



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

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:
Mr Stephen Brimstone

16 October 2014

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Mr Jim Allister
Ms Paula Bradley
Mr Gregory Campbell
Mrs Dolores Kelly
Mr Fra McCann
Mr Sammy Wilson

Witnesses:

Mr Stephen Brimstone

The Chairperson (Mr Maskey): I formally invite Stephen Brimstone to the table. As is the norm, when we invite people to give evidence to the inquiry, we notify them of the basis on which we are inviting them and provide them with any relevant material to assist them in their preparation. We also invite them, if they so wish, to present a written submission to the Committee, which, in this case, obviously Stephen has done. That is included at page 15 of your packs. Stephen, are you happy enough that you presented the submission to the Committee or are there any opening remarks that you want to make or anything additional that you want to say? You know the routine. It is entirely at your discretion if you wish to make any other points before we open it up to members.

Mr Allister: Good morning, Mr Brimstone. Who decided that you would make contact with Jenny Palmer on 1 July 2011?

Mr Stephen Brimstone: My recollection of events at that time was that it had been discussed with the Minister as an appropriate next step. He wanted to ensure that the board was adequately informed of his position. He became aware that the party had a councillor who sat on the board. He felt it appropriate to make contact with Councillor Palmer.

Mr Allister: So that we are clear, it was you and the Minister together, and no one else, who decided that Mrs Palmer would be contacted?

Mr Brimstone: Yes.

Mr Allister: When was that decision made?

Mr Brimstone: I can only assume that it was in the week leading up to the phone call on 1 July.

Mr Allister: We know that, during that week, there had been a sequence of events, including meetings with the Housing Executive etc and that the Department, or the Minister, rather, was forming a view that he would like the contract extended and all of that. Ultimately, it was getting to the point that the Minister was even considering an article 10 direction. That was sort of the direction of travel on the subject, yes?

Mr Brimstone: Yes. The Minister was considering his options.

Mr Allister: And, in that context, you and the Minister — it may not matter terribly, but was it your idea or his to contact Mrs Palmer?

Mr Brimstone: Listen: it was over three years ago. I cannot recall the specifics around who said what and when to whom first. It was discussed and it was decided that this would be an appropriate step to take.

Mr Allister: How was she then to be contacted?

Mr Brimstone: Well, I did not actually have any contact details for Councillor Palmer.

Mr Allister: How did you get them?

Mr Brimstone: I had never met Councillor Palmer before. I had the contact details of Councillor Allan Ewart. He sat on Lisburn City Council along with Councillor Palmer, so I would have contacted Councillor Allan Ewart to ask for Councillor Palmer's contact details.

Mr Allister: Well, Mrs Palmer told us that the phone call from you came in on Mr Ewart's phone. Was that your first contact? Did you just coincidentally happen to ring him up and say, "I am looking for Jenny Palmer's details", and he said, "Well, she is with me"?

Mr Brimstone: Yes.

Mr Allister: That is literally how it happened?

Mr Brimstone: Yes.

Mr Allister: You had no knowledge that they were together?

Mr Brimstone: No. None at all.

Mr Allister: OK. Why were you contacting her?

Mr Brimstone: The Minister had growing concerns that his views around the handling of the contracts by the Housing Executive were not being accurately and entirely reflected by the then chairman to the wider board. He had no assurance that, if the Red Sky contracts were passed to adjacent contractors automatically post the decision of the board and before any work could be done to ensure that the same issues were not prevalent among the other contractors, in his view, a bad situation with regard to the Housing Executive would not be made even worse.

The Minister was not, in any way, suggesting that the Red Sky contracts, at that point being delivered by Red Sky in administration, should be terminated early, but rather should be terminated only when there was an appropriate level of assurance that the adjacent contractors that would automatically get the Red Sky contracts did not have the same issues as Red Sky had, as has been demonstrated in the ASM Horwath report. The Minister became aware that a party councillor was one of the four political appointees on the Housing Executive Board, and that was Councillor Palmer. It was discussed and the Minister felt that it would be useful for me to contact Councillor Palmer to ensure that she was fully aware of his concerns, ahead of the special board meeting on 5 July, and that she could ensure that his concerns were accurately reflected to the wider board at the meeting on the following Tuesday. I undertook to contact Councillor Palmer.

Mr Allister: You have just read that to us from something that you had pre-prepared, yes?

Mr Brimstone: I was coming to this Committee so I prepared for what I thought would be questions that the Committee might present.

Mr Allister: So, when had this meeting of 5 July been arranged?

Mr Brimstone: The Minister and officials became aware of it only in that last week in June, to my recollection.

