

Committee for Social Development

**Inquiry into allegations, arising from a BBC NI
Spotlight programme aired on 3 July 2013, of
impropriety or irregularity relating to NIHE
managed contracts and consideration of any
resulting actions - Addendum**

Ordered by the Committee for Social Development to be printed 3 July 2014

Membership and Powers

The Committee for Social Development is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, section 29 of the Northern Ireland Act 1998 and under Standing Order 48.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider relevant secondary legislation and take the Committee stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on any matters brought to the Committee by the Minister for Social Development.

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee since 23 May 2011 has been as follows:

Mr Alex Maskey (Chairperson)

Mr Mickey Brady (Deputy Chairperson)

Mr Jim Allister⁷

Ms Paula Bradley¹

Mr Gregory Campbell³

Mr Trevor Clarke⁸

Mr Michael Copeland

Mr Stewart Dickson¹¹

Ms Dolores Kelly¹⁰

Mr Fra McCann

Mr Sammy Wilson^{2,4,5,6,9}

1 With effect from 20 February 2012 Ms Paula Bradley replaced Mr Gregory Campbell
 2 With effect from 26 March 2012 Mr Alastair Ross replaced Mr Sammy Douglas
 3 With effect from 01 October 2012 Mr Gregory Campbell replaced Mr Alex Easton
 4 With effect from 01 October 2012 Mr Sammy Douglas replaced Mr Alastair Ross
 5 With effect from 11 February 2013 Mr Sydney Anderson replaced Mr Sammy Douglas
 6 With effect from 07 May 2013 Mr Sammy Douglas replaced Mr Sydney Anderson
 7 With effect from 09 September 2013 Mr Jim Allister replaced Mr David McClarty
 8 With effect from 16 September 2013 Mr Trevor Clarke replaced Ms Pam Brown
 9 With effect from 16 September 2013 Mr Sammy Wilson replaced Mr Sammy Douglas
 10 With effect from 30 September 2013 Mrs Dolores Kelly replaced Mr Mark H Durkan
 11 With effect from 01 October 2013 Mr Stewart Dickson replaced Mrs Judith Cochrane

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Representation from Minister McCausland



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9 July 2014

Dear Alex

Inquiry into allegations, arising from a BBC NI Spotlight programme, aired on 3 July 2013, of impropriety or irregularity relating to NIHE managed contracts and consideration of any resulting actions.

I refer to your letter dated 24 June 2014 enclosing a copy of the Committee's report in relation to the above Inquiry and seeking my comments on the findings.

The Committee Clerk advised my Department on 3 July that the Committee agreed at its meeting that day that it would accept any response submitted by the Department as an addendum to the Committee Report and the response should be submitted no later than 12 noon on 11 July 2014. My response is now attached at **Annex A**.

I believe that this Report is fundamentally flawed and weak in its analysis and statement of the facts and therefore should not be published in its current form. Indeed, my officials wrote to the Committee on 27 June 2014 advising that, in line with the approach that a public inquiry would take, the Committee should give due consideration to the representations made from the individuals who the Committee deemed may be adversely affected by its findings, and where the Committee is satisfied that relevant evidence has been omitted or that criticisms made in the draft report are not justified, the Committee should then make appropriate amendments. In light of my comments at Annex A and those forwarded separately from my officials, I believe that the Report should be amended before it is published to give due regard to the representations made.

Yours sincerely

Nelson McCausland

**NELSON MCCAUSLAND MLA
Minister for Social Development**



Annex A

Written comments from Nelson McCausland MLA, Minister for Social Development in relation to the report by the Committee for Social Development into allegations arising from a BBC NI Spotlight programme, aired on 3 July 2013, of impropriety or irregularity relating to NIHE managed contracts and consideration of any resulting actions.

