

Committee on Standards and Privileges

Report on complaints about the conduct of Mr Gerry Kelly MLA on 21 June 2013

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

Ordered by The Committee on Standards and Privileges to be printed on 4 June 2014

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**THE REPORT REMAINS EMBARGOED UNTIL
COMMENCEMENT OF THE DEBATE IN PLENARY.**

Committee Powers and Membership

1. The Committee on Standards and Privileges is a Standing Committee of the Northern Ireland Assembly established in accordance with paragraph 10 of Strand One of the Belfast Agreement and under Assembly Standing Order Nos. 51 and 57.
2. The Committee has power:
 - to consider specific matters relating to privilege referred to it by the Assembly;
 - to oversee the work of the Assembly Clerk of Standards;
 - to examine the arrangement for the compilation, maintenance and accessibility of the Register of Members' Interests and any other registers of interest established by the Assembly, and to review from time to time the form and content of those registers;
 - to consider any specific complaints made in relation to the registering or declaring of interests referred to it;
 - to consider any matter relating to the conduct of Members;
 - to recommend any modifications to any Assembly code of conduct as may from time to time appear to be necessary.
3. The Committee is appointed at the start of every Assembly, and has power to send for persons, papers and records that are relevant to its enquiries.
4. The membership of the Committee is as follows:

Mr Alastair Ross (Chairperson)
 Ms Anna Lo (Deputy Chairperson)¹
 Mr Steven Agnew
 Mr Mervyn Storey ^{2 3}
 Mr Cathal Boylan
 Ms Paula Bradley ⁴
 Mr Colum Eastwood ⁵
 Mr Declan McAleer ^{6 7 8 9}
 Mr Fra McCann
 Mr Ian McCrea ¹⁰
 Mrs Sandra Overend ¹¹
5. The Report and evidence of the Committee are published by the Stationery Office by order of the Committee. All publications of the Committee are posted on the Assembly's website: (www.niassembly.gov.uk.)
6. All correspondence should be addressed to the Clerk to the Committee on Standards and Privileges, Committee Office, Northern Ireland Assembly, Room 254, Parliament Buildings, Stormont, Belfast BT4 3XX. Tel: 02890 520333; e-mail: committee.standards&privileges@niassembly.gov.uk

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- 1 With effect from 01 October 2013 Mrs Anna Lo replaced Mr Kieran McCarthy.
 - 2 With effect from 07 May 2013 Mr Sydney Anderson replaced Mr David McIlveen.
 - 3 With effect from 16 September 2013 Mr Mervyn Storey replaced Mr Sydney Anderson.
 - 4 With effect from 15 April 2013 Ms Paula Bradley replaced Mr Jonathan Craig.
 - 5 With effect from 23 April 2012 Mr Colum Eastwood replaced Mr Patsy McGlone.
 - 6 With effect from 3 July 2012 Mr Alex Maskey replaced Mr Pat Doherty.
 - 7 With effect from 7 September 2012 Mr Francie Molloy replaced Mr Alex Maskey.
 - 8 With effect from 7 April 2013 Mr Francie Molloy resigned as a Member.
 - 9 With effect from 15 April 2013 Mr Declan McAleer replaced Mr Francie Molloy.
 - 10 With effect from 3 December 2012 Mr Ian McCrea replaced Ms Paula Bradley.
 - 11 With effect from 26 September 2011 Mrs Sandra Overend replaced Mr Michael Copeland.
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Table of Contents

Report	1
Appendix 1	
Report by the Commissioner for Standards	7
Appendix 2	
Minutes of Proceedings of the Committee Relating to the Report	67

Report

Introduction

1. The Committee on Standards and Privileges has considered a report from the Northern Ireland Assembly Commissioner for Standards on his investigation into four complaints against Mr Gerry Kelly MLA. The Commissioner's report and the complaints are appended to this report.
2. The four complaints have for their subject Mr Kelly's actions on the evening of 21st June 2013 in the Carrick Hill area of North Belfast. Three of the complainants (Mr Jim Allister QC MLA, Mr Jonathan Craig MLA and Mr Luke Bloomer) refer to video footage which they allege shows Mr Kelly obstructing police officers by blocking the departure of a PSNI vehicle. These complainants (plus a fourth, Ms Heather Templeton) believe that by his actions that evening Mr Kelly breached the Assembly's Code of Conduct and variously cite the principles of public duty (i.e. the duty to uphold the law), leadership, promoting good relations and respect to support their claims.
3. The Tour of the North parade took place in north Belfast on 21st June 2013. Mr Kelly had been in attendance but then departed when it appeared that the area was calm. However, tensions in the Carrick Hill area were subsequently raised and Mr Kelly was asked to return. Upon returning Mr Kelly learned that a young man from the area had been arrested. Mr Kelly approached a police Land Rover and spoke to one of the officers in the vehicle in relation to this youth. It was what subsequently happened that formed the basis for the allegations in the four complaints.

The Commissioner's investigation and findings of fact

4. The Commissioner initially suspended his investigation into these complaints as the incident in question was also being investigated by both the PSNI and the Police Ombudsman. When these investigations had concluded the Commissioner undertook his investigation, during which he watched a number of videos of the incident, sought further information from the four complainants, obtained information from the PSNI, the Police Ombudsman and the Official Report, and interviewed Mr Kelly under oath. The Commissioner then established a number of facts which are set out in paragraph 18 of his report and include the following points in relation to the actions that Mr Kelly took.
 - Mr Kelly made his way to the location having been advised of the situation that was developing and became aware that a youth had been arrested;
 - Mr Kelly approached the first in a line of police Land Rovers and spoke with the passenger. As a result of that exchange he believed that the vehicle would move forward a short distance and then pull in to facilitate further discussion;
 - Mr Kelly asked the small crowd that had assembled to clear the way so that the vehicle could move forward. The crowd complied with his request;
 - The first vehicle did move forward but did not stop;
 - The second and third Land Rovers in the line of vehicles followed the first;
 - The fourth vehicle in the line moved forward slowly with both its blue lights and headlights flashing;
 - Mr Kelly walked directly in front of the moving vehicle and shouted at the driver to 'pull in';
 - The vehicle continued to move forward very slowly. The siren was sounded once; and

- Mr Kelly took hold of the grill on the bonnet of the vehicle and was carried forward slowly for a short distance before the vehicle stopped.
5. The Commissioner also points out that whilst Mr Kelly was being carried on the bonnet of the vehicle, and for a short time after it had stopped, a number of the crowd struck the vehicle. Following this, Mr Kelly challenged the senior officer at the scene. Mr Kelly claimed, and the officer accepted, that he was trying to defuse the situation. Mr Kelly then asked the crowd to stand back from the vehicle, to allow it to move away. The crowd complied with this request.
 6. Both the driver of the vehicle and Mr Kelly later accepted informed warnings for their part in the confrontation. Mr Kelly accepted his warning for impeding the police. Impeding a constable in the execution of his duty is a criminal offence contrary to section 66 of the Police Act (Northern Ireland) 1998. Mr Kelly signed the Certificate of informed warning immediately below the following text – ‘I admit the offence outlined and understand the meaning of an informed warning’.

The Commissioner’s decision

7. Before the Commissioner takes a view on the merit of an allegation, he must first satisfy himself that the respondent was acting in his capacity as a Member at the relevant time. The Commissioner was satisfied that at the relevant time in this case Mr Kelly was acting, in part at least, in his capacity as a Member. Mr Kelly himself accepted this. The Commissioner was therefore satisfied that Mr Kelly’s actions are within the scope of the Code.
8. The Commissioner notes that Mr Kelly admitted the offence of impeding the police in his informed warning. Although Mr Kelly described his acceptance of the informed warning as a technical admission, which was made only after he had taken legal advice, the Commissioner notes that the acceptance of the warning was a clear admission of guilt of criminal conduct. Mr Kelly also admitted at interview with the Commissioner that it followed that this was inconsistent with upholding the law. The public duty principle of the Code of Conduct provides that Members have a duty to uphold the law. The Commissioner has therefore concluded that Mr Kelly has breached this principle. The Commissioner’s reasoning is set out at paragraphs 20 to 23 of his report.
9. The Commissioner is also satisfied that Mr Kelly breached the leadership principle. While the Commissioner acknowledges that Mr Kelly did demonstrate positive leadership, and that his intention was to diffuse a tense situation and to calm things down, when he impeded the police ‘he set a very poor example and most certainly neither promoted nor supported the public duty principle’. The Commissioner’s reasoning on this matter is set out in paragraphs 24 to 30 of his report.
10. The Commissioner has not found that Mr Kelly’s actions amounted to a breach of either the promoting good relations or respect principles. The Commissioner’s reasoning on these matters is set out in paragraphs 31 to 36 of his report.

The Committee’s considerations

11. In line with the usual procedure, Mr Kelly was provided with a copy of the Commissioner’s report. Mr Kelly was informed that he may provide the Committee on Standards and Privileges with his comments in respect of any matter raised within the report. He was also advised that he may choose to appear before the Committee to make his comments in person and to respond to any questions that members of the Committee may have. Mr Kelly neither chose to appear before the Committee nor to provide it with any additional comments.
12. The Committee on Standards and Privileges considered the report at its meeting on Wednesday 28th May 2014 when the Commissioner attended and answered members’ questions. The Committee reflected on the matters raised in the report and on the answers

given to their questions by the Commissioner. Having given the matter careful consideration, the Committee is satisfied that Mr Kelly did breach the Code of Conduct. The complaints are therefore upheld.

13. In reaching its decision the Committee noted that Mr Kelly had been acting in his capacity as a Member, making representations on behalf of his constituents. That meant that Mr Kelly was required to act in accordance with the requirements of the Assembly's Code of Conduct.
 14. The public duty principle of the Code of Conduct provides that Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them. Mr Kelly, in accepting an informed warning for his conduct on the evening of 21st June 2013, admitted the offence of impeding a constable in the execution of his duty. It follows that, in committing this offence, Mr Kelly has failed to uphold the law as required by the Code of Conduct.
 15. The principle of leadership in the Code of Conduct states that Members should promote and support the other principles by leadership and example in order to establish and maintain the trust and confidence of the people of Northern Ireland, and to ensure the integrity of the Assembly and its Members in conducting business. The Committee acknowledges that Mr Kelly did seek to demonstrate positive leadership on the evening in question. His intention had been to defuse a tense situation and he used his influence positively to direct the crowd and facilitate the passage of the police.
 16. However, despite this, Mr Kelly failed to demonstrate leadership when he obstructed the police vehicle. His actions set a poor example and resulted in number of the crowd striking the police vehicle.
 17. The Committee accepts the Commissioner's analysis of why Mr Kelly's conduct was not inconsistent with the principles of promoting good relations or respect.
 18. The Committee believes that the unlawful behaviour of a Member is a serious matter and that Mr Kelly should therefore apologise to the Assembly for his conduct.
 19. Standing Order 69B (2) provides that, in consideration of a report from the Committee on Standards and Privileges where the Committee has found that a member has failed to comply with a provision of the Code of Conduct, the Assembly may impose a sanction upon that member. Standing Order 69B (3)(c) provides for the Assembly to impose the sanction of exclusion of the member from proceedings of the Assembly for a specified period.
 20. The Committee believes that, in this particular case, it would be justifiable to impose such a sanction upon Mr Kelly. The Committee therefore recommends that the Assembly imposes upon Mr Kelly the sanction of exclusion from proceedings of the Assembly for a period of five days. The Committee shall bring forward a motion to this effect.
 21. In coming to the conclusion that this sanction would be appropriate, the Committee has taken into consideration the following factors identified by the Commissioner:
 - (i) Mr Kelly was an experienced leader.
 - (ii) He attended at the scene with good intentions to try to defuse a tense situation.
 - (iii) The poor example he gave by breaking the criminal law resulted in others striking a police vehicle.
 - (iv) His criminal conduct was undertaken on the spur of the moment without due regard to the consequences.
 - (v) That illegal conduct received widespread media coverage.
 - (vi) Both before and after that conduct Mr Kelly did use his influence to calm the situation.
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(vii) As a result of his conduct Mr Kelly received an informed warning.

