

Report on complaint by Bill Pauley against Jim Wells MLA

Complaint against Jim Wells MLA

Allegations

1. Mr Wells' repeated bullying behaviour was unreasonable and completely unacceptable at the 17th June Finance Committee meeting. It made Mr Pauley feel harassed and intimidated with the result that he was unable to deliver his evidence effectively.
2. Mr Wells' continuation of his treatment towards Mr Pauley at the 24 June 2020 meeting of the Finance Committee was unreasonable and unacceptable causing further insult.



Commissioner for Standards

Allegation 1

Jim Wells MLA

Mr Wells' repeated bullying behaviour was unreasonable and completely unacceptable at the 17th June Finance Committee meeting. It made Mr Pauley feel harassed and intimidated with the result that he was unable to deliver his evidence effectively.



Commissioner for Standards

Allegation 1

Evidence

- Mr Pauley stated at interview and in his complaint that he felt intimidated, harassed and offended because of the way he was treated by Mr Wells.
- Mr Wells interjected while Mr Pauley was being questioned by another Member and asked Mr Pauley “Do you want to phone a friend?”
- Mr Wells withdrew the comment immediately when asked to do so by the Chair.

Allegation 1

Evidence

- At interview, Mr Wells agreed that his comment was inappropriate and offered to formally apologise.
- Mr Wells additionally said “They’ll be quaking in their boots after that”, a comment he made when Mr Pauley and his colleague had left the room and while waiting for other witnesses to enter the room. This comment was not challenged. **[Video 6]**
- Mr Wells later confirmed at interview that he believes witnesses should be ‘quaking in their boots’ when attending evidence sessions at committees.

Allegation 1

Evidence

Jim Wells:

I am not there to show Mr Pauley respect. I am there to ask Mr Pauley extremely difficult awkward and uncomfortable questions. I am not there to say Mr Pauley you are the most wonderful thing since sliced bread or there was no disaster in this country for three years because we didn't do our job properly and hold your department to account. You know if Mr Pauley comes out of my meeting, meetings with me and Jim Allister etc and says that was a soft run we got. I was shown lots of respect and I didn't get asked any difficult questions. Well then we have failed in our role.

Allegation 1

Evidence

“Aspiring to have civil servants ‘quaking in their boots’ is no measurement of political performance”

T Kelly, Irish News 22 June 2020



Commissioner for Standards

Allegation 1

Evidence

Aside from the ‘Do you want to phone a friend?’ comment, Mr Wells believes his comments and robust questioning during the 17 June 2020 meeting, in particular when he pressed Mr Pauley to provide the Committee with his own personal view, was in keeping with his and the Committee’s scrutiny role.

Allegation 1

Evidence

Mr Wells asserts that his 'robust' behaviour was mild compared with other Committees.

Jim Wells: I do want to make an important point Dr McCullough I want you to look up the Transport Select committee at Westminster and see how Patricia Hodge and her team dealt with things like the overrun of the Cross Rail, the HS2, the third runway at Heathrow and see how extreme their questioning was of officials of the same calibre of Mr Pauley.⁵⁰

Jim Wells: But do sit down and watch Patricia Hodge and if you feel that I have overstepped the mark well then you would be calling Patricia Hodge to be taken to a place of execution and by hung by the neck until you are dead.⁵¹

Jim Wells: Mr McHugh is only in the Assembly so he hasn't a lot of experience and he is not used to the rough and tumble of committees and I stand by every word I said there that what he saw he witnessed as a new MLA is nothing compared to for instance the questioning that occurred during the RHI Inquiry in our committee on RHI and even more important on the whole NAMA issue and if he goes back and looks at the line of questioning there where there is a billion pounds at stake he will realise that the officials were extremely uncomfortable and vexed by our line of questioning and that is exactly our role is to be extremely difficult and uncomfortable



Allegation 1

Reasoned Decision

The key question in relation to this allegation and the allegation that follows, is **whether Mr Wells' behaviour crossed the line** from robust questioning to disrespectful behaviour in breach of Rule 15 of the Code of Conduct and the Respect principle.

Allegation 1

Reasoned Decision

- It is clear that this complaint relates to the treatment of Mr Pauley at the Finance Committee and no other.
- Past events and times in other committees and jurisdictions to defend his behaviour does not persuade me that his behaviour was appropriate.
- Having interviewed Mr Pauley, it is my view that he genuinely felt harassed and intimidated by Mr Wells' behaviour towards him. Having regard to all the circumstances, it can be reasonably considered that Mr Wells' conduct had this effect on Mr Pauley.
- Mr Wells' "Do you want to phone a friend?" comment was unacceptable and offensive and it undermined Mr Pauley. In my view, this comment implied that Mr Pauley didn't have an answer, was unprepared and was ineffective in doing his job of giving evidence on behalf of his Minister—among other possible implications.