As Minister for Social Development I wish to put on record my concerns about the process for this Inquiry which I believe would not meet the requirements that would be applicable if the Inquiry were a public inquiry conducted, for example, under the Inquiries Act 2005. I also believe that the content of this Report falls short of the standards expected in relation to any Inquiry and that this Report is fundamentally flawed in relation to its analysis of the evidence and its conclusions.

I do not believe that the evidence, both written and oral, provided to the Committee was given due regard and I fail to understand how the Committee has considered the evidence and the facts appropriately in line with the Terms of Reference for Phase 1 of this Inquiry. The Committee's conclusion "*That the Minister for Social Development deliberately misled the Committee for Social Development*" is in fact totally unsubstantiated and the Report does not set out in what way the Committee believe I misled them in relation to my decision to seek a review of the specification for the supply and fitting of double glazing. Indeed the evidence sought by the Committee failed to explore key aspects of the Committee's own terms of reference.

This purports to be an objective assessment of my decision to seek a review of the specification for the supply and fitting of double glazing. It is anything but that. The actual review of the double glazing specification is hardly mentioned in this Report and had it focussed on this review it would in fact have confirmed that I was not involved; it was carried out by the Housing Executive's technical advisors; the resultant decision reflected the guidelines; those who raised the issue did not benefit from the changes; and the subsequent changes led to estimated savings to the public purse of £15m. Indeed instead of these significant points, the Report focuses entirely on whether the people I met at, one meeting on 16 April 2012, were representing themselves or the glazing industry.

In relation to the meeting held on 16 April 2012, I have said many times that it was not important who I met but the fact that I was being advised, that if the Glass and Glazing Federation guidelines were followed, this could lead to significant savings to the public purse and indeed provide a better standard of service to tenants. A fact that was confirmed to me by my professional and technical officials and the savings to the public purse were subsequently estimated to be around £15m. That is what led to my decision to seek a review of the specification for the supply and fitting of double glazing not who was at the meeting.

I and my Special Adviser genuinely believed that the Turkington representatives were there in their capacity as members of the Glass and Glazing Federation (GGF). I note that, whilst paragraph 92 of the report refers to Mr Trevor Turkington's written evidence, it does not quote that Mr Turkington's written evidence in relation to the meeting on 25 January 2012 with my Special Adviser stated that "*the Glass and Glazing Federation was referred to on numerous occasions*" and that "*I can only presume that the references to GGF during the meeting led Mr Brimstone to conclude that the letter was to be issued by the Federation rather than Turkington's.*" Furthermore, the report at paragraph 175 in relation to changes to the minutes of this meeting states that "*the Committee would also put on record the Minister's position that these changes were made to reflect his genuine belief at the time that the meeting had been with representative of the GGF.*"

Indeed in the BBC NI Spotlight Programme, aired on 3 July 2013 and referred to in this Report, the reporter actually stated that "*It is possible Mr McCausland thought that the men from Turkington's were there as representatives of the Federation.*"

When I held the meeting on 16 April 2012 I ensured that the Housing Executive's Chief Executive and its Head of Procurement also attended and the review of the specification and the subsequent tendering process for new double glazing contracts were handled by the Housing Executive, as the contracting authority. I also never sought to hide or deny who was at that meeting which is in fact a matter of public record as I answered a written Assembly question on 7 September 2012 which clearly stated that the Managing Director and General Manager of Turkington Holdings were at the meeting on 16 April 2012.

However, on foot of this inquiry and the evidence provided by the Turkington representatives in November 2013, I realised I was wrong in my assumption that they were representing the GGF. I then acknowledged to the Committee on 12 December 2013 that I had inadvertently unintentionally misinformed the Committee but that this was not in any way deliberate. I therefore fail to see and understand how the Committee can come to the conclusion that, based on my genuine belief at the time which the Committee has acknowledged and put on record, the meeting had been with representatives of the GGF, I deliberately misled the Committee in relation to my decision to seek a review of the specification for the supply and fitting of double glazing.