22. Members of the Assembly are influential leaders, to whom the public often look to provide an example. The Committee therefore recognises that Members can play a constructive and welcome role in lowering community tensions. The Committee accepts that Mr Kelly had intended to make a positive contribution on the evening 21st June 2013 and that some of his actions did assist in defusing a tense situation. It is, however, most regrettable that Mr Kelly undermined his positive actions when he obstructed the police. While Mr Kelly acted on the spur of the moment, his conduct was nevertheless unlawful. The Assembly's Code of Conduct requires that Members uphold the law through their actions and any failure to do so should be dealt with seriously by the Assembly.



Northern Ireland
Assembly

Appendix 1

Report by the Assembly Commissioner for Standards

PROTECT - INVESTIGATION



Northern Ireland
Assembly

COMMISSIONER FOR STANDARDS

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Mr Paul Gill
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Stormont
BELFAST BT4 3XX

STANDARDS &
30 APR 2014
PRIVILEGES

29 April 2014

Dear Paul

**COMPLAINT AGAINST GERRY KELLY MLA BY JIM ALLISTER QC MLA,
JONATHAN CRAIG MLA, LUKE BLOOMER AND HEATHER TEMPLETON**

Please find enclosed my report in relation to the above complaint.

Yours sincerely

[REDACTED]

**Douglas Bain CBE TD Advocate
Northern Ireland Assembly Commissioner for Standards**

Enc

PROTECT - INVESTIGATION

Report by the Northern Ireland Assembly Commissioner for Standards on complaints by Jim Allister QC MLA, Jonathan Craig MLA, Luke Bloomer and Heather Templeton against Gerry Kelly MLA

The Complaints

1. This report is in respect of four complaints against Gerry Kelly MLA.
2. On 24 June 2013 Jim Allister QC MLA submitted a complaint alleging breaches of the principles of public duty, leadership and promoting good relations by Mr Kelly at the Tour of the North Parade on 21 June 2013.¹
3. On 26 June 2013 Jonathan Craig MLA submitted his complaint against Mr Kelly arising out of the same incident and alleging breaches of these three principles and also of the respect principle.² In the same letter Mr Craig made a complaint against another MLA which, on 11 September 2013, the Committee decided was not admissible.
4. On 23 June 2013 Luke Bloomer wrote to me expressing concern that Gerry Kelly MLA and that other MLA had breached the Code principles of public duty, leadership, promoting good relations and respect at the same event.³ On 26 June 2013 Mr Bloomer advised me that he wished his letter to be treated as a complaint against Mr Kelly but not against the other MLA.⁴
5. On 28 June 2013 Heather Templeton submitted a complaint that Mr Kelly and that other MLA had contravened the Code of Conduct through their actions at the same event.⁵ In a letter dated 4 July 2013 I required her to provide me with further specified information. No response was received to that letter and on 11 September 2013 the Committee decided that the complaint against the other MLA was not admissible. In the absence of further information from the complainant her complaint against Mr Kelly was limited to an alleged breach of the public duty principle.

Relevant Code Provisions

6. The most relevant provisions of the Code of Conduct are at Annex A.

The Investigation

7. In all cases both the complainant and Mr Kelly were advised of my decision that the complaint against him was admissible and that my investigation would proceed once the PSNI and Police Ombudsman investigations into the same incident had been concluded.

1 Document 1
2 Document 2
3 Document 3
4 Document 4
5 Document 5

8. On 9 January 2014 I was advised by the Police Ombudsman that both these investigations were at an end. This was confirmed by the police on 24 January 2014.⁶
9. On 29 January 2014 I advised Mr Kelly that I was resuming my investigation into the complaints against him and invited him to make contact to arrange a mutually convenient interview date.
10. On 12 February 2014 I received an e-mail from Mr Kelly seeking a postponement of his interview *'pending the outcome of related civil proceedings I have taken against the Chief constable'* and drawing my attention into the Police Ombudsman investigation into events on 21 June 2013. When he did not offer any explanation of how my investigation could prejudice his claim I advised him, by letter dated 19 February 2014, that my investigation would proceed. Media reports on 27 February 2014 indicated that Mr Kelly had withdrawn his civil action. This was confirmed by Mr Kelly at interview.
11. On 30 January 2014 I wrote to the four complainants telling them that I had resumed my investigation and affording them the opportunity either to submit any further information to me or to meet with me to provide it in person. Mr Allister responded by letter on 10 February 2014 drawing my attention to an Assembly Answer, of which I was already aware, given by the Minister of Justice regarding the criteria for Informed Warnings.⁷ At her request I met with Ms Templeton who stressed the points made by her in her complaint.⁸ Neither Mr Craig nor Mr Bloomer responded to my letter.
12. I watched the video of the incident made available by Sinn Fein TV⁹ and a number of other videos of the incident. I obtained information from the PSNI, the Police Ombudsman and from the Official Report to assist in my investigation.
13. On 4 March 2014 I interviewed Mr Kelly on oath following service upon him of a notice under section 28(1) of the 2011 Act. As required by that notice he produced to me a copy of the Certificate of Informed Warning that he had accepted in respect of his conduct on 21 June 2013.
14. In accordance with Direction 6.9(c) both Ms Templeton and Mr Kelly were afforded 14 days to suggest revisions to the note of their interview. Ms Templeton availed of that opportunity but I rejected her proposed amendments as they did not accord with what had been said during her interview.¹⁰ Mr Kelly did not respond to my letter.
15. Thereafter I considered the material before me and commenced drafting my report.
16. As required by Direction 6.13 I afforded Mr Kelly an opportunity to challenge any of the findings of fact I had made. I did not accept the revisions he proposed.¹¹
17. The complaints and the other documents I have relied upon in reaching my decisions are listed at Annex B.

6 Document 6
 7 Document 7
 8 Document 12
 9 Document 14
 10 Document 13
 11 Documents 15 & 16

Facts Established

18. I find the following facts established –

1. That on 21 June 2013 the Tour of the North parade took place.¹²
2. That in the Carrick Hill area there was a substantial police deployment between a crowd of Loyalist supporters and a crowd comprised largely of nationalist/republican residents.¹³
3. That Mr Kelly made his way to that location having been advised of the situation that was developing.¹⁴
4. That Mr Kelly became aware that a youth had been arrested.¹⁵
5. That Mr Kelly approached the first in a line of police Land Rovers and spoke with the passenger. As a result of that exchange he believed that the vehicle would move forward a short distance and then pull in to facilitate further discussion.¹⁶
6. That Mr Kelly asked the small crowd that had assembled to clear the way so that the vehicle could move forward. The crowd complied with his request.¹⁷
7. That the first vehicle did move forward but did not stop.¹⁸
8. That the second and third Land Rovers in the line of vehicles followed the first.¹⁹
9. That the fourth vehicle in the line moved forward slowly with both its blue lights and headlights flashing.²⁰
10. That Mr Kelly walked directly in front of the moving vehicle and shouted at the driver to 'pull in'.²¹
11. That the vehicle continued to move forward very slowly. The siren was sounded once.²²
12. That Mr Kelly took hold of the grill on the bonnet of the vehicle and was carried forward slowly for a short distance before the vehicle stopped.²³
13. That whilst Mr Kelly was being carried on the bonnet of the vehicle and for a short time after it had stopped a number of the crowd struck the vehicle.²⁴
14. That very shortly after the vehicle stopped Mr Kelly engaged in a robust way with the senior police officer present. During that exchange Mr Kelly asserted that his actions had been in an attempt 'to calm things down'.²⁵ The officer accepted that as being correct.

12 Document 14
13 Document 14
14 Document 8 page 7
15 Document 8 page 7
16 Document 14 & Document 8 page 7
17 Document 14 & Document 8 page 8
18 Document 14 & Document 8 page 8
19 Document 14 & Document 8 page 8
20 Document 14
21 Document 14 & document 8 page 6
22 Document 14
23 Document 14 & Document 8 pages 6 & 9
24 Document 14
25 Document 14 & Document 8 page 9

15. That following that exchange Mr Kelly explained to the crowd that the police vehicle was going to move away and asked the crowd to stand clear so that it could do so. The crowd complied with his request.²⁶
16. That at the relevant time Mr Kelly was acting, in part at least, in his capacity as a Member.²⁷
17. That thereafter Mr Kelly made a complaint to the Police Ombudsman about the conduct of the driver of the fourth Land Rover. Following an investigation a file was submitted to the PPS who directed that the officer should be offered disposal by way of an Informed Warning. The officer accepted that Warning.
18. Following a police investigation into Mr Kelly's conduct a file was submitted to the PPS who directed that Mr Kelly should be offered disposal by way of an Informed Warning.
19. That on 6 January 2014 Mr Kelly accepted an Informed Warning for impeding the police in Carrick Hill on 21 June 2013.²⁸ He signed the Certificate of Informed Warning immediately below the following text – *'I admit the offence outlined and understand the meaning of an informed warning.'*²⁹
20. That impeding a constable in the execution of his duty is a criminal offence contrary to section 66 of the Police Act (Northern Ireland) 1998.
21. That at interview on 4 March 2014 Mr Kelly accepted that at the relevant time he was not only breaking the law but failing to uphold the law.³⁰

Reasoned Decision

19. In this section I consider whether on the evidence before me I am satisfied that it has been established that Mr Kelly was in breach of each of the Code provisions specified in the complaints.

Public Duty

20. A breach of this Code principle is alleged by all four complainants.
21. I have found it established that at the relevant time Mr Kelly was acting, in part at least, in his capacity as a Member and that he broke the criminal law by obstructing a constable in the execution of his duty. Even had he not admitted when interviewed by me that he had broken the provisions of the Code I would have had no doubt whatever that he had done so. The evidence on this matter is overwhelming.
22. When interviewed by me Mr Kelly described his acceptance of the Informed Warning as *'a technical admission'*³¹ which was made only after he had taken legal advice. He said that it was accepted to avoid the delay that would have been occasioned by criminal proceedings. I accept that he had obtained legal advice and that the avoidance of delay was a factor taken into account. That said the acceptance of the Informed Warning was a clear admission of guilt of criminal conduct. When pressed on this at interview Mr Kelly accepted that he had broken the criminal law by impeding the police.³² When asked whether it followed that he had failed in his Code duty to uphold the law Mr Kelly, after attempting to make a distinction between

26 Document 14
 27 Documents 10, 11 & 8 page 11
 28 Document 8 page 11
 29 Document 9
 30 Document 8 page 11
 31 Document 8 page 12
 32 Document 8 page 12

his view on the legality of his actions at the time of the incident and at the date of interview, did clearly accept that he had failed in his duty to uphold the law.³³

23. Even had that admission not been forthcoming and even if Mr Kelly had not accepted the Informed Warning the Sinn Fein TV video recording of the incident provided compelling evidence of his unlawful conduct and his breach of his duty under the Code.³⁴

Leadership

24. A breach of the leadership principle is alleged by all the complainants except Heather Templeton.
25. Mr Kelly has many years of experience as a leader in a wide variety of roles. He was, or should have been, well aware of the responsibilities that go with leadership.
26. The evidence indicates clearly that he did exercise leadership at Carrick Hill on the day in question. He attended having been alerted to the situation that was developing. After his initial contact with the police he asked the crowd to stand clear to allow the first vehicle to pass. It was Mr Kelly who had the exchange with the senior police officer and then explained to the crowd what had been agreed. Plainly the crowd accepted Mr Kelly as a leader as they complied, on two occasions, with his directions.
27. But some of the crowd also took their lead from him in another way. His criminal conduct was followed by a number of the crowd who struck the police vehicle.
28. I do not doubt that Mr Kelly's intention when attending at Carrick Hill was to diffuse a tense situation and to calm things down. Overall his actions reflect that intention but his obstruction of the police had the opposite effect albeit only for a short period. He did then act to calm down the situation that had been inflamed by his criminal conduct.
29. The leadership principle requires Members to promote and support the principles (i.e. the Code principles including the public duty principle) '*by leadership and example*'. By obstructing the police in a criminal manner Mr Kelly set a very poor example and most certainly neither promoted nor supported the public duty principle.
30. I am satisfied that Mr Kelly breached the leadership principle.