Mr Allister: Is Jenny Palmer an honest person?

Mr Brimstone: I have no reason to — I am sorry, I cannot answer that question, Chair —

Mr Allister: Surely, you know whether she is honest or dishonest.

Mr Brimstone: Chair, I am unsure if I am in a position to answer that question.

The Chairperson (Mr Maskey): No, I think that it is an unfair question, Jim, because you are asking —

Mr Allister: Well, was she honest in what she told the Committee, as she told the BBC, that, during the course of that conversation, you told her that there was no point in her being on the board of the Housing Executive unless she was prepared to do what the party needed her to do and, "You do what you are told; the party comes first"? Was she being honest when she told the Committee that language to that effect was used by you in that conversation?

Mr Brimstone: Chair, I have no recollection of using language to that effect in the phone call with Councillor Palmer.

Mr Allister: What do you have a recollection of?

Mr Brimstone: I am happy to go into that now, if you allow me to. My best recollection of the event is having a phone call that lasted some five or six minutes over three years ago and amongst everything else that was happening. I called Councillor Allan Ewart. Again, I have made notes of this so that I can reflect to the Committee my best recollection.

Mr Allister: When did you make the notes? It was not at the time.

Mr Brimstone: No, not at the time, no.

I called Councillor Allan Ewart, who sat on Lisburn City Council with Councillor Palmer, on the Friday morning before the Tuesday board meeting, to ask for contact details for Councillor Palmer. He happened to be at an event with Councillor Palmer and suggested that I could speak to her there and then. I had no issue, and he passed the phone to Councillor Palmer. I introduced myself and explained my role in the Department with Nelson McCausland. I had never met Councillor Palmer and assumed that she did not know anything about me either.

I outlined the issue regarding the Red Sky contract, including some of the allegations that had been made publicly. In light of the special board meeting in the next week, which we had been made aware of, at which the board would vote on terminating the Red Sky contract, I said that the Minister wanted me to brief her on his concerns and ask if she would reflect those concerns to the board in an accurate fashion.

The Minister did not have confidence in the then chairman to accurately reflect his position — his concerns about the handling of contracts by senior management and the chairman of the board — to the wider board. He believed that he had received no convincing assurance from the chairman that the Red Sky issues were not prevalent among other contractors, particularly adjacent contractors who would automatically get the Red Sky contracts post-termination, if the board voted that way.

My recollection is that I outlined how the Minister wanted a clear and transparent tendering exercise, as had been indicated in writing to the chairman, which would also allow time to get assurances that the same Red Sky issues were not happening with other contractors as well. There was no issue with terminating the Red Sky contract early, due to the issues identified, but the Minister wanted the termination to take place when there could be some degree of assurance that the new contracts could be properly delivered. To date, he had not been given any evidentially based assurance by the then chairman.

Councillor Palmer, from my recollection, became very defensive regarding the then chairman and strongly contested any suggestion that he was not carrying out his duties appropriately. Councillor Palmer went on to tell me about her role on the board's audit subcommittee and said that, in her view, all of the fault lay with Red Sky, the issues were solely limited to Red Sky and the management of the Northern Ireland Housing Executive was appropriately managing the response maintenance contract.

I responded by asking about Leeway Maintain, another response maintenance contractor in Belfast about which the housing Executive internal audit department was raising concerns regarding overcharging etc — the same issues as with Red Sky. Councillor Palmer refused to accept that. I again asked that she reflect the Minister's concerns to the board. She said she could not do that. I believe that the phone call ended after this point, and I did not pursue the issue with Councillor Palmer any further.

Mr Allister: You said all that to her on the phone.

Mr Brimstone: That is my recollection of what happened during the —

The Chairperson (Mr Maskey): Just a wee second. I want to move on to another member after this because I want to make sure that everybody has a chance in the early part of this. Stephen, you provided a written submission to the Committee. You are here to give evidence and answer questions from members. I just draw to your attention that, in answer to questions from Jim, you said that you could not remember who initiated it or whose idea it was that you would contact Jenny Palmer, and then you read a submission saying that it was from the Minister. You have given us a submission but you are here to answer members directly, so I ask you to do your best to answer without having to read out lengthy scripts. That is not what —

Mr Brimstone: Apologies, Chair, I was trying to fully articulate the recollection.

The Chairperson (Mr Maskey): Clearly, there are differences in what we are hearing.

Mr Allister: Did you, in terms, tell Jenny Palmer that you wanted her to go against the existing decision of the board and extend the contracts? Did you tell her that?

Mr Brimstone: No, my recollection of the conversation is that I asked, on behalf of the Minister, that she reflect his concerns to the board.