I have no role in the tendering and letting process of any contracts so there was nothing to be gained by me in relation to this meeting, other than the potential for significant savings to the public purse and less disruption to tenants when work is being carried out to their homes. My aim, in relation to the double glazing programme, has always been to ensure that the Programme for Government target to double glaze all Housing Executive homes by 2015, is met whilst ensuring best value for money and meeting industry standards.

I would also emphasise that there was also no benefit to the attendees from Turkington's at the meeting and they were subsequently unsuccessful in tendering for the new Double Glazing contracts.

I meet many companies and individuals in relation to many issues, as my role as Minister is to make myself available to serve all the people of Northern Ireland. This is a key part of my role and responsibilities as Minister in order to discharge the duties of my office. If any individual or organisation raises an issue with me that I believe should be investigated, particularly where it relates to my duty in relation to the stewardship of public funds, then I will not be deterred from doing so.

Finally, I believe that this Report is fundamentally flawed and weak in its analysis and statement of the facts and therefore should not be published in its current form. Indeed, my officials wrote to the Committee on 27 June 2014 advising that, in line

with the approach that a public inquiry would take, the Committee should give due consideration to the representations made from the individuals who the Committee deemed may be adversely affected by its findings, and where the Committee is satisfied that relevant evidence has been omitted or that criticisms made in the draft report are not justified, the Committee should then make appropriate amendments. In light of my comments and those forwarded separately from my officials, I believe that the Report should be amended before it is published to give due regard to the representations made and the facts.

Representation from Department for Social Development



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9 July 2014

Dear Kevin

Inquiry into allegations arising from a BBC NI Spotlight programme, aired on 3 July 2013, of impropriety or irregularity relating to NIHE managed contracts and consideration of any resulting actions.

I refer to your letter dated 24 June enclosing a copy of the Committee's Report in relation to the above Inquiry. I also refer to your further letter to the Department on 3 July 2014 advising that the Committee agreed that it would accept any response submitted by the Department as an addendum to the Committee Report and the response should be submitted no later than 12 noon on 11 July 2014.

I am replying on behalf of the departmental officials cited in the Report and the response from the Department is attached at **Annex A**.

*Yours sincerely
Will*

WILL HAIRE



INVESTOR IN PEOPLE

Together, tackling disadvantage, building communities

Annex A**Written comments from Departmental officials in relation to the report by the Committee for Social Development into allegations arising from a BBC NI Spotlight programme, aired on 3 July 2013, of impropriety or irregularity relating to NIHE managed contracts and consideration of any resulting actions.**

Departmental officials believe that they need to put on record their disagreement with the Committee for Social Development's views in the Report in relation to the role of Civil Servants. Furthermore the terms of reference in relation to this Inquiry relate to the Minister's decision to seek a review of the specification for the supply and fitting of double-glazing. This Report focuses on the status of attendees at a meeting on the 16 April 2012, not on the review of the specifications which led to savings to the public purse estimated at £15m.

Following the meeting on 16 April 2012, the official advice to the Minister was that this meeting was with representatives of Turkington's. In draft correspondence and draft answers to a number of Assembly questions the relevant official on a number of occasions advised the Minister that his understanding was that the meeting was with representatives of Turkington's.

For example, in one particular draft Assembly question, even though officials were advised by the Minister's Private Office that the meeting was with the Glass and Glazing Federation, the draft version was amended and forwarded twice to the Private Office stating each time that the meeting was with Turkington representatives. It was then on further request from the Private Office that the third draft was amended by the relevant official to state it was with representatives of the Glass and Glazing Federation.

This is acknowledged at paragraph 40 in this Report where it states that Mr Michael Sands, in relation to a draft reply to the letter from the Committee's Chairperson, "*again referred to the Minister's meeting of 16 April 2012 with representatives from Turkington Holdings Ltd*" and at paragraph 68 where the Report refers to Mr Sands' view on the status of the attendees being reflected in the draft response to the Chairperson of the Committee and the draft response to an Assembly question tabled on 10 May 2012.