Promoting Good Relations

31. A breach of this Code principle is made by the same three complainants.
32. Whilst it is plain that Mr Kelly failed to '*provide a positive example*' or to promote '*a culture of respect for the law*', I am not satisfied that, on a proper interpretation of the promoting good relations principle, a breach occurs on every occasion on which a Member commits a criminal act.
33. I am not satisfied that on this occasion Mr Kelly breached the promoting good relations principle. Indeed his actions in helping to calm the crowd may have helped to defuse a tense situation, in part of his making, that could have resulted in greater disorder and harm to community relations.

Respect

34. Breach of this principle is alleged only by Mr Craig and Mr Bloomer.
35. The supporting text in relation to the respect principle makes clear, in my opinion, that it was never intended to have the result that any criminal conduct by a Member would automatically breach the respect principle. In the present case whilst Mr Kelly's verbal exchanges with the

33 Document 8 page 14

34 Document 14

police were robust they came nowhere near being an *'unreasonable and excessive personal attack'*.

36. I am not satisfied that Mr Kelly breached the respect principle.

Summary

37. I am satisfied that on 21 June 2013 near Carrick Hill Mr Kelly breached the public duty and leadership principles of the Code of Conduct.

Appropriate Sanction

38. Direction 7.5 of the General Procedures Direction prohibits me from including in this report *'any specific recommendation for the imposition of a sanction'*. Accordingly in this part of my report I simply set out, for the assistance of Members, some of the factors to which they may wish to have regard in making a decision on whether or not a sanction is appropriate and, if so, what it might be.

39. These factors are as follows –

1. Mr Kelly was an experienced leader.
2. He attended at the scene with good intentions to try to diffuse a tense situation.
3. The poor example he gave by breaking the criminal law resulted in others striking a police vehicle.
4. His criminal conduct was undertaken on the spur of the moment without due regard to the consequences.
5. That illegal conduct received widespread media coverage.
6. Both before and after that conduct Mr Kelly did use his influence to calm the situation.
7. As a result of his conduct Mr Kelly received an Informed Warning.

Douglas Bain CBE TD Advocate

29 April 2014

Relevant Code Provisions

Principles of Conduct

Members shall observe the following principles of conduct, which include principles based upon the general principles of conduct identified by the Committee on Standards in Public Life as applying to holders of public office, and further principles agreed by the Assembly:

Public Duty

Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them.

Leadership

Members should promote and support these principles by leadership and example in order to establish and maintain the trust and confidence of the people of Northern Ireland, and to ensure the integrity of the Assembly and its Members in conducting business.

Promoting Good Relations

Members will act in a way that is conducive to promoting good relations by providing a positive example for the wider Community to follow by acting justly and promoting a culture of respect for the law.

Respect

It is acknowledged that the exchange of ideas, and opinions on policies may be robust but this should be kept in context and not extend to individuals being subjected to unreasonable and excessive personal attack. Members should keep in mind that rude and offensive behaviour may lower the public's regard for, and confidence in, Members and the Assembly itself. Members should therefore show respect in consideration for others at all times.

Annex B

Documents

Document No	Description
1.	Complaint by Jim Allister QC MLA
2.	Complaint by Jonathan Craig MLA
3.	Complaint by Luke Bloomer
4.	Complaint by Heather Templeton
5.	Letter Clarke:Bain 24 January 2014
6.	Extract Official Report 24 January 2014
7.	Transcript of Interview – Gerry Kelly MLA
8.	Certificate of Informed Warning – Adult
9.	Transcript – Good Morning Ulster Interview 7 January 2014 – 8.13 am
10.	Transcript – Good Morning Ulster Interview 7 January 2014 – 9.22 am
11.	Note of Meeting – Heather Templeton
12.	Note of Meeting – Heather Templeton showing proposed revisions not accepted
13.	Sinn Fein TV recording (accessible at www.youtube.com/watch?v=8K2juHYzDKs or on Google 'Gerry Kelly faces down PSNI aggression – YouTube')
14.	Email Kelly:Bain 14 April 2014
15.	Letter Bain:Kelly 16 April 2014



1

JA/JA/General/5930

Mr Douglas Bain
Northern Ireland Assembly Commissioner for Standards
Room 283
Parliament Buildings
Stormont
Belfast
BT4 3XX

24th June 2013

Dear Mr Bain,

I write to make a formal complaint against Gerry Kelly MLA following his conduct on Friday 21st June at the Tour of the North Parade.

Mr Kelly can be clearly seen both in still photographs and in a video posted online by Sinn Fein obstructing police officers in the course of their duty. The video can be viewed here https://www.youtube.com/watch?feature=player_embedded&v=8K2juHYzDKs

I have also enclosed copies of still photographs.

The Code of Conduct clearly states:

Public Duty

Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them.

The Code also states:

Leadership

*Members should promote and support these principles **by leadership and example** in order to establish and maintain the trust and confidence of the people of Northern Ireland, and to ensure the integrity of the Assembly and its Members in conducting business.*

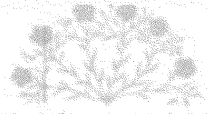
Finally the code states:

Promoting Good Relations

*Members will act in a way that is conducive **to promoting good relations by providing a positive example for the wider community** to follow by acting justly and promoting a culture of respect for the law.*

James H Allister QC MLA, 38 Henry Street, Harryville, Ballymena, Co Antrim BT42 3AH

Tel: 028 25 640250



Northern Ireland
Assembly

It is patently obvious that Mr Kelly obstructed a police officer in the course of his duty and has therefore breached the Code. Mr Kelly's "leadership and example" falls well short of the expectations of the Code and certainly did not provide a positive example for the wider community.

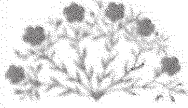
Accordingly, I ask you investigate.

Yours sincerely,





2



Jonathan Craig MLA
The Old Town Hall
29 Castle Street
Lisburn
BT27 4DH

26th June 2013

Clerk of the Standards and Privileges Committee
/ Assembly Commissioner for Standards
Room 254 / 283
Parliament Buildings
Belfast
BT4 3XX

STANDARDS &

26 JUN 2013

PRIVILEGES

Dear Mr Gill,

Re: Investigation of Gerry Kelly MLA and

MLA

I write with reference to the actions of two MLAs namely Gerry Kelly and
on Saturday 22nd June 2013. The actions can be viewed on the following link
<http://www.youtube.com/watch?v=8K2juHYzDKs>

The incident involving Gerry Kelly MLA I believe clearly meets the scope of the
code as he was acting in his position as an MLA, and repeatedly claimed that he was
acting the way he did because of his elected position.

I request that the Commissioner for Standards establish if these actions are in breach
of the Code of Conduct for MLAs. In particular, the comments should be considered
alongside the Code of Conduct's paragraphs relating to Public Duty, Leadership,
Promoting Good Relations and Respect.

The Code of Conduct for Members of the Northern Ireland Assembly makes it clear
under the 'Public Duty' section that "Members have a duty to uphold the law and to
act on all occasions in accordance with the public trust placed in them."

Given that his actions may have breached Section 66 of the Police (Northern Ireland)
Act 1998. Mr Kelly I believe failed to uphold the law, and in doing so brought the
Assembly in to disrepute.

MLAs will express political opinions and are free to do so but as the Code of Conduct states;

"Members will act in a way that is conducive to promoting good relations by providing a positive example for the wider community to follow by acting justly and promoting a culture of respect for the law."

The video clearly shows Mr Kelly blocking a PSNI vehicle whilst it has its emergency lights and siren activated. At another juncture in the video can be seen supporting the actions of Gerry Kelly.

The actions of neither MLA are appropriate for a member of the Assembly. Indeed, with a police investigation active it remains to be seen if those involved in the incident will face criminal charges.

I am happy to assist the Committee in this investigation and arrangements can be made through my office, The Old Town Hall, 29 Castle Street, Lisburn, BT27 4DH, 02892668378 if any further information is needed.

Yours sincerely,


Jonathan Craig MLA

Gerry Kelly MLA

3



23rd June 2013

Commissioner for Standards
Northern Ireland Assembly
Room 283
Parliament Buildings
Belfast
BT4 3XX

RE: Gerry Kelly MLA and

Dear Commissioner

I am concerned as to the contravening of Section 66 of the Police (Northern Ireland) Act 1998 which provides:

“66.-(1) Any person who assaults, resists, obstructs or impedes a constable in the execution of his duty, or a person assisting a constable in the execution of his duty, shall be guilty of an offence.”

Mr Kelly MLA and [redacted] were observed obstructing a police landrover which was responding to an incident. Mr Kelly MLA decided to stand in front of the landrover thus obstructing and impeding a constable in the execution of his duty and was carried along by that landrover – quite inappropriate behaviour on behalf of a representative of the people in Northern Ireland – if an ordinary person had have committed such actions they would have been absolutely lambasted at the very least – what is the difference? There shouldn't be any. If Mr Kelly MLA and [redacted] are not charged or at the very least subject to a disciplinary committee/proceeding then this will reinforce the widely held notion *“one law for them, one law for the rest of us.”*

Mr Kelly MLA and [redacted] are quite clearly in breach of this law and deserve to be treated as such. Mr Kelly MLA then had the audacity to go to a PSNI Inspector and chastise that Inspector after committing an offence himself.

I find Mr Kelly MLA and [redacted] in contravention of the Standards in Public Life under the following headings:

1. Public Duty ~ “Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them. Members have a general duty to act in the interests of the community as a whole. Members have a special duty to their constituents and are responsible to the electorate who are the final arbiter of their conduct as public representatives.” Mr Kelly MLA and [redacted] quite clearly did not uphold the law as required, they flouted it. They did not act in the interests of the community as a whole.

Ge...y Kelly MLA

2. Leadership ~ "Members should promote and support these principles by leadership and example in order to establish and maintain the trust and confidence of the people of Northern Ireland, and to ensure the integrity of the Assembly and its Members in conducting business" Mr Kelly MLA and [redacted] did not show leadership in order to establish and maintain the trust and confidence of the people of Northern Ireland. In all honesty, they embarrassed Northern Ireland by their actions. The recent G8 summit held in Fermanagh attracted very little disorder, but when Mr Kelly MLA and [redacted] go onto the streets they embarrass Northern Ireland.
3. Promoting Good Relations ~ "Members will act in a way that is conducive to promoting good relations by providing a positive example for the wider community to follow by acting justly and promoting a culture of respect for the law." Mr Kelly MLA and [redacted] were not promoting good relations and did not provide a positive example for the wider community by acting justly and promoting a culture of respect for the law – again, they flouted and contravened the law.
4. Respect ~ "It is acknowledged that the exchange of ideas, and opinions on policies may be robust but this should be kept in context and not extend to individuals being subjected to unreasonable and excessive personal attack. **Members should keep in mind that rude and offensive behaviour may lower the public's regard for, and confidence in, Members and the Assembly itself.** Members should therefore show respect and consideration for others at all times." Mr Kelly MLA and [redacted] have perpetrated an act which to me, has lowered my regard and confidence in Members and the Assembly.

I would like to know what action (if any) is being taken against Mr Kelly MLA and [redacted] for their contravention of Section 66 of the Police (Northern Ireland) Act 1998?

I believe it proper that they should be charged, or at least subject to disciplinary proceedings for their actions – their status and positions in Northern Ireland should not negate their actions.

*Please note, I don't want this treated as an official complaint, I just would like to know whether they will be held to account – video evidence is widely available of the incident.

I can be contacted via my postal address (above) or preferably via email on [redacted]

I appreciate your assistance and time.

Yours sincerely
Mr L Bloomer.

Mobile: [REDACTED]

E-mail: [REDACTED]

4

From: L Bloomer [REDACTED]

Sent: 26 June 2013 16:43

To: [REDACTED]

Subject: Re: Gerry Kelly MLA & [REDACTED]

Hello [REDACTED]

I state in my letter that I do not want my letter treated as a formal complaint, however, I have changed my mind and do wish to pursue this as a formal complaint. I also note that [REDACTED] was injured and was not as severe in her obstruction of the PSNI vehicle as Mr Kelly had been, therefore I wish to pursue the matter as a formal complaint against Mr Kelly MLA alone.