Allegation 1

Reasoned Decision

- Mr Wells' belief that witnesses coming to give evidence should be afraid, or in his words 'quaking in their boots', demonstrates his lack of awareness of the Respect principle, the MLAs Code of Conduct and policies relating to treatment of witnesses and colleagues. Mr Pauley said "...his comment when we left the room about quaking in our boots seem to me to suggest that he rather enjoyed doing that to me. It seems to be his approach in the session and his comments in the next session..."
- I agree with Mr Wells' view in relation to pressing Mr Pauley for his personal view; Mr Pauley could have stated that he was there to represent his Minister's view as he had stated earlier in the session when similarly questioned. However, Members should know that civil servants appearing before the Committee are there to provide evidence on behalf of their Minister.

Allegation 1

Reasoned Decision

- The Code's principles require MLAs, as elected public officials, to conduct themselves in a manner that promotes the principles of objectivity, leadership, equality, promoting good relations, respect and good working relationships and further in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly.
- Treating witnesses, Members or colleagues in a hostile or aggressive manner does not create the inclusive, cooperative environment which the policies and the Code seek to promote. In my view, maintaining civility and respect at all times within our institutions, including our committees, ultimately leads to better outcomes for everyone.
- Having weighed up all of the evidence, I am satisfied that the behaviour by Mr Wells towards Mr Pauley crossed the line and was unreasonable and excessive.

Allegation 1

Reasoned Decision

- Mr Wells' behaviour was unreasonable because **it was not fair or acceptable to treat Mr Pauley, a witness providing evidence on behalf of his Minister**, in such a way. It was **excessive in that what Mr Wells said was more than was necessary, normal or desirable**; it was discourteous and disrespectful and as such was an unreasonable and excessive attack on Mr Pauley in breach of the Code.
- While my finding of a breach of the Code amounts to a *prima facie* interference with Mr Wells' Article 10 rights, this interference is proscribed by law and necessary in a democratic society for the protection of the reputation or rights of others, namely Mr Pauley, and therefore justifiable. [Calver 2012]
- Mr Wells' behaviour caused Mr Pauley to feel harassed and intimidated and unable to effectively give his evidence and was in breach of Rule 15 of the Code and the Respect principle.
- I uphold this allegation.

Allegation 2

Jim Wells MLA

Mr Wells' continuation of Mr Pauley's treatment by way of discussion at the next meeting of the Finance Committee on 24 June was further insulting and inappropriate.

Allegation 2

Evidence

- At the 24 June meeting Mr McHugh commented in relation to Mr Pauley's treatment, that officials who come before the Committee are often left 'battered, bruised and broken'. **[Video 8]**
- Later in the meeting Mr McHugh said he was concerned that the Committee often doesn't show basic good manners and that he would like to see an end to the bullying that goes on



Commissioner for Standards

Allegation 2

Evidence

Mr Pauley [at interview]:

“I accept I am well paid. But to suggest that we go home after an experience like that and laugh about it while we are having our tea was certainly not my experience on the evening of 17th of June.”

Allegation 2

Reasoned Decision

- Mr Pauley felt intimidated and threatened throughout the 17 June meeting, and this was further compounded by Mr Wells' inappropriate comments at the 24 June meeting.
- Mr Wells was, by virtue of Article 10, entitled to make the comments that he made, even if they were not wholly true. However, I believe his comments were a continuation of the undermining of Mr Pauley, and in that context amount to an unreasonable and excessive personal attack.
- Mr Wells' comments on 24 June were a discourteous, disrespectful continuation from the previous meeting and caused further hurt and offense to Mr Pauley. On their own, they arguably may not have breached the Code. Taken in the round however, they further offended and insulted Mr Pauley.

Allegation 2

Reasoned Decision

- Mr Wells' comment was **unreasonable in that it was not fair or acceptable to portray Mr Pauley in such a way**. It was **excessive in that it was a continuation of the behaviour towards Mr Pauley and was unnecessary and disrespectful** and in breach of Rule 15 of the Code and the Respect principle.
- While my finding of a breach of the Code amounts to a *prima facie* interference with Mr Wells' Article 10 rights, this interference is proscribed by law and necessary in a democratic society for the protection of the reputation or rights of others, namely Mr Pauley, and therefore justifiable. [Calver 2012]
- I uphold this allegation.

Other Issues Arising

Mr Wells' age-related comments during interview

Mr Wells made a number of age-related comments to me at his interview:

Jim Wells: Could I just say that I have been in the Assembly I suspect before you were born Madam Commissioner because I have been here since 1982 and I suspect that you weren't born in 82.

Jim Wells: I was expecting someone much older actually, much much older.

Commissioner: You mentioned this before. I am 51 you know.

Jim Wells: No you are not you are adding a few decades to your age to try to impress me."

Jim Wells: Ha ha. I don't believe you about your age by the way I think that's an absolute fib but bless you. If you are 51 I am 92."

Jim Wells: Do you think by the way from a Commissioner's point of view that it is right to lie about your age Dr McCullough? That's the issue I have a concern about. I mean I might raise that. I would like to see you birth certificate. If you tell me Mr Devitt you are over 50 I will believe you.

Jim Wells: And send that birth certificate to me.