It is a matter of public record that the Minister and his Special Adviser (SpAd), following the pre-meeting held on 25 January 2012, were genuinely of the belief that the Turkington representatives were at the meeting on 16 April 2012 in their capacity as members of the Glass and Glazing Federation. Indeed at paragraph 175 this Report acknowledges the Minister's position as it states that "*The*

Committee would also put on record the Minister's position that these changes (to the minutes of the meeting on 16 April 2012) were made in order to reflect his genuine belief at the time that the meeting had been with representatives of the GGF." However, it is important to note that no departmental officials attended the pre-meeting on 25 January 2012. Officials were therefore not in a position to contradict the Minister and the SpAd's clear view of the discussions at the pre-meeting and the basis on which the meeting had been set up.

In relation to the pre-meeting on 25 January 2012 with the SpAd, the Report at paragraph 92 refers to Mr Trevor Turkington's written evidence but does not acknowledge that it actually states that "*the Glass and Glazing Federation was referred to on numerous occasions*" and that "*I can only presume that the references to GGF during the meeting led Mr Brimstone to conclude that the letter was to be issued by the Federation rather than Turkington's.*"

Therefore, the Minister conveyed his decision to officials that the Turkington representatives were attending the meeting in their capacity as members of the Glass and Glazing Federation. It should be noted that the Minister also advised the Committee in December 2013 that it was his genuine belief that they were representing the Glass and Glazing Federation until he heard the evidence from the Turkington representatives to the Committee in November 2013. The SpAd has also advised the Committee of his views on this issue.

Whilst departmental officials accepted the Minister's decision in that it was his genuine belief that the meeting was with members of the Glass and Glazing Federation, the importance attached now to the status of the attendees at the meeting must be considered in context to the overarching message being delivered at the meeting which was that, if the Glass and Glazing Federation guidelines were followed, there could be significant savings to the public purse and less disruption to tenants when work is carried out. This has subsequently turned out to the case.

Following the meeting on 16 April 2012, the overarching priority for departmental officials was reviewing with technical advisors the Glass and Glazing Federation Guidelines. Further, the Housing Executive was rightly seen as the organisation which was responsible for decisions on these contracts. Officials were satisfied that these two approaches, ensuring that the NIHE was allowed to follow its procedures to decide on what was the best way forward and also seeking technical assurance on the issue, were the right ones to follow to ensure that any procurement was correct and value for money was being pursued appropriately. This was seen as the correct way to ensure that public resources were correctly used.

Due regard has also not been given to the written and oral evidence provided by officials and the Report fails to recognise or take account of the principles that apply to Civil Servants in relation to the role of Civil Servants with regard to their

Ministers. This is defined in the guidance and principles for managing public resources set out in the Department of Finance and Personnel's guidance, *Managing Public Money Northern Ireland*, which states that Ministers are not accountable to the Accounting Officer and have wide powers to make policies and to issue instructions to their officials.

The role of Civil Servants is at all times to act within the authority of the Minister to whom they are accountable and to support the Minister with clear, well reasoned, timely and impartial advice. It is the Minister's role to consider that advice, take decisions and then for Civil Servants to implement the Minister's decision. This is the prevailing principle across the Northern Ireland Civil Service.

Further specific comments in relation to statements made in the Report are attached at Appendix 1.

Additional comments in relation to inaccuracies

Appendix 1

Paragraph 38

Reference to a written Assembly question tabled on 10 May 2012 and that, in relation to the draft response prepared on 22 May 2012, the SpAd requested on 24 May that the reference to Turkington Holdings be removed and replaced with representatives of the Glass and Glazing Federation.

The evidence provided to the Committee shows that a first draft response was issued to the Private Office on 21 May 2012 stating that the meeting on 16 April 2012 was with Turkington Holdings. Private Office then sent an email on 21 May referring to additional information to be added to the draft and advising that the meeting on 16 April 2012 was with representatives of the Glass and Glazing Federation (GGF). A second draft was issued to the Private Office on 22 May 2012 with the additional information but this still stated that the meeting on 16 April 2012 was with Turkington Holdings. An email then issued from the Private Office on 25 May with a request from SpAd to amend the draft. It was then amended to state the meeting was with representatives of GGF and returned to the Private Office on 25 May 2012.