Apologies for the inconvenience.

Regards
L Bloomer.

5



28 June 2013

NI Assembly Commissioner for Standards
Room 283
Parliament Buildings
Belfast
BT4 3XX

Dear Commissioner,

I am writing with grave concerns regarding Gerry Kelly MLA and actions following the Tour of the North parade in North Belfast on 21st June 2013. I believe they conducted themselves in a manner which was ill befitting of an MLA. light of their

Mr Kelly is also a member of the NI Policing Board and must not be above the law. Indeed in his role as a Policing Board member he has a responsibility to support the PSNI, something Sinn Fein signed up to as part of the St Andrews agreement. Mr Kelly has a duty to uphold the law, not obstruct it. I believe that in interfering with PSNI operations, he was putting the lives of PSNI officers at risk.

Section 66 of the Police (Northern Ireland) Act, 1998 states:

“Any person who assaults, resists, obstructs or impedes a constable in the execution of his duty, or a person assisting a constable in the execution of his duty, shall be guilty of an offence.”

From the evidence I have seen, it would appear that Gerry Kelly and have failed to conduct themselves in a manner which would be in keeping with that of an MLA and have brought the NI Assembly into disrepute. I believe that there may be breaches of the Code of Conduct and would ask that you investigate both Mr Kelly and and hold them to account for their actions.

Yours faithfully,



H Templeton

Personal, Professional, Protective Policing



Douglas Bain CBE TD Advocate
Commissioner for Standards
Room 283
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX

Our Ref: 13/5644

24 January 2014

Dear Sir

COMPLAINT AGAINST GERRY KELLY MLA

I refer to your correspondence dated 15 January 2014 regarding Mr Gerry Kelly MLA.

I respond to your request for information as follows:

1. I can confirm that the direction from the PPS was an Informed Warning be administered to Mr Kelly.
2. The offence for which he received the Informed Warning was 'impeding police'.
3. The evidential test criteria was necessary and was met.
4. The certificate which Mr Kelly signed when accepting the Informed Warning included a line admitting to the offence.
5. I refer to (4) above.

Had this matter gone before a court the outcome would have been in the public domain. Accordingly I have no reason to believe that any of the information provided would require to be redacted.

I trust this is to your satisfaction.



**Chief Superintendent
District Commander
A District
North & West Belfast**

**DISTRICT COMMANDER'S OFFICE, 'A' DISTRICT
280 Antrim Road, Belfast BT15 5AA**

Telephone: Belfast (028) 90650222 or Direct Line [REDACTED]



7

Friday 24 January 2014

Written Answers

Informed Warnings in the Criminal Justice System

Mr Allister asked the Minister of Justice to detail (i) the status and genesis of Informed Warnings in the criminal justice system; (ii) the distinctions with adult cautions; and (iii) the use of informed cautions to date.

(AQW 29604/11-15)

Mr Ford: An informed warning is a formal reprimand administered by the PSNI on the direction of the Public Prosecution Service. It is not a criminal conviction but is recorded on a person's criminal record for 12 months. Informed Warnings were an alternative to prosecution used by the police, the use of which transferred to the PPS when it was set up in 2005.

Adult cautions are also formal reprimands administered by the PSNI on the direction of the PPS. A caution is not a conviction but is recorded on a person's criminal record for five years if an adult, and for 30 months if a youth.

Both Informal Warnings and Adult Cautions require an admission of guilt and details of the disposal remain available to criminal courts after the periods stated.

The Public Prosecution Service has provided the data below on the number of cautions and informed warnings issued from 2007 to December 2014

Friday 24 January 2014

Written Answers

	2007/08	2008/09	2009/10	2010/11	2011/12	2013/ 2014 (to end Dec)
Cautions	6678	7367	7252	7078	5438	3495
Informed Warnings	2865	2158	2242	1669	958	519

WA 146

8



Northern Ireland
Assembly

**INVESTIGATION INTO COMPLAINT – MR GERRY KELLY MLA
TOUR OF THE NORTH PARADE**

Meeting with Mr Gerry Kelly MLA

4 March 2014
Room 283

Start: 15:30 hrs End: 16.25 hrs

Present: Douglas Bain, Commissioner for Standards
Gerry Kelly, MLA
[REDACTED] Sinn Fein Official
(Note taker)

Mr Kelly: I sincerely and truly declare and affirm that the evidence I shall give shall be the truth, the whole truth and nothing but the truth.

Mr Bain: OK, thanks very much.
Now, I was going to ask you to start with to confirm that you have received a note that outlines the procedures for the interview and for the investigation.

Mr Kelly: I have, yeah.

Mr Bain: And gives details of the relevant statutory provisions.

Mr Kelly: I have.

Mr Bain: And I think you have some questions you want to ask me about this.

Mr Kelly: Yeah, first of all, let me give you that, which is a certificate of the informed warning that you asked for.

Mr Bain: Oh, thank you.

1

Mr Kelly: There is a couple of things I wanted to raise, if it's OK, just before we get into the full thing.

Mr Bain: Sure.

Mr Kelly: One was, if you remember, and I think I was talking to Sheila, there is a wee issue around correspondence. But I only got this today, and I got it in an envelope, which was marked, "To be opened by addressee only", but that was inside, and you will note that the room was my room, 331, and then that was inside a brown envelope, right, which was marked, "331".

Mr Bain: Yes.

Mr Kelly: Now, I ended up picking this up today because it was sitting in our administration room. Now, I have to say, I don't understand why it wasn't given to me — and I am not saying this is your fault; I am just saying —

Mr Bain: Yeah, no, no, that —

Mr Kelly: I am just pointing it out. I don't understand why it wasn't given to me, especially if it is, "addressee only". What happens in here is that we have a pigeonhole on the — actually just down this corridor — and we have our room, and that is basically where we pick up mail and all the rest. Our administration room, which is just a single room, we also at times find stuff in there. I mean the last one of these came till actually the press office. None of them see themselves as the people who have to give this stuff up; they just leave that until somebody comes along and collects it. The result is being, while you have dated this the 19th — and to tell you the truth, I was wondering why I hadn't heard from you — although this was dated the 19 February, I didn't get it until today, so I am doing this in a wee bit of a rush, if I could explain that. I don't know whose fault it is, but it is the second time that it came that way, you know. I searched for emails. I don't think there was an email along with it. Well, I would be fairly certain there isn't an email along with it. And you do have my email; at least, your office has my email, Douglas.

Mr Bain: Certainly.

Mr Kelly: So for that reason — I mean I am happy enough, because it is a matter of memory and all that; I will go through the process. But I just find it a bit difficult. I had intended to bring my solicitor, and, because some of the issues in it are quite complicated, and I have been through the police investigation of it, but I wasn't able to get him because of the date that's in it. So —

Mr Bain: Now, out of fairness to you, if you'd prefer to do this with your solicitor present, I'm perfectly happy not to go ahead today and to give you time to get your solicitor.

Mr Kelly: Well, probably it is just better to go on, you know. And the other question I wanted to ask you was about process.

Mr Bain: OK.

Mr Kelly: So, is this a one-day affair? And the reason I am asking you is because I noticed in some of the complaints — and it is from Jim Allister, and just to correct this: is it Jim Allister, Heather Templeton, Luke Bloomer? Is it also Ellen Douglas? Is there four or is there three?

Mr Bain: No. Let me just check. I think there are four, but it is not Ellen Douglas.

Mr Kelly: Is the other perhaps Jonathan Craig?

Mr Bain: Yes. Jim Allister, Heather Templeton, Jonathan Craig —

Mr Kelly: Jonathan Craig, and Ellen Douglas is not on —

Mr Bain: And Luke Bloomer. I think, from recollection, there were —

Mr Kelly: So she didn't get in on time.

Mr Bain: She either didn't get in on time or she sort of said she wanted to make a complaint. She was asked for information, to specify, and she didn't.

Mr Kelly: That's fair enough. So, in terms of the process, the only thing I can think about it, because in some of the letters of complaint, there's a scattering, if I could say this, of accusations.

Mr Bain: Yes.

Mr Kelly: And so are you investigating on the basis of all of those or in the round.

Mr Bain: Yes, and, you know, there shouldn't be any need for you to attend further.

Mr Kelly: Right. OK.

Mr Bain: It is covering all four.

Mr Kelly: But it is in the round or is it all — you see there are some of the accusations that they're making that are criminal and all of that. I have already been through a criminal investigation, so is it all of those or is it just the code of conduct and whether I broke the code of conduct?

Mr Bain: It is purely the code of conduct, but, obviously, whether or not you broke the law —

Mr Kelly: OK. Those things are relevant.

Mr Bain: —is relevant to whether you broke the code of conduct.

Mr Kelly: OK, and let me explain why I am saying that because, if you remember the letter I sent to you, it also mentioned PONI, the ombudsman's office investigation. Now, just again to inform you of this — and I had intended to inform you of this but I got the letter this morning — I withdrew the writ against the Chief Constable, for reasons that I will explain as we go through this, because some of it, in fact some of what we are saying here. But the issue around the ombudsman's office, did you come till a decision on that, because I noticed in one of the letters that you had said, "after these investigations are finished"?

Mr Bain: Yes, the ombudsman investigation into the particular incident that I am concerned of is complete.

Mr Kelly: OK, so it is because it was a part of an overall ombudsman's investigation.

Mr Bain: Yeah, maybe he is investigating other incidents on the same or arising out of the Tour of the North. I don't know.

Mr Kelly: OK, fair enough. Just let me see if we've covered everything. Yeah, I just wanted, I was interested because I had spoken to Sheila and had agreed this meeting, and then I got a very formal letter. So the meeting was agreed that I was coming here, and then I got a very formal letter requiring me to come.

Mr Bain: Yes.

Mr Kelly: I didn't really understand that.

Mr Bain: Right. The position is that, as you know, there are certain offences of failing to attend or giving false or misleading answers or whatever.

Mr Kelly: Sure.

Mr Bain: These only apply, if you look carefully at the legislation, where the person has received a formal notice under section 28, requiring them to attend.

Mr Kelly: OK.

Mr Bain: So what my practice is is to agree a mutually convenient time and place and then issue a notice, which confirms the —

Mr Kelly: So it is a standard process of issuing a notice and oath.

Mr Bain: It is now.

Mr Kelly: It is now, so it's because of a previous incident or something.

Mr Bain: No, it is like all new things: as you do it more often, you refine your process, and, as a result of what happened in another case, I realised that where we didn't serve a formal notice, and if the person committed any of the acts that would be offences, they wouldn't actually have been offences.

Mr Kelly: So I shouldn't take this personally.

Mr Bain: It's not personal to you.

Mr Kelly: OK. And it is connected to that, Douglas: on the terms of the oath then, is that also standard practice?

Mr Bain: No, the Act gives me a discretion as to whether or not to take evidence on oath, and I'll exercise that discretion, but what I can say is where, in a particular investigation, I decide it is appropriate, then my intention would be that all the witnesses in that investigation will give evidence on oath or affirmation.

Mr Kelly: OK.

Mr Bain: I mean it depends on the nature of the investigation.

Mr Kelly: It depends on the nature of the investigation, so it is not a standard practice. You have decided to do it in this instance.

Mr Bain: I have decided in this case because it is very much in this case about what people say. Some of them relate to documents and really what people say aren't of much importance.

Mr Kelly: OK. Then let me — maybe you want to ask me questions —

Mr Bain: Yeah, well, the —

Mr Kelly: That is the best way to deal with this. OK.

Mr Bain: OK, could I just take a moment to read this document?

Mr Kelly: Yeah, sure.

Mr Bain: I'll put on the right glasses.

OK. That's very helpful.

Now, I think in the notice, which you only just had time to look at, I set out the four areas. Can I start off with dealing with the events that gave rise to the complaints? And this is all recorded, or a lot of it is recorded, on the video clip on Sinn Féin TV. Could I just run through and outline what I understand your position to be, and then you can tell me any bits that are important that I have left out or whatever?

Mr Kelly: OK.