Mr Allister: So, you did not say to her, "We need you to do that" in terms of voting against what was then the present position of the board.

Mr Brimstone: I have no recollection of saying that to her.

Mr Allister: You did not say to her that the party comes first.

Mr Brimstone: Again, whilst I cannot remember every phrase that I used during a four- or five-minute conversation that happened over three years ago, I have no recollection of using that phraseology to Councillor Palmer either.

Mr Allister: What about, "You do what you are told"?

Mr Brimstone: I again go back to the previous answer: I do not recollect using that phraseology to Councillor Palmer.

Mr Allister: Could you have used it?

Mr Brimstone: No, I do not believe so, in the context of the call and what we were actually looking.

Mr Allister: Did you say to her, "Otherwise there is no point in you being on the board, if you are not prepared to do what we asked you to do"?

Mr Brimstone: I have no recollection of using that phraseology to Councillor Palmer.

Mr Allister: Councillor Palmer has a very clear recollection of you using that terminology; is that not right?

Mr Brimstone: I have not seen the Hansard, but I believe that she made a comment along those lines to the BBC programme and to the Committee last week.

Mr Allister: You know that she did, do you not?

Mr Brimstone: Yes.

Mr Allister: Yes. So, is she being dishonest with this, in your opinion?

Mr Brimstone: No, I am — Well, again, Chair, if you could rule on whether I am here to answer questions of fact —

Mr Allister: What you are saying is diametrically opposed to what she said.

Mr Brimstone: I have given you my best recollection of the events as they happened at that —

Mr Allister: She also said that, at a subsequent meeting, when you and she met Mr Robinson and others, you acknowledged that her account was essentially accurate.

Mr Brimstone: I did not at that meeting acknowledge that her account was accurate.

Mr Allister: Are you just trying to protect yourself, Mr Brimstone?

Mr Brimstone: No, I am trying to give honest answers to the Committee in as full and frank a way as I possibly can.

Mr Allister: Do you now acknowledge that, if she is right — that you told her that the party comes first and all the other things that I have put to you — you would be in breach of the code of conduct of a special adviser by using your position for party political purposes.

Mr Brimstone: I do not accept that I used any of those —

Mr Allister: If what Councillor Palmer has told the Committee is correct, do you accept that that would put in breach of the code of conduct?

Mr Brimstone: I would need to go and look at that. I am not in a position to answer that question.

Mr Allister: Let me remind you. Paragraph 6 states:

"Special advisers should not use official resources for party political activity ... They should act in a way which upholds the political impartiality of civil servants ... They should avoid anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes".

Now, if you said to her, "This is what we need you to do. The party comes first", would that not be breaching the code?

Mr Brimstone: I do not believe that I used any of that phraseology.

Mr Allister: If she is correct that that is what you said, do you acknowledge that that would be you breaching the code of conduct?

Mr Brimstone: I do not accept that I used any of that phraseology.

Mr Allister: I am not asking you to accept; I am saying that, if Councillor Palmer was believed by the Committee, when she said that you said that, would that put you in a position of having breached the code —

Mr Wilson: Chairman, with respect —

The Chairperson (Mr Maskey): Sorry, Sammy —.

Mr Wilson: — the witness is here to answer questions about what he said —

The Chairperson (Mr Maskey): — Sammy, Sammy —

Mr Wilson: — not to give Jim an interpretation of the code of conduct.

The Chairperson (Mr Maskey): — Sammy, Sammy —

Mr Wilson: So stop the badgering.

The Chairperson (Mr Maskey): Sammy, hold on a wee second. Jim, hold on a second.

Mr Wilson: You are only a bully.

The Chairperson (Mr Maskey): Hold on a second.

Mr Allister: I think we know who was bullying, all right.

The Chairperson (Mr Maskey): Excuse me, folks.

Mr Wilson: Yes, we have got evidence of your bullying.

The Chairperson (Mr Maskey): Jim and Sammy Wilson. Sammy Wilson —

Mr Wilson: We have got evidence of your bullying —

The Chairperson (Mr Maskey): Sammy Wilson.

Mr Wilson: — on record.

The Chairperson (Mr Maskey): Sammy Wilson, be quiet please for a moment. I am sorry, Jim.

Mr Wilson: Thug.

The Chairperson (Mr Maskey): Sammy —

Mr Allister: Chair, I must say that I do object to that.

The Chairperson (Mr Maskey): Sammy, I am sorry, I really have to ask you —

Mr Campbell: You object, Jim?

The Chairperson (Mr Maskey): I am sorry. I am going to have to ask you, Sammy; you need to reflect on that remark. Seriously. You seriously need to reflect on that remark. I am asking you to reflect on the remark and then let us get back to business.