Paragraph 39

Reference to the fact that “*The Chairperson of the Committee wrote to the Minister on the 16 May 2012 regarding this answer*”.

This appears to refer to the written Assembly question referred to at paragraph 38. However, this statement is incorrect as this written Assembly question was not answered until 28 May 2012.

Paragraph 45 – Meeting on 28 June 2013

Reference to “*In preparation for this meeting the DSD officials actively sought to establish what information the NIHE had released to the BBC as part of the Freedom of Information request*”

Written and oral evidence was provided to the Committee on a number of occasions advising that the meeting on 28 June 2013 was in relation to the letter the Minister received from BBC Spotlight on 27 June asking the Minister to consider an on camera interview. Officials had asked NIHE for copies of information they had released under FOI to the BBC Spotlight Programme but the Committee were advised that this information was not for the meeting on 28 June 2013. As evidence, the Committee was provided with a copy of an email on 2 July

2013 in which officials were still asking the Housing Executive for the FOI information which at that date had still not been received.

Paragraph 59

Reference that Mr Young who attended the meeting with the Special Advisor on 25 January 2012 *“was adamant, both in written evidence and oral evidence, that the Special Adviser could not possibly have been left with the impression after the meeting on 25 January 2012 that they would write to the Minister as representatives of the Glass and Glazing Federation.”*

The written evidence referred to in the Report has been provided to the Department by the Committee. However there is no reference in Mr Young’s written evidence that states this position.

Paragraph 85

Reference to *“This was despite the Minister having access to the same information as officials which clearly stated the meeting was with Turkington’s”*

This is incorrect as the Minister had access to other information as he was briefed by the SpAd in relation to the pre-meeting held on 25 January 2012 which officials did not attend.

Paragraph 92

Reference to Mr Young and Mr Turkington’s evidence states *“Both were unequivocal that there could be no confusion”*

This is incorrect as Mr Turkington’s written evidence does not states this but states: *“the Glass and Glazing Federation was referred to on numerous occasions”* and that *“I can only presume that the references to GGF during the meeting led Mr Brimstone to conclude that the letter was to be issued by the Federation rather than Turkington’s.”*

Paragraph 102

Barbara McConaghie has commented that *“At para 102 of the report provided by the Committee I feel that this is portraying that I changed my evidence with regards to having sight of the final document which is not the case. I clearly stated in my written evidence that I had sight of the final document as passed to me from the DALO.”*

Paragraph 130

Reference to *“Under further questioning Mr Brimstone said that if he had seen the letter in April 2012 he “probably” “would have sought clarification as to who they were actually representing”*

Hansard states *“If I had seen the letter before the meeting in April 2012, I probably...”*

Paragraph 156

Reference that Mr Turkington was *“unequivocal”* that they had represented Turkington’s, not the GGF, and *“there was nothing that they said that could possibly have given Mr Brimstone the impression that they would forward a letter requesting a meeting as representatives of the GGF”*.

Mr Turkington’s written evidence states: *“the Glass and Glazing Federation was referred to on numerous occasions”* and that *“I can only presume that the references to GGF during the meeting led Mr Brimstone to conclude that the letter was to be issued by the Federation rather than Turkington’s.”*

Paragraph 157

Reference to *“therefore rooted in nothing”*

Hansard quote is *“But it is not rooted in anything”*

Paragraph 179

Reference. in relation to the Minister’s acceptance in December 2013 that the meeting was with representatives of Turkington’s, *“the original answers to Assembly Questions had subsequently been changed by the Department to reflect the actual status of the Turkington representatives at the meeting of 16 April 2012.”*

This is incorrect as the Assembly Questions were changed by the Minister.



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