Mr Bain: This was on the day of the Tour of the North parade, and the parade had passed off moderately peacefully down past the chapel and then on —

Mr Kelly: Do you wish me to stop you as we go through this or at the end?

Mr Bain: Well, perhaps do it at the end because I may get out of order.

And then a loyalist crowd went through the car park into Carrick Hill, and there was some sort of disturbance that took place, as a result of which a youth was arrested for allegedly riotous behaviour. My understanding is that you then approached a police Land Rover and you knocked on the window of the Land Rover and the passenger opened it and you had some discussion with him, in the course of which he said that he would pull in, and I think that the idea was that he would then give details of the young boy's parents or mother. You stood aside, but, instead of pulling in, he then drove off, and perhaps you can help me on this once I've finished, but I think actually the second Land Rover also then drove off, and it was the third Land Rover rather than the second —

Mr Kelly: I think was the fourth.

Mr Bain: The fourth. OK. That you approached and you asked him to pull in several times, and he didn't do that, and you then stood in front of the vehicle, and, as it moved forward, you got hold of a bit of the vehicle and were carried a distance. I think your estimates vary between 100 metres on one occasion — 100 yards on one occasion — and 50 yards on another.

Mr Kelly: That was a bit of an exaggeration. It felt like 100 yards.

Mr Bain: Distance is always very difficult, but, in any event, you were carried forward a distance. At the time, the vehicle had its blue lights on and the sirens going. It did eventually stop. You then had a discussion with a senior officer who was present. You told him your concerns, and he told you you could complain to

the ombudsman, which you didn't find very satisfactory as an answer, but you then asked the crowd to disperse, which they did, and you then went off to the barracks.

Mr Kelly: Yeah. Yeah.

Mr Bain: Now, I mean, that's a very rough summary of what I understand the position to be, but is there anything you want to add to that?

Mr Kelly: I think so, and I need to put this in context and it might be slightly long-winded, but I will try my best to keep it very short and sharp.

I had attended the parade, at which there were a series, I mean a series of breaches, which were illegal breaches. The police did not move on any of that, which, by the way, I accept. What they said they would do was deal with it later, and we have had these conversations with the police, but there were, and I think they have moved since in terms of all of that.

The situation had calmed. I had to make a presentation in Ardoyne. I was suited up for it; I was wearing a suit and all of that. I left the area and went up there. I got a call then — I can't remember the times now, but it is in my statement — and came back down. When I came back down, there had been an incident at the far side of Carrick Hill. Carrick Hill is a Catholic and nationalist/republican area. There was huge numbers of jeeps. I mean you are talking 30 or 40 jeeps in the area, which I felt a bit disturbing because the parade had gone and all of that.

When I went down, I spoke to Alban Maginness and others. Things had sort of calmed. I had said, OK. You know, people were getting ready really to leave, but we were saying to people who were standing down — There was two lines of jeeps between where we were in the middle of sort of the main street at Carrick Hill, and there were supporters travelling back up the other side of Carrick Hill, which is on North Street.

So I thought it was OK. Things had got a bit hectic. It seemed to have calmed down. We were talking about, you know, we need to try and get people away, and we were saying to people, you know, let's move off and that, when somebody approached me and said, you know, there is a young fella been arrested.

Now, there was no incident in that area — in the nationalist area — at this stage. Once I arrived — whatever happened before I arrived — once I arrived, it was starting to calm down. It was clear that there had been an incident, but it was all calm. And we were looking to settle things, and this is a practised way. You know, sometimes it takes you a while to settle things down and all of that, and everybody was involved in it. It was all nationalists and republicans who were there, plus the police, the PSNI.

But it was pointed out to me that a young man had been arrested, and people were starting to get very upset. I was told that the parents, especially the mother, was very upset. I went over and there was a line, I think, of about five jeeps. Now it appears they had come into the area on top of what other jeeps were

there. But I went over. I said, you know, I spoke to the woman; OK, look let me try and handle it.

I went over and rapped the window of the jeep. The first jeep, which contained, as I understood it, the young person; I think it actually did contain him. The guy in the passenger seat it would have been was quite amenable. He says something like, "I'm sorry, Mr Kelly, I didn't realise you were there". I said, "Look, you know, people are getting very upset about this. You've got a young lad in the back. The mother's very distressed, and the father's upset. What's happening?" And he says, "Well, look, I didn't know. I'll pull over here". And he pointed literally five yards away. He was actually coming out of a street onto the main. Now this was all closed down at this stage —

Mr Bain: Of course.

Mr Kelly: — with the police. There was no traffic passing up and down except police. And he — I said — there was a small group of young people had gathered round the jeep. I actually argued with them. I said, "Look, pull away from the jeep". And they were actually calling me names and, you know, all sorts of things for taking the police side. And I said, "Look, I want to talk to them. The mother's here. We'll find out what's going on. Now you need to pull away from the jeep. Just pull away". So they moved off away from the jeep at that stage after some abuse. But I convinced them that I was with the mother and that's what counted.

The jeep then, instead of pulling in, sorta drove off at speed down the street, which, I have to say, annoyed me, because there is an issue of integrity here. I am an elected rep; I would be a very well-known republican in the area; I talk to the police all the time; they would be very aware, at least at a local basis, of my position. I have been in, you know, many interfaces and parades and all the rest. And I then moved to talk to the next jeep.

So this was obviously the crowd — when I say a crowd, there wasn't a huge number of people there, I have to say. It was very — things had settled right down and all of that. So it was a small grouping of mostly young people.

I moved to the next jeep and asked them to pull in. They drove past me. I moved to the next jeep. They drove past me. So when the next jeep came round, I stood in front of it. Now, when I say I stood in front of it — I am just trying to remember this; it will be on the video anyway — but I think they may have been moving. Just starting off, and, when I stepped in front of it, they were stopped, or they stopped, one of them, but I think they were already stopped. And I was trying to get the attention of the guy, so I was shouting at him, and, you know, the jeep wasn't open like the previous one. They weren't opening the doors and all of that.

There is an issue here of an elected rep, because I have been through this many times before, we have dealt with this with the police, that they should open, they should show some respect, so that you can, you know, de-escalate situations and all of that.

At that stage, he drove towards us, and I grabbed onto the grill, and, in my opinion, for what it's worth, if I hadn't of had the instinct to lift my feet, then, you know, it could've been quite a dangerous situation. The jeep drove off. It didn't — it wasn't really a calming influence on the situation. And then people, of course, were upset because they seen — all the people there that would've [Inaudible.] — then that an elected representative in all of this. It stopped after a short distance, and I then went to try and get the whole thing sorted out, because then it was getting —

Now, I knew that the person was not in that jeep. The person was already gone. The mother was even more upset now. She had, in seeing the jeep go off, she had chased after the jeep and run up towards Carlisle Circus in terms of it to try and find out what was going on. I was trying to calm [Inaudible.] down — you will see some of this in the video as well.

So as I was standing in front of the jeep, there was other people and they were doing a bit of banging on the side and all, and I says, "Look, stop, just calm down. Settle it down". I went over. I did have an argument. I think it was Chief Superintendent or Superintendent Ian Campbell who I also know and have known for some time. And you heard the conversation, during which, let me add, he said that, "I know you are here to calm the situation down". And I says, "Well, we need to calm the situation down. This woman is distraught. You took her" — you know, I explained what happened — "This is no way to deal with this situation" etc, etc. And we walked behind, after talking some there, we walked behind the jeep. The mother had returned. We talked to her. He then got the information where the young fella was being brought to, and I spoke to the crowd and said, "Listen, the young guy is away. I am with the mother. I'm going to take her down in my car". In fairness to the — I think it was Ian Campbell or one of the police there — he offered to drive down. I says, "No, I'll take her down. She'll be OK. I'll take the parents down" etc, etc. And that's the context within which it happened.

Mr Bain: OK.

Mr Kelly: And one of the issues, which perhaps you're not dealing with, but it is in the context of this, is that after, you know, because we have these discussions with the police, saying, "Look, although there were breaches" because when you breach the determination, as you well know, you break the law, I says, "Although they broke the law, you know, we are not expecting youse to move in because it could make things worse", they decided to move in on this young lad.

Now, at this stage, I had known at this stage that the young lad, it appears, was allegedly waving a flag in the middle of a nationalist area. He was, I think, eventually charged with a charge I have never, ever heard of before: something to do with provocative behaviour. But he had gone home and got dressed, you know, changed his gear and got back out, and the police had decided to arrest him, which, in my opinion, was the first act, which raised this issue. So if you have an attitude which says, "Let's deal with this later", in other words, if they had an issue with this young fella that they could have arrested him later, they

decided to come into the middle of a nationalist area after all the hype and tension over the marches where they were breaking determinations, and they, in my opinion at the time and still, caused the tension to rise.

I was not going over to try and stop an arrest. I was not going over to try — I was going over after the effect to try and calm the situation down, and people were getting more and more annoyed as time went on. So my job there was to calm it down. I think I could've calmed it down within seconds had the police officer done what he said he would do, which was to pull in, talk to the mother, talk to me. They still had the young fella they have arrested. That's the way it goes.

The idea that there was like a danger to the people or that this was a huge crowd — the evidence is not there for it; I mean, in fact, the evidence is quite the opposite, and you will see. You see, I don't know how much of, I know you have got the 'An Phoblacht' video, but there would be more, you know, police videos and all the rest, and I don't know if you get that or if you don't. But I would be fairly satisfied that the evidence will show that there wasn't a huge crowd, that there was nobody's life in danger, that was not the issue here.

You have asked other questions. That's, I mean, as far as I can think of.

Mr Bain: OK. And so, as I understand it, there were two particular remissions of the police that you take issue with. First of all, there was the way in which they arrested this young individual rather than waiting —

Mr Kelly: Wait till later.

Mr Bain: — leaving it until later. And then, obviously much more relevant to you, is the fact that they drove off with —

Mr Kelly: With me on the bonnet.

Mr Bain: With either you on the front or you got on the front as they drove off. I suppose that must've made you quite annoyed.

Mr Kelly: If I could say this: well, I suppose the first answer to that is yeah, but the ideal with these situations on an ongoing basis, I mean this is the fourth time I've been insulted, so I am not a wilting violet. I have been through these situations before. In one instance in a similar situation, I got my wrist broke. The police paid compensation. In another situation, the police came up behind me — or a policeman came up behind me — and split my head open when I was trying to calm the crowd. All the evidence was there as well. I got compensation for that. And in another incident, as you just — and all of these when I was an elected representative, by the way — in a further incident, I was taken behind the jeeps and beaten. In that incident, I was simply observing. I wasn't even trying to calm the crowd or anything. I was simply observing. It was a sit-down protest on Cliftonpark Avenue.

So I am not unused to situations of high tension. At times, you will speak very calmly because there is a situation where you can speak calmly. At times, there

is so much going on that you have to raise your voice to be heard, and, frankly, at times, you have to draw the attention of police. I mean, there have been other times, and calmer times, as we did after this, by the way, we go away and talk to the police and say, "Look, here's what I believe". And they will say, "Well I think you made a mistake", and we try and work out what way to deal with it the next time round.

Mr Bain: Do I take it from what you have told me that you accept that you were there in your capacity as an MLA?

Mr Kelly: Yes. Well, in both capacities, if I could put it that way.

Mr Bain: Yes.

Mr Kelly: So the answer to it is yes, but in both capacities because I would be a well-known republican, so even before I became an elected representative, I would be well known in the area and would've — in fact, the first incident, I wasn't elected as an MLA but I was elected in the Forum elections.

Mr Bain: But just for the avoidance of doubt for the tape: on this particular occasion, you were there, at least in part, as an MLA.

Mr Kelly: Yes. Yes.

Mr Bain: Now, can we move on then to the informed warning?

Mr Kelly: Yes.

Mr Bain: And, as I read it, you admit the offence outlined above, which is impeding police.

Mr Kelly: Well, let me, because the question that you asked was —

Mr Bain: Sorry, can I just — do you agree that's what it says?

Mr Kelly: Oh I agree that's what it says, yes, but I then want to — Can I just borrow it?

