resolve this issue.
- 13 The chronology of these events, do not lend themselves to a Personal Statement on the floor of the Seanad and I feel that a hearing before this body was required, in order that I could attach relevant correspondence, and endeavour to satisfactorily respond to any other matters raised at Committee.
- 14 I am very grateful for the opportunity to clarify the situation and confirm that I will comply with any directions that this committee gives.


Senator Ivor Callely

Date 2nd June 2010.



18/12/2007 15:47 016764048

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PRIVATE OFFICE

PAGE 01/01



Roinn an Taoisigh
Department of the Taoiseach

S180/80/01/0004

3 Lúnasa, 2007

A Chara,

Tá orm a chur in iúl duit go bhfuil an Taoiseach ag gníomhú dó de bhun Airteagal 18.3 den Bhunreacht, tar éis tú a ainmniú inniu, mar chomhalta de Sheanad Éireann, le go líonfar an corrholúntas atá ann faoi lathair i líon na gcomhaltaí a ainmnítear do Sheanad Éireann.

Mise le meas,


Rúnaí Cúnta an Rialtais

Mr. Ivor Callely
The Paddock,
Kilcrohane,
Bantry,
Co. Cork.

Tithe an Rialtais, Baile Átha Cliath 2.
Government Buildings, Dublin 2

COMMITTEE ON MEMBERS' INTERESTS OF SEANAD ÉIREANN



SEANAD ÉIREANN
BAILE ÁTHA CLIATH, 2.

2

December 2007

To Whom It May Concern
Member's Services
Leinster House
Dublin 2.

A Chara,

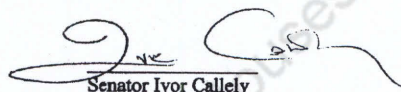
I wish to submit my Daily Travelling and Overnight Allowances, for which I am entitled to claim.

My personal situation has changed since June 2007 and while I retain my Dublin home and my Constituency Office, my current principal residence is Kilcrohane, Bantry, Co. Cork, as per my letter of appointment to Seanad Éireann, as attached.

I would appreciate if you can advise as to how best to proceed.

Many thanks.

Yours sincerely,


Senator Ivor Callely



Houses of the
Oireachtas
Tithe an Oireachtais

Leinster House
Dublin 2
Tel +353 1 618 3000

Teach Laighean
Baile Átha Cliath 2

311

Senator Ivor Callely
The Paddock
Kilcrohane
Bantry
Co Cork

RANNÓG SHEIRBHÍSI DO CHUSTAIMÉIRÍ
MEMBERS' SERVICES SECTION

GUTHÁN / TELEPHONE: 01 6184677
FACS / FAX: 01 6184694
RÍOGBHPOST / E-MAIL: bernie.mccormick@oireachtas.ie

Dear Senator Callely,

I refer to your recent claim for the recoupment of expenses for travelling facilities to Leinster House. I note from your letter of December 2007 that you have stated that the house at Kilcrohane, Bantry, Co Cork is your "current principal residence". However, for the avoidance of doubt and for absolute certainty for future audit purposes I would be grateful if you could certify in writing that this house in Bantry was your "normal place of residence for the time being" for the period of the claim. This is the statutory provision used in Section 4(1)(c) of the Oireachtas (Allowances to Members) Act, 1938 for the payment of such expenses.

For ease of reference, the term "normal place of residence" has been defined by the Department of Finance in previous correspondence with you as "what is involved is a premises which, though not necessarily one's permanent and principal abode, is used for a period which is both of some length and for a purpose which is not ad hoc and goes beyond mere shelter in passage, such as a few nights in a hotel".

Yours sincerely,

Bernadette McCormick

Bernadette McCormick
Members' Services
618 4677
02 October 2008

COMMITTEE ON MEMBERS' INTERESTS OF SEANAD ÉIREANN



SEANAD ÉIREANN
BAILE ÁTHA CLIATH, 2.

2 October 2008

Ms. Bernadette McCormick
Members' Services
Houses of the Oireachtas
Leinster House
Dublin 2.

Dear Bernie,

I refer to your letter of today's date, in connection with my expense claim.

As already advised, my personal situation has changed since June 2007, as per my previous communication in December 2007. I can confirm that my residence in Kilcrohane is my normal place of residence for the time being, though not necessarily one's permanent and principal abode at all times. It is the residence from which I received my appointment to Seanad Éireann. (Copy already supplied).

I would like to thank you and the One Stop Shop for your assistance in this matter.

Yours sincerely,

Senator Ivor Callely

COMMITTEE ON MEMBERS' INTERESTS OF SEANAD ÉIREANN



Houses of the
Oireachtas
Tithe an Oireachtas

Leinster House
Dublin 2
Tel +353 1 607 3000

Teo. d'Éireann
Teo. d'Éireann

5

Senator Ivor Callely
Seanad Éireann

RANNÓG SHEIRBHÍSE DO CHUSTAIÓDÉIRÍ

MEMBERS' SERVICES SECTION

GUTHÁIN / TELEFÓIN 01 618 4677
RÍOIBPHOST / EMAIL bernie.mccormick@oireachtas.ie

Dear Senator Callely,

Following on from your recent enquiry, I am writing to confirm that you elected to recoup expenses incurred in respect of your attendance in Leinster House by way of Overnight and Travel Allowances for the year 2009.