Mr Wilson: You can reflect all you want on it, but I am not going to —

The Chairperson (Mr Maskey): No, I am asking you to reflect on it. I do not need to reflect on it; you need to reflect on it. The member has objected to it and, in my opinion, very justifiably so. So, I will ask you to reflect on that. I am asking you to reflect on that.

Mr Wilson: And after a period of reflection, what?

The Chairperson (Mr Maskey): Well, you answer the question.

Mr Wilson: I have reflected on it.

The Chairperson (Mr Maskey): How do you feel —

Mr Wilson: I have reflected on it —

The Chairperson (Mr Maskey): — your conduct —

Mr Wilson: — and I have observed bullying of a witness, trying — after he has given an answer on five different occasions — and still keeping on at it. He is here to give evidence about what he said, not to give legal interpretations of the code of conduct. To pursue a matter like that, in the way in which it has been done, is bullying behaviour and, of course, is typical of what we can expect from somebody who has approached this, as I have said on many occasions, not with an open mind but with a conclusion already made and seeking to ensure that that conclusion is reached.

The Chairperson (Mr Maskey): And in the course of the conduct of this meeting, which is open to the public, you have referred to another member as a "thug". That member has obviously taken exception to that, and I would think that the Committee —

Mr Wilson: I take exception to his line of questioning.

The Chairperson (Mr Maskey): You did refer to the member, and, Sammy, you are long enough in the tooth, and you are around long enough in these political institutions. I have asked you to reflect —

Mr Campbell: I think, Chairman, it was said in the political context. I do not think that there was any —

The Chairperson (Mr Maskey): Well, sorry —

Mr Campbell: — attempt to say —

The Chairperson (Mr Maskey): Gregory, I am asking Sammy to deal with this in the first instance, before I bring anybody else in. It is a matter between a few members, although it is a responsibility for the Committee to take whatever decision it wants to take.

You are not withdrawing your remark. I want to ask Jim to reflect on that. We do not have to deal with it this morning.

Mr Allister: I can say it very clearly. I have been called many things, but I take great offence to being called a thug.

The Chairperson (Mr Maskey): I appreciate that. It is the first time that such intemperate language has been used —

Mr Campbell: Are you wounded, Jim?

The Chairperson (Mr Maskey): — in the course of this Committee over three years

Mr Allister: Sorry?

Mr Campbell: Are you wounded — hurt?

The Chairperson (Mr Maskey): Gregory. I am sorry. Gregory Campbell.

Mr Allister: Maybe Mr Campbell wants to use the word as well. It sounds like he does.

The Chairperson (Mr Maskey): Let us not have this meeting deteriorate any further. As in the past, if I feel it necessary, I will adjourn the session again if this the way this is going to deteriorate. I am just advising members. I will not accept —

Mr Campbell: Chairman, you know where the deterioration started.

The Chairperson (Mr Maskey): I will not accept language directed at other members that was used here a few minutes ago. I will not accept that from any member. No other member round the Table would expect me to nor want me to; nor, I would like to think, allow, as a Committee, corporate decisions to happen again. Let us get back to business here. Jim has —

Mr Allister: It is not a matter of it happening again. It is a matter that it has happened.

The Chairperson (Mr Maskey): I appreciate that.

Mr Allister: I have been called a thug.

The Chairperson (Mr Maskey): I appreciate that, and I have asked the member to reflect on that, and I am asking the member to withdraw that. He has refused to do it yet. So, I am quite prepared to suspend the meeting, because we cannot allow this Committee, no matter what anybody thinks of any member round the Table, to degenerate into such intemperate language.

Mr Campbell: Or behaviour.

Mr Wilson: Chairman —

The Chairperson (Mr Maskey): No member round this Table —

Mr Wilson: Chairman, do you notice the pattern here? The only time there has ever been bullying of witnesses under your chairmanship of this Committee is when either the DUP Minister appeared or now, when a DUP adviser appears. I think that that says a lot about the way this inquiry is being run. Despite the fact that we have had some fairly dodgy witnesses here, I have never heard —

Mrs D Kelly: That is ridiculous, Chair.

Mr Wilson: — this kind of bullying behaviour before.

The Chairperson (Mr Maskey): OK. I have given notice. I am not allowing this intemperate language. I am suspending this session of the inquiry this morning.

Mr Campbell: Until?

The Chairperson (Mr Maskey): I am not going to allow this to continue. I will seek advice, and I will consult, and we will resume again.

Mr Campbell: OK. I hope it will not be like the last time.