Mr Bain: Yeah, sure.

Mr Kelly: I agreed to an informed warning on the basis of legal advice, but the question that you first asked, if I could just, which is why I was looking for, was that your understanding was that, during questioning by police and during police interviews, I admitted obstructing the police, which I didn't at any time during that. So what I did was I took advice from — and you can speak to the solicitor if you want; he said to give you his details — on the basis that this was going to be long-drawn-out. That I could go into a Magistrate's Court or even a higher court,

and that it would not help the situation at all. So that was the basis upon which I did it. It's called a technical admission, and obviously the difference between an informed one, as I presume you know, is that, while it goes on your record, it disappears after a year.

Mr Bain: Yes.

Mr Kelly: So, yes, I did accept an agreed warning, but on advice. If your question is: do I accept as someone who was trying to calm the situation that I did wrong, then I would have to say no.

Mr Bain: That wasn't quite the question I was going to ask. You accept, I assume, that impeding the police is a criminal offence contrary to section 66 of the Police (Northern Ireland) Act.

Mr Kelly: Well, yes, if that's the law, but I also believe that, as someone who represents people, I often have to disagree with police on the spot if I believe that the way that they are behaving is wrong. So every action of the police, while I support the police and while I support the rule of law, every action that a police officer, or indeed a decision made, is not necessarily a decision that I agree with. So part of my job, I would think, in circumstances like this is how best to calm the situation.

The police are not always right. I'm not always right. But, in ways, we try and work that out as we go.

Mr Bain: Now, on 6 January then, after taking legal advice, you admitted that you had impeded the police. Is that still your position or do you change your position?

Mr Kelly: No, I haven't changed my position. I accept the warning in terms that I have simply gave you an explanation that it is a technical, what is called a technical charge, and I accept this.

Mr Bain: No, but I don't want there to be any misunderstanding. What I am asking you is: do you accept that, on the date we are talking about, you did impede the police?

Mr Kelly: I accept that, under section 66, I think you quoted —

Mr Bain: Yes.

Mr Kelly: — that, technically, I impeded the police.

Mr Bain: And so, that you broke the criminal law on that occasion.

Mr Kelly: Yes.

Mr Bain: OK. Right, that shortens things a good deal. Then can we move onto the various bits of the code that people allege you've broken? The first — and I think this is common to all the complainants — refer to the public duty principle, which, as you know, places on MLAs a duty to uphold the law.

Mr Kelly: Yes.

Mr Bain: How do you reconcile your duty to uphold the law with your admission, just a few moments ago, that you broke the law on that occasion?

Mr Kelly: Well, if I might, what you do is you decide, because I am also a public representative. I am a well-known public representative in the area. At times, there is decisions that you make: sometimes right and sometimes wrong. But at the core of it is trying to calm the situation, to make sure the situation doesn't get out of hand, and, at times, that involves actions by the police, which may or may not be — in this case, they said it was — legal, because not everything that a police officer does — the police officer involved here of course also got an informed warning for his actions — so you do have situations where you have to make decisions.

Now in terms of upholding the law, I do uphold the law. In terms of making a decision on the spot, where I make a valued judgement as opposed to a legal judgement as to what is the right thing to do, then I thought on the day that I made the right decision. I would argue that the proof is in the pudding. That I was able to assist in calming the situation down. I would point to Superintendent Ian Campbell, who said that — on the video as well — that I was there to calm the situation down, because he knows why I'd be there.

I think that is quite different from a legalistic approach after the fact, which I understand, which says that someone may have carried out an action that was illegal.

Mr Bain: You see, I can quite see an argument that, in all the circumstances that you have set out, there might be very good mitigation of your actions, but I am having difficulty seeing how, if you admit having broken the criminal law, you can assert that you still were upholding the law at the time.

Mr Kelly: I didn't say that I was upholding the law. I said I was trying to calm the situation.

Mr Bain: Your duty is to uphold the law.

Mr Kelly: Yeah, I know, but it depends on whether, you know, you speak in terms of legal terms or you speak in terms of the situation as a whole. I uphold the law. Now the police officer upholds the law, but this police officer got an

informed warning, so he broke the law, because if I broke the law, he broke the law. Now —

Mr Bain: But he wasn't upholding the law when he drove his Land Rover forward at you.

Mr Kelly: I know, but, in a general sense, I presume he would argue — I don't argue for him — but I presume he would argue that he believed at the time, but because —

Mr Bain: But, Mr Kelly, while it's interesting, it's not really relevant what your attitude to the law is generally.

Mr Kelly: No, well it is —

Mr Bain: I don't doubt that, generally, you uphold the law. What we are concerned with is this particular incident.

Mr Kelly: Then, relevant to this, or what I presume you are saying, is: I broke the law. If you are asking me did I think that I was breaking the law when I carried out the actions on, I think it was, 21 June, then the answer is no. What I signed on 6 January was that, in retrospect, the law was broken.

Mr Bain: And so, by analogy, would you accept that, at the particular time, when you impeded the Land Rover, you were failing to uphold the law because you were breaking the law?

Mr Kelly: Well, at the particular time, clearly it is now, because I have accepted an informed warning on the basis of breaking section 66, as I understand it, but it is in retrospect. If the question is in terms of my code of conduct, and I take it in terms of the way I behave, then what I did at the time, I did to calm the situation even though, at a later date, that was looked upon as breaking the law. So if you are asking me did I think that I was breaking the law on that date, then the answer is no.

Mr Bain: But what I am asking you is: now, in retrospect, do you accept that, at that particular time, when you impeded the constable driving the Land Rover, where you have admitted you were breaking the law, do you accept that, at that moment, you were failing to uphold the law?

Mr Kelly: Yes, I accept it, but I don't want us to be too clever with each other, and I know we're not trying to be, but the point I'm making in very simple, because I'm not a lawyer, very simple layperson's terms is I accept that the law was broken by me at that point but I was acting to try and calm the situation. All right?

Mr Bain: Yes.

Mr Kelly: And that is why I acted, and, at the time, I did not think that I was breaking the law.

Mr Bain: And would it be fair to you — and I don't want to put words in your mouth — that what you did, you did with good intention? It turned out that you were breaking the law, but it was for the greater good, in your view.

Mr Kelly: Well, I did with good intention. I think the proof is that the series of actions that were taken did calm the situation and that we were in danger of going in till a very bad situation had I not come to the area — along with others, by the way — to try and calm the situation down.

Mr Bain: OK. Can we move on then to the next one, which is leadership, and this is going over some of the same grounds because, as you know, the principle is that you will support the various principles, including the principle of upholding the law —

Mr Kelly: Yeah.

Mr Bain: — by leadership and example. And my question is this: was impeding the police and breaking the law by impeding the police setting a good example to the community?

Mr Kelly: Well it was certainly showing leadership, and I think there is a difference, you know, I don't think we can ignore the circumstances that we're in or the circumstances of the day. Now, as a republican, and particularly as a well-known republican, if I had of carried out that act 200 yards away in a loyalist area, there would've been a different consequence. Therefore, that would not have been good leadership. In a nationalist and republican area to do what I did, I think, was good leadership. And if I could say this, although it becomes very complicated, I would say that I would get substantial backing from that, from the people who actually live in the area, and I do notice that the only people who are complaining about this are people who weren't there and don't know the area.

Mr Bain: Well I couldn't tell you whether the others —

Mr Kelly: Well I can because their addresses are on it, so —

Mr Bain: Yeah, but I think some of them, you perhaps don't have their addresses —

Mr Kelly: Yes, I do.

Mr Bain: Oh, you do. Well fair enough.

Mr Kelly: One lives in, I think, Bangor, and someone lives somewhere else — Dundonald. And then Jim Allister lives wherever he lives in —

Unknown Voice: Ballyclare.

Mr Bain: But setting a good example to people to uphold the law, I would say to you, you can't assert that you were doing that because, in fact, your actions had the very opposite result when you stood in front of the Land Rover. While you were in front of it and on the bonnet, the Land Rover was attacked and kicked and struck with fists of other people who up until then had not struck the Land Rover.

Mr Kelly: Well they were trying to — Well I presume that they were trying to stop a Land Rover, which they seen as quite dangerous, driving off with me clinging to the bonnet.

Mr Bain: OK.

Mr Kelly: I don't think that you can blame people for that, and it happened to be me, but I presume, if it had of been anybody else, they would've done the same because it was quite a dangerous thing to do.

Mr Bain: OK. Then the promoting good relations principle: some of the complainants refer to it, and, you know, that's about setting a positive example, which is really the same point, and promoting a culture of respect for the law. Do I assume that what you have said in relation to public duty applies equally to this?

Mr Kelly: Well yes, you see, it may not; you have a code of conduct and it sets it down very straightforward, but I presume it's there as a substantial guide. Actually every time, it would appear, that I open my mouth, unionism believes that I am doing damage to community relations. Now I, as it happens, believe that this process is highly political. I don't mean the process we're dealing with now; I mean the complaints are highly political. And it is an attempt, because it is not the first one and there are others coming, whereby political opponents are trying to silence me.

Now I am a republican; we are in a divided society. I accept that some, and maybe many, of the things I say will upset people who are politically opposed to me, and, likewise, I presume unionists would accept that they will upset others. So if the gauge, if the yardstick, is, you know, what your politics are, then we're in trouble because, you know, unionists —

I mean I was on a programme last night. I would say none of the people who spoke — and there were five politicians there — helped, in this type of term, deal with relations. There are some people who, if I said today was a bright day, it would upset them, and they have said it to me.

I don't know what you can do in terms of that. I believe in a general sense that I do. I believe in cross-community work. I do promote good relations. I promote equality. I believe deeply in it, and I try my best to do that, but taking an incident and using it in that sense, I think, is quite difficult because you could give your commission a complaint or 100 complaints a day over things that are said in the Assembly frankly.

So I think I showed leadership in terms of the context of a nationalist area where there was huge numbers of police, where we had situations before were it turned really bad, and I think we diffused it. And I did it, by the way, in conjunction with the police officers there; despite the incident, I did it with police officers there. I think that, you know, unionism is always going to find fault in it.

Mr Bain: Finally, one of the complainants relies on the respect principle; in particular, that part of it that says Members mustn't undertake any action which lowers the public's regard for and confidence in Members and the Assembly itself. Some people have suggested to me that actions such as yours on this occasion will go down badly with one half of our community and well with the other half, and nothing you do could alter their opinion.

Mr Kelly: Well I don't know if nothing I could do wouldn't alter the opinion, but I think the first part of it is probably quite accurate and it goes back to what I was saying that there are people, no matter what I would say, would have a difficulty with what I say. Likewise you could probably say that most, if not all, certainly most of the politicians that we have, and it comes from there having been a very divided society, from there having been the conflict. We are in a post-conflict situation. It may take quite a long time to change those mindsets, but we are determined to change them.

An isolated incident like this can be argued did damage or — I could tell you with fair confidence that, if you go into the people of Carrick Hill — who were affected by this, by the way; so these are the people who are actually affected — probably to a person — that might be an exaggeration but close enough — they would support my actions.

Mr Bain: OK. That concludes all the questions I have. Is there anything you wish to add?

Mr Kelly: I don't think so. I think all of these are what you call, you know, you make the call, and sometimes you get it right, sometimes you get it wrong. But, quite often, it means standing up for people who can't stand up for themselves. That's what I was doing on the day. I didn't expect to be doing that. I thought I was going to be off doing a presentation. I was called back. I came back. I think you have to look at these circumstances in the overall situation. So, if you are looking — and I am no expert on this — but, if you are looking at a code of conduct in terms of all of that, then I would argue look at the whole context. You know, I don't know what else you will be looking at, whether it's the videos of the day or whether it's photographs and all of that, but, in a general sense, I think we

got out of the day — and I think I assisted in this; other people don't — and I think I know the nationalist and republican area better than unionists, and I mean I am not making any judgement on the two others involved in this, but from their addresses, I presume they live in a unionist area, and, from the comments they made, they are unionist-minded. Maybe that's unfair, but I think that's where they come from. I am not surprised that they take this view.