Section 5 of SI 101 of 1998 states that a Member, whose normal place of residence is more than 15 miles (24.135 km) from Leinster House, may opt for the Daily Allowance or Travel and Overnight Allowance "once and only once" within a normal calendar year.

As you have previously declared, on 12 November 2008, that your option for 2009 is to be the Travel and Overnight Allowance for the year ending 31st December 2009, we are unfortunately unable to proceed with your request to change the option chosen until the start of the new calendar year on 1 January 2010.

Yours sincerely,

Bernie McCormick

Bernie Mc Cormick
Members' Services Section

02 July 2009

COMMITTEE ON MEMBERS' INTERESTS OF SEANAD ÉIREANN

Houses of the
Ivor Callery/Oireachtas
07/10/2009 18:13

Leinster House
Dublin 2
Tel: 01553 618 5000

Teach Laighnean
Baile Átha Cliath 2

To: Maureen Kilkenny/Office/Oireachtas
cc
bcc
Subject

Hi Maureen,
I refer to our discussions in connection with my expenses. I am anxious that my claim should reflect my actual travel. I understand the current expense system in respect of attendance is restricted in options and the option available to me is not suitable for my current travel thus I have not made any recent claim.
I note the response in July last where a change of the restricted options is not possible till the start of the new calendar year in January 2010. Given that the Minister for Finance is currently considering amendments and or a new scheme for expenses it may be an opportunity to address any such issue.
regards
Ivor

Houses of the Oireachtas

16

Office of Ivor Callely

16th December 2009.

7

Mr Pat Haran
Members Services Section
Houses of the Oireachtas,
Dublin 2.

Dear Pat,

I refer to our correspondence in connection with my travel and subsistence allowance.

As stated in my last letter of 30th November, I would prefer "my travel to reflect my actual and/or to be vouched to reflect actual expense."

I understand a new expense system will be introduced shortly, but will not be retrospective. In order to reflect the travel between my Kilcrohane and Dublin abode and the expenses incurred I wish to indicate that my claim up to August '08 is my last claim for 2008, I am claiming for eight months only in 2008 and do not intend to claim for September, October, November or December 2008, as I feel this best reflects my particular situation.

I await the new expense system and do hope it will accommodate my position.

Yours sincerely

Senator Ivor Callely

Office of Ivor Callely

2 April 2010

Ms Maureen Kilkenny
One Stop Shop
Leinster House
Kildare Street
Dublin 2


Maureen, a chara,

I refer to the cheque which I received under the new Parliamentary Standard Allowance system and to advise that I wish to return the monies received on 31st March '10.

I do not wish to draw down my full entitlement, and return cheque to the value of €3987.50. As I have previously indicated, I wish my expense / allowance to reflect my actual expense. I was hoping that the new allowance system would accommodate my situation, where my appointment to the Seanad was from my Kilcrohane abode but I do also reside in my Dublin abode, the new system only accommodates one address. In order to reflect my actual situation, I feel it best to return the March cheque.

Thank you for your assistance with this matter.

Yours sincerely,



Ivor Callely

DL 101653

[Seánad only]

DOCUMENT(S) TO BE LAID BEFORE HOUSE OF OIREACHTAS

Clerk of ~~Dáil~~ / Seanad (delete as appropriate)

I enclose copies* of the under mentioned document(s) to be laid before the House. The information sought below is as set out.

For Head of Department or other body (please print)

Date: 14/7/2010 Telephone: _____

E-mail: _____



1. Department or other body laying document ..	<i>Committee on Members' Interests of Seanad Éireann</i>
2. Title of document	Report of the Results of an Investigation into Complaints concerning Senator Ivor Callely
3. Parliamentary number (Prn) (available from Government Supplies Agency (01) 647 6628)	
4. ¹ If the requirement to lay the document is set out in an Act please state the title and specific section of the Act	<i>Ethics in Public Office Act 1995 (as Amended) Section 10(1)(b)</i>
5. If specified in the Act, within how many sitting days may the House annul or disapprove the document? (e.g. 21 sitting days)	
6. Does the Act specify whether the House must approve the document? (e.g. by resolution) Yes / No (delete as appropriate)
7. Full URL if the document is available online http://

*Three copies of the document in respect of each House, or six copies where it is to be laid before one House only.

¹ The information required for questions 4 – 6 inclusive can, in general, be found in the specific section of the Act containing the requirement to lay the document before the House.



Seanad Éireann

Oireachtas Library

Committee on Members' Interests of Seanad Éireann
An Coiste um Leasanna Chomhaltaí Sheanad Éireann

**Ethics in Public Office Act, 1995 as amended by the
Standards in Public Office Act 2001**

An tAcht um Eitic in Oifigí Poiblí, 1995 arna leasú leis
an Acht um Chaighdeán in Oifigí Poiblí 2001

**Report of the Results of an Investigation into
Complaints concerning Senator Ivor Callely**
Tuarascáil ar Thorthaí Imscrúdaithe ar Ghearáin
maidir leis an Seanadóir Ivor Mac Ailghile.

14 July 2010