I am, unfortunately for unionism, a controversial figure. I am not so controversial in republican and nationalist areas. Without relying on the issue of votes, because one of the questions I think was asked was who am I, you know, do you have more, you know, you should be treated the same as anybody else. They're right. I should be treated the same as anyone else, but I was there in the context of who I am, and, therefore, probably have, as most republican — not republican — as most elected reps would have, no matter what party they come from, that extra bit of authority in circumstances like that. And especially because I talk to the police all the time; I'm very well known. So they know that I be there and that I work with them to try and calm the situations, which sometimes involves me disagreeing with them.

Mr Bain: OK. Well, as you know, the procedure now is that we send you out a note of this oral or, hopefully in this case, a transcript. To save Sheila having to try and prepare a note of it, if we can persuade someone to transcribe it, and then you get an opportunity to suggest any revisions that you want, and then I'll complete the investigation and, in due course, report it to the Committee.

Mr Kelly: Fair enough. You didn't, if I could say, Douglas, at the start, was there any issue around the — All you said about the PONI was it's an overall investigation, as opposed to this specific —

Mr Bain: The specific one — I mean I think what the delay may be, as I understand it, they submit their file to PPS but they don't announce what the PONI decision is until PPS have decided what to do on the file. Though, on that particular bit of it, the driver's accepted an informed warning, and, indeed, I think there are now internal police disciplinary proceedings against him as well. So, but that bit of it is over.

Mr Kelly: OK.

Mr Bain: Thank you very much.

Mr Kelly: Thank you.

9

Personal, Professional, Protective Policing



RESTRICTED

CERTIFICATE OF INFORMED WARNING - ADULT

File No C13035824 District and Code CC2013062200009

Name GERARD KELLY DOB [REDACTED]

Address [REDACTED] BELFAST

Postcode [REDACTED]

School/Employment POLITICIAN

Date of Offence 21/06/12

Offence IMPEDING POLICE

Where Occurred CARRICKHILL, BELFAST

Date of Informed Warning 6/1/14

Location of Informed Warning 2426 Springfield Road, Belfast.

I admit the offence outlined above and understand the meaning of an Informed Warning. The consequences of my accepting this form of disposal have been explained to me, including the manner in which it will be recorded, mentioned in subsequent court proceedings, and any other consequences resulting from the nature of my offence. I consent to the matter being dealt with in this manner.

Signature of Adult Gerry Kelly's Signature Date 06/1/14

Signature of Appropriate Adult (if applicable)

Signature of Person delivering disposal [REDACTED]

Criminal Records Office, Headquarters, via Criminal Justice Manager

On at am I administered an Informed Warning to for the offence listed above at (Venue).

Name Rank No

Signature

Form 36 and 38/1 completed []

(Drugs Cases) - Drugs Referral Scheme not considered appropriate, 64/1 attached.

Form 63/2 04/11

RESTRICTED

10

Programme	Nolan Show
Date & Time	07.01.14 (09.22)
Subject	Gerry Kelly informed warning
Prepared By	Typist: [REDACTED] MMU GI

LISA McALISTER

Gerry Kelly, if we could just digress slightly, you're back in the news yourself today. The DUP's furious that you haven't been prosecuted over the incident last summer when you were carried on the front of a police land rover?

GERRY KELLY

Yes, well just to comment on that, I listened to Nigel Dodds this morning, almost apoplectic, but, you know, when you put it beside Ruth Patterson, who got a similar informed warning and I didn't see this huge anger from them over that, in fact they stood beside Ruth Patterson throughout the whole process and made a point of sending an elected representative to stand beside her at the court. The process has gone through investigation, I was given an informed warning, it was my belief at the time that I was doing the right thing...

LISA McALISTER

What is an informed warning?

GERRY KELLY

Well an informed warning means that you've been warned that it, you know, that you shouldn't have done what you did, in terms of impeding the police and...

LISA McALISTER

Is it like a police caution? Would you, did you have to accept some sort of responsibility like a guilty plea of sorts?

GERRY KELLY

Well I don't think that me interpreting into other words, it's called an informed warning, it is, I think, a fairly new process, like a disposal, so it deals with the issue without going to court and I've always believed that this issue should not have went to court.

LISA McALISTER

So does that mean you admitted some culpability?

GERRY KELLY

Well it means that I accept the finding of the police investigation or the PPS and that it would be...

LISA McALISTER

Which was?

GERRY KELLY

...which was that I received an informed warning about impeding the police.

LISA McALISTER

So you accept that you impeded the police?

GERRY KELLY

There's only about five lines in it. Yes, I accept the informed warning, yes.

LISA McALISTER

So you do, you admit that you impeded the police in their attempts to carry out their duties?

GERRY KELLY

Well I accept that on the day that I was acting in a way which I thought, which I believed and still believe actually de-escalated the situation and sorted out. I do think, when you compare that where I was trying to calm the situation to Ruth Patterson who clearly was...

LISA McALISTER

Well look she's not her to defend herself at the moment, so let's just talk about what happened in your case?

GERRY KELLY

Well phone her up and get her on, it'll be okay. What I'm dealing with is not so much Ruth Patterson as I'm dealing with the contradictory approach that the DUP have when they show this amount of outrage when in fact when it was the other way round dealing with informed warnings then they had no qualms in actually supporting Ruth Patterson in her case.

LISA McALISTER

Have you got any regrets about what you did?

GERRY KELLY

Well I have accepted that there has been an investigation, I also have to point out that, and everybody has seen this video, I have to point out that any citizen, whether it's a, never mind an elected rep, whatever the circumstances there were, where I was trying to talk to the PSNI should not have driven off with a person on the bonnet of a jeep, and we still have to wait and see what happens in terms of that incident. I did what I did at the time, I thought I was right at the time, has been found against me that I was impeding the police, I accept that. Is your question you've asked now a number of times, Lisa, I accept that. As far as I'm concerned, let's move on.

LISA McALISTER

But any regrets?

GERRY KELLY

Any regret about?

LISA McALISTER

About what happened, about what you did?

GERRY KELLY

I suppose I regret that it has become such a huge issue in the middle of all of this.

LISA McALISTER

That's not the same question, Gerry Kelly?

GERRY KELLY

Yes I know, Lisa, but I'm answering it in my own way. I have accepted that I have been given an informed warning, I know what it means, it will be on the record for a year and then it will be no longer on the record.

LISA McALISTER

Finally on this issue, Gerry Kelly, if the same circumstances arose this summer would you do the same thing?

GERRY KELLY

I look at all of these issues and I've been at many of them, as a position of representing, I am an elected representative, in trying to represent the people involved but also, at times, having to take positions which have a call, you have to make a call at the time. I do it to the best of my ability, sometimes I get it right and sometimes I get it wrong and I think that will continue. So I don't know the circumstances that would happen and I have been at many of these, this is one incident in many, many years of involvement in these. If there weren't these type of contentious parades maybe we would not have these type of discussions on the radio, but that's life, that's the way it is and, you know, in terms of the Haass talks, that was an attempt to de-escalate, take the tension out of, to have a way forward in all of these things and we are now hearing that one of the unionist parties has rejected it out of hand. Now that's not helpful, I don't think it's leadership, it's not moving it forward but we are where we are and we will continue on, I will continue to represent the people who elect me.

11

Programme	GMU
Date & Time	7.1.14 (8.13)
Subject	Haass talks process
Prepared By	Typist: [REDACTED] MMU PF

KAREN PATTERSON

So we have just heard Mike Nesbitt there, leader of the UUP, say that his party can't go forward with Haass 7, though they don't find the status quo to be acceptable, how big a blow is this?

GERRY KELLY

I don't want to go through the whole interview that Noel did but I think the interview speaks for itself. Mike Nesbitt on the one hand said that he was up for this and then he said he is not up for it. He must know that he sounds foolish in what he is saying because on the one hand he is saying that the First and deputy First Minister on the other hand every other time he speaks he says the five parties should be involved. The five parties were involved. He has changed his mind, he needs to explain why he changed his mind from the last day of the negotiations to what we are hearing today.

KAREN PATTERSON

He doesn't need to explain why he has changed his mind, he has adopted a party position, he would deny full heartedly I am sure that he is being foolish in any way at all.

GERRY KELLY

Well he may deny all of that and I have no doubt he will deny it but I am just pointing out what my opinion of it is and I do think that it is incumbent upon him, he is the party leader, and that he personally changed his mind from a position of recommending and not recommending but that aside you asked the question, where do we do from here? There is a suggestion that there is an implementation group set up. Martin McGuinness has already said that that that implementation group should implement Haass and you know even in the 80-90% comment of Mike Nesbitt that could be put perhaps right across all the parties that this is always a compromise document, that there were five parties involved, that was the whole essence of it, that you don't go into negotiation and come out the other side with a republican document or for that matter a DUP document or a UUP document or an Alliance document. You come out the other end after going through a very long and drawn out process, after working I think you could argue fairly hard and Richard Haass who was brought in as a facilitator, Richard Haass and Meghan O'Sullivan come out with this document and we think it is the basis to move forward on. Now it isn't a republican document, we have disappointments in it too but you have to work out are we there to try and

move the whole process on and these three which were described as toxic issues, or have we not? And we would argue that there is a basis to move ahead despite some of the disappointments by all the parties.

KAREN PATTERSON

Even now you are describing it as a basis upon which to move forward and yet Martin McGuinness is saying that it is not to be open to negotiation, that the contents that are there are to stand, so where is the wriggle room, where is the movement there?

GERRY KELLY

I am not too sure what difference you are making there, the basis to move forward or moving forward....

KAREN PATTERSON

The difference is is it a basis to move forward or is it the done deal in your view?

GERRY KELLY

Well what it is is what we have agreed and we should move forward, so is it a finished negotiation? Yes it is a finished negotiation. But we could end up playing with words here, we have made it very clear that we are going to put to our Ard Comhairle and it is the negotiating team plus the leadership who have spoken that we should use this to move forward yes, that this is the document, that this is the report, this isn't a republican document as always happens in these negotiations, but we believe that it is a good report to move forward on.

KAREN PATTERSON

So you are saying it is a finished negotiation, a report to move forward on but it is one that neither of the unionist parties nor the Alliance Party can buy into so it is dead in the water isn't it?

GERRY KELLY

I don't think it is dead in the water, but it can be killed and of course Mike Nesbitt maybe that is what he is doing and you know when we look at this there is clearly, because I was at the negotiation, I was at it with the UUP, they have one attitude in the negotiation and then, and this is why I said it had to be explained, is it the Orange Order who are saying as they did in 2010 where we had a similar negotiation, came to a conclusion at the end of that and in fact it was the DUP had signed up for and in fact it was the UUP which had (unclear) the Orange Order to say no to that agreement as well, so we could go through this again and again. At some stage they have to realise that there is a way to move this forward, is that we have asked outsiders to come in and assist us, they have done that, I think they have done an exceptional job and we have made significant progress and we need to move forward with that progress as opposed to, here we have at least sections of unionism becoming just rejectionist again, and saying they don't want to move forward on any of these.

KAREN PATTERSON

You have had some contact with the police over the past 24 hours, you have been issued, I understand with an informed warning as a result of your behaviour in June with the police Land Rover, do you think it has been a case of soft justice as Nigel Dodds of the DUP would suggest?

GERRY KELLY

I find it interesting because I heard the words of Nigel Dodds earlier and he didn't have this huge annoyance when Judith (sic) Patterson got exactly the same thing and what I was doing on the day, whatever way you might think or the police might think I was handling it and they have come to the conclusions on that, what I was doing on the day was trying to calm a situation and what Ruth Patterson was doing wasn't saving the situation from any amount of work...

KAREN PATTERSON

You say you were trying to calm the situation but Nigel Dodds would contend that you obstructed a police Land Rover...

GERRY KELLY

Here is the difference, the difference was I have gone through a process and the difference was that I was there, Nigel Dodds wasn't and some of the things that Nigel Dodds said today were absolutely false.

KAREN PATTERSON

Such as?

GERRY KELLY

Well he said that police were in danger and that I could have caused injury and all of that....

KAREN PATTERSON

Is that not the case, you leapt in front of the police Land Rover?

GERRY KELLY

That is not the case and see with due respect to yourself you are going to go through a process that everybody has seen on video and there was all sorts of evidence and that there has been an investigation into, and a conclusion isn't coming and now you are going to fight with me the same as the DUP about the fact....

KAREN PATTERSON

I am not fighting with you I am just stating the fact on the day you stood in front of the police Land Rover....

GERRY KELLY

What you are saying is your view of the facts of the day....

KAREN PATTERSON

I saw the footage Mr Kelly.

GERRY KELLY

I know you saw the footage, let me put the footage to you, is it acceptable in any circumstances that a member of the public, never mind an elected representative, that a jeep should take off, should move off with somebody on the bonnet, is that an acceptable action? So if you want to deal with the facts today I can talk to you about it all day, but they have gone through a process, I got what was called an informed warning. I notice that in the Ruth Patterson case all these enraged DUP people were actually standing beside her outside the court, so there is no difficulty when it comes to one of their own but they are enraged when it comes to republicans, I think that that perhaps says it all.

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Northern Ireland
Assembly

**INVESTIGATION INTO COMPLAINT – GERRY KELLY MLA –
TOUR OF THE NORTH PARADE**

Meeting with Ms Heather Templeton

11 February 2014

Room 283

Start: 11.00 hrs End: 11.15 hrs

Present: Douglas Bain, Commissioner for Standards
Ms Heather Templeton
[REDACTED] (Note taker)

Mr Bain thanked Ms Templeton for coming and drew attention to the relevant legislation. He informed her that it would be a criminal offence to refuse to answer any questions that were put to her; it would also be a criminal offence if she provided him with any false or misleading answers and that it would also be unlawful if she informed anyone of any information given or provided at the meeting. Mr Bain informed Ms Templeton that a note of the meeting would be sent to provide her with an opportunity to suggest any changes that she wished to make. Mr Bain added that he would review the proposed changes and make a decision on whether to accept or reject them. If any are rejected these will then have to be submitted to the Committee on Standards and Privileges. Mr Bain informed Ms Templeton that the final report and a copy of the note of this meeting would be provided to the Committee who will then make a decision on whether to accept or reject facts of findings. Once the Committee makes a decision the report including the note of this meeting would become public. Mr Bain enquired if Ms Templeton was clear on the procedures. Ms Templeton said that she was.

Ms Templeton was asked what further information she wished to provide on her complaint that Mr Kelly failed to uphold the law. Ms Templeton said that there had been two incidents in the 70's and 80's where Mr Kelly had been involved in incidents involving a Land Rover. She added that this sort of behaviour from Mr

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Kelly only demonstrated to the public that if he can do it then there is no reason why members of the public can't. Ms Templeton added that the type of behaviour displayed by Mr Kelly could have resulted in a riot. In respect of his public duty to uphold the law, Ms Templeton said that, in her opinion, by demonstrating this kind of behaviour, Mr Kelly was obstructing the law and using his position as an MLA to carry out this type of behaviour. She added that no one wished to see their MLA behaving in such a manner which would put the police at risk.

Ms Templeton went on to provide evidence in respect of 'leadership' and 'promoting good relationships' in respect of Mr Kelly's breach of the Code of Conduct but Mr Bain intervened to explain that he could not include her evidence on this as breaches of these provisions of the Code had not been included in her complaint.

Ms Templeton went on to say that she could not understand how Mr Kelly could get away with breaking the law. Mr Bain explained that the police do not decide on whether a person should be prosecuted or not. It was the Public Prosecution Service that took such decisions. They had decided that both Mr Kelly and the driver of the police Land Rover should receive an informed warning.

Mr Bain asked Ms Templeton if there was anything else she wished to add. Ms Templeton referred to section 66 of the Police (Northern Ireland) Act 1998 which states that any person *who assaults, resists, obstructs or impedes a constable in the execution of his duty, or a person assisting a constable in the execution of his duty, should be guilty of an offence* and whether Mr Kelly had been found guilty of this offence. Mr Bain said that he understood that the informed warning to Mr Kelly was in respect of this.

It was agreed that a note of this meeting would be issued to Ms Templeton and that she could ring his office to outline any changes rather than writing as she had a medical condition which restricted her handwriting ability.

The meeting ended.

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Northern Ireland
Assembly

**INVESTIGATION INTO COMPLAINT – GERRY KELLY MLA –
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Ms Templeton was asked what further information she wished to provide on her complaint that Mr Kelly failed to uphold the law. Ms Templeton said that there had been two incidents involving Mr Kelly obstructing a landrover. The first incident occurred on 12 July 2013 around the Sandy Row area and the second

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~~incident at the Tour of the North parade in Ardoyne in the 70's and 80's where Mr Kelly had been involved in incidents involving a Land Rover.~~ She added that this sort of behaviour from Mr Kelly only demonstrated to the public that if he can do it then there is no reason why members of the public can't. Ms Templeton added that the type of behaviour displayed by Mr Kelly could have resulted in a riot. In respect of his public duty to uphold the law, Ms Templeton said that, in her opinion, by demonstrating this kind of behaviour, Mr Kelly was obstructing the law and using his position as an MLA to carry out this type of behaviour. She added that no one wished to see their MLA behaving in such a manner which would put the police at risk.

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It was agreed that a note of this meeting would be issued to Ms Templeton and that she could ring his office to outline any changes rather than writing as she had a medical condition which restricted her handwriting ability.

The meeting ended.

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Sinn Fein TV recording of incident can be accessed at
www.youtube.com/watch?v=8K2juHYzDKs

or on Google 'Gerry Kelly faces down PSNI aggression – YouTube'

15

Bain, Douglas

From: Gerry Kelly [REDACTED]
Sent: 14 April 2014 16:43
To: SM_StandardsCommissioner
Subject: Tour of the North 2013

Dear Mr Bain,

Thank you for your correspondence of March 31st and April 11th.

At point 12, I believe that the use of the adjective 'slowly' is subjective. As the person 'carried forward' I did not feel it was slow. If this is a fact check perhaps it would be better to leave out 'slowly'.

At point 20, I am not sure why it states that I accepted 'not only breaking the law but failing to uphold the law'. In accepting the 'informed warning' I was accepting a 'technical' sanction. I had in mind that a case proceeding through the courts could easily turn into a media circus and make the situation worse, especially in the run into this years 'marching season'. I also said that at the time of the events, I acted in the best interests of the community in Carrick Hill in resolving the tense situation which pertained. AT THAT TIME I did not believe that I was breaking the law. I also helped to prevent a much greater potential for law breaking in the immediate aftermath of a Loyal Order parade in the vicinity which had contained many breaches of the law to the detriment of the local community. On the issue of legal advice on the 'informed warning' may I again offer you the contact details of the solicitor who advised me: [REDACTED]

Sincerely

Gerry Kelly (MLA)

PROTECT - INVESTIGATION

16

COMMISSIONER FOR STANDARDS

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BT4 3XX

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**Mr G Kelly MLA
Sinn Fein
Room 331
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX**

16 April 2014

Dear Mr Kelly

COMPLAINT AGAINST YOU BY JIM ALLISTER MLA AND OTHERS

Thank you for your email of 14 April 2014 setting your proposed revisions to my findings of fact.

Your first revision sought deletion of the word 'slowly' in finding 12. On the basis of the evidence before me I am satisfied that 'slowly' is an appropriate description of how the vehicle moved. I do not accept your proposed revision.

Your second revision related to finding 20 and your acceptance of 'not only breaking the law but failing to uphold the law'. I would respectfully refer you to your answers at the foot of page 14 of the agreed transcript of your interview. I do not accept your proposed revision.

I will, of course, include a copy of your email and of this response in my report to the Committee. In that report I will draw attention to the fact that you accepted the informed warning on legal advice. As I accept what you told me on this point there is no need for me to speak with your Solicitor.

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I shall now finalise my report and submit it to the Committee.

Yours sincerely

Douglas Bain CBE TD Advocate
Northern Ireland Assembly Commissioner for Standards

PROTECT - INVESTIGATION



Northern Ireland
Assembly

Appendix 2

Minutes of Proceedings of the Committee relating to the Report

Wednesday, 28 May 2014

Room 29, Parliament Buildings

Present: Mr Alastair Ross (Chairperson)
 Ms Anna Lo (Deputy Chairperson)
 Mr Steven Agnew
 Mr Cathal Boylan
 Ms Paula Bradley
 Mr Colum Eastwood
 Mr Declan McAleer
 Mr Fra McCann
 Mr Ian McCrea
 Mrs Sandra Overend
 Mr Mervyn Storey

In Attendance: Mr Paul Gill (Assembly Clerk)
 Mrs Ashleigh Mitford (Assistant Assembly Clerk)
 Mr Jonathan Watson (Clerical Supervisor)
 Mr Jim Nulty (Clerical Supervisor)

Apologies: None

7. **Correspondence from the Assembly Commissioner for Standards on complaints against members**

Members noted the Clerk's paper and a Report from the Assembly Commissioner for Standards in relation to complaints against a Member.

The Chairperson welcomed Mr Douglas Bain, Northern Ireland Assembly Commissioner for Standards, and invited him to brief the Committee on his Report and his items of correspondence. Following each briefing the Commissioner answered Members' questions.

The Chairperson thanked Mr Bain who left the meeting.

The Committee then discussed the Commissioner's findings in his Report in relation to the complaints against a Member.

Following discussion, the Chairperson put the question that the Committee agrees with the decision of the Commissioner that the Member had breached the Code of Conduct.

Ayes	Noes	Abstentions
Alastair Ross	None	Fra McCann
Anna Lo		Declan McAleer
Ian McCrea		Cathal Boylan
Paula Bradley		
Sandra Overend		
Mervyn Storey		

The motion was carried.

The Committee then discussed whether it should recommend the imposition of a sanction and, if so, what it might be.

Mrs Overend proposed that the Committee should call in its report on the Member to apologise to the Assembly and should also table a motion which, if agreed, would have the effect of excluding the Member from proceedings of the Assembly for a period of five days.

Ms Lo proposed that the Committee should establish if the Member would apologise to the Assembly for breaching the Code and that, if so, the Committee should report that it considered the matter to be resolved. If not the Committee could then consider the issue of seeking to impose a sanction.

The Chairperson put the question on Ms Overend's proposal:

Ayes	Noes	Abstentions
Alastair Ross	Cathal Boylan	Anna Lo
Sandra Overend	Fra McCann	
Paula Bradley	Declan McAleer	
Ian McCrea		
Mervyn Storey		

As this proposal was agreed the Chairperson did not put the question on Ms Lo's proposal.

The Clerk informed the Committee that he would prepare a draft report and motion for its consideration.

Mr Alastair Ross MLA

Chairperson, Committee on Standards and Privileges

[EXTRACT]

Wednesday, 4 June 2014

Room 29, Parliament Buildings

Present: Mr Alastair Ross (Chairperson)
Mr Steven Agnew
Mr Cathal Boylan
Mr Colum Eastwood
Mr Declan McAleer
Mr Fra McCann
Mr Ian McCrea
Mrs Sandra Overend
Mr Mervyn Storey

In Attendance: Mr Paul Gill (Assembly Clerk)
Mrs Ashleigh Mitford (Assistant Assembly Clerk)
Mr Jonathan Watson (Clerical Supervisor)
Mr Jim Nulty (Clerical Supervisor)

Apologies: Ms Paula Bradley

5. Committee Consideration of its Report on Complaints against a Member and its Motion to the Assembly

The Chairperson referred members to the tabled draft report.

Agreed: The Committee considered the draft report paragraph by paragraph, agreed it and ordered it to be published.

Agreed: The Committee considered the tabled draft motion and agreed it as amended.

Mr Alastair Ross MLA

Chairperson, Committee on Standards and Privileges

[EXTRACT]



Published by Authority of the Northern Ireland Assembly,
Belfast: The Stationery Office

and available from:

Online

www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

E-mail: customer.services@tso.co.uk

Textphone 0870 240 3701

TSO@Blackwell and other Accredited Agents

£12.50

Printed in Northern Ireland by The Stationery Office Limited
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ISBN 978-0-339-60532-9



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