

Committee on Standards and Privileges

**Report on
a complaint against
Mr Sammy Wilson MLA**

**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 10 June 2015

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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 Jimmy Spratt¹ (Chairperson)

Ms Anna Lo² (Deputy Chairperson)

Mr Steven Agnew

Mr Cathal Boylan

Mr Tom Buchanan^{3 4 5}

Mr Colum Eastwood⁶

Mr David Hilditch^{7 8}

Mr Declan McAleer^{9 10 11 12}

Mr Fra McCann

Mrs Sandra Overend¹³

Mr Robin Newton^{14 15 16}

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- 1 With effect from 10 December 2014 Mr Jimmy Spratt replaced Mr Alastair Ross as Chairperson
 - 2 With effect from 1 October 2013 Ms Anna Lo replaced Mr Kieran McCarthy
 - 3 With effect from 3 December 2012 Mr Ian McCrea replaced Ms Paula Bradley
 - 4 With effect from 8 December 2014 Mr Sammy Douglas replaced Mr Ian McCrea
 - 5 With effect from 18 May 2015 Mr Tom Buchanan replaced Mr Sammy Douglas
 - 6 With effect from 23 April 2012 Mr Colum Eastwood replaced Mr Patsy McGlone
 - 7 With effect from 15 April 2013 Ms Paula Bradley replaced Mr Jonathan Craig
 - 8 With effect from 6 October 2014 Mr David Hilditch replaced Ms Paula Bradley
 - 9 With effect from 3 July 2012 Mr Alex Maskey replaced Mr Pat Doherty
 - 10 With effect from 7 September 2012 Mr Francie Malloy replaced Mr Alex Maskey
 - 11 With effect from 7 April 2013 Mr Francie Malloy resigned as a Member
 - 12 With effect from 15 April 2013 Mr Declan McAleer replaced Mr Francie Malloy
 - 13 With effect from 26 September 2011 Mrs Sandra Overend replaced Mr Michael Copeland
 - 14 With effect from 7 May 2013 Mr Sydney Anderson replaced Mr David McIlveen
 - 15 With effect from 16 September 2013 Mr Mervyn Storey replaced Mr Sydney Anderson
 - 16 With effect from 6 October 2014 Mr Robin Newton replaced Mr Mervyn Storey
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Table of Contents

Report	1
Appendix 1	
Report by the Assembly Commissioner for Standards	9
Appendix 2	
Correspondence of 20 May 2015 to Mr Wilson	93
Appendix 3	
Minutes of Proceedings of the Committee Relating to the Report	97

Report

Introduction

1. The Committee on Standards and Privileges has considered a report from the Assembly Commissioner for Standards on his investigation into a complaint against Mr Sammy Wilson MP MLA. The Commissioner's report, which includes a copy of the complaint, is included at Appendix 1 of this report.

The complaint

2. The complaint was made by Mrs Dolores Kelly MLA and related to Mr Wilson's conduct at a meeting of the Committee for Social Development on 16 October 2014. At that meeting the committee heard evidence from Mr Stephen Brimstone (the then Special Adviser to the Minister for Social Development) as part of its inquiry into the allegations made in a Spotlight programme in relation to Housing Executive contracts. Mr Jim Allister MLA had been questioning Mr Brimstone when Mr Wilson interjected to object to Mr Allister's approach. It was Mr Wilson's subsequent comments and his tone about which Mrs Kelly complained.
3. Mrs Kelly drew attention to four specific aspects of Mr Wilson's conduct which she asserted breached provisions of the Code of Conduct. These were:
 - I. Mr Wilson's reference to witnesses as 'dodgy'. Mrs Kelly asserted that this breached the Code principles of Objectivity and Respect;
 - II. Mr Wilson's behaviour towards the Committee Chairperson, Mr Alex Maskey MLA, whom he accused of partiality. Mrs Kelly asserted that this breached the Good Working Relationships principle;
 - III. Mr Wilson's reference to Mr Allister as a 'thug' which Mrs Kelly asserted breached the Respect and Good Working Relationships principles; and
 - IV. Mr Wilson's aggressive tone and language.
4. Mrs Kelly said that "...this is the second time Mr Wilson's unacceptable outbursts have led to the suspension of the Social Development Committee..." She further asserted that Mr Wilson's conduct had done damage to the reputation of other members of the committee and to the committee itself.

The Commissioner's investigation and findings of fact

5. As part of his investigation the Commissioner interviewed Mr Allister, Mr Maskey and Mr Wilson. He also, *inter alia*, read the Hansard report of the committee meeting of 16 October 2014 and considered an audio and video recording of that meeting. Having done so the Commissioner then established a number of facts which are set out in paragraph 7 of his report and which include the following:
 - At the DSD Committee on 16 October 2014 Mr Wilson was at all times acting in his capacity as an MLA.
 - The DVD of that meeting is a true and unedited audio and video recording of events.
 - Hansard of that meeting is a substantially accurate transcript of what was said during the relevant part of that meeting.
 - The conduct of Mr Wilson at that meeting received widespread coverage on TV, the radio and in the printed media.
 - Mr Wilson has offered no apology for what he said at that meeting: nor has he any intention of so doing.

- Near to the start of his speech to the DUP Conference on 22 November 2014 Mr Wilson, in a reference back to what he said at the meeting on 16 October 2014, said ‘Thank you very much for the welcome. It’s nice to know that I am amongst friends and not amongst thugs. Are there any thugs here today?’

The Commissioner’s decision

6. The Commissioner has pointed out that the facts of this case were not in dispute and that the sole issue is whether the admitted conduct of Mr Wilson at the meeting of the Committee for Social Development on 16 October 2014 was in breach of the provisions of the Code of Conduct.
7. The Commissioner has also pointed out that at his interview with him Mr Wilson did not accept that he had broken any provisions of the Code. Mr Wilson asserted that his right to free speech entitled him to say everything he had. The transcript of this interview is at document 9 of the Commissioner’s report. The Commissioner said that the right to free speech asserted by Mr Wilson as his defence to the allegations against him is more properly described as the right to freedom of expression. It exists in common law and is also enshrined in Article 10 of the European Convention on Human Rights.
8. The Commissioner has drawn attention to the judgement in *Heesom v Public Service Ombudsman for Wales* in which the case law on freedom of expression under Article 10 in the context of statements by elected representatives was summarised. From that judgement and the authorities referred to in it, the Commissioner has advanced a number of propositions relevant to this complaint. These are set out at paragraph 15 of his report. Having done this, the Commissioner has said that due regard must be paid to the rights enshrined in Article 10 when considering whether the admitted conduct in this complaint breached the provisions of the Code of Conduct
9. In relation to Mr Wilson’s description of witnesses as “dodgy”, the Commissioner has said that this is at worst a mild form of abuse and does not amount to “an unreasonable and excessive personal attack”. Nor in his opinion does it amount to a breach of the Objectivity principle. The Commissioner’s analysis is set out at paragraphs 17 – 21 of his report. The Commissioner did not consider that Mr Wilson’s description of witnesses of “dodgy” in itself constituted a breach of the Code of Conduct.
10. In relation to Mr Wilson’s accusation that Mr Maskey was biased or partial in the way he chaired the Committee, the Commissioner was satisfied that Mr Wilson was, by virtue of Article 10, entitled to make the accusation of partiality even if it was wholly untrue. The Commissioner concluded that Mr Wilson did not breach any provision of the Code by the making of the accusation. His analysis of this is set out at paragraphs 22 to 25 of his report.
11. In relation to Mr Wilson’s description of Mr Allister as a “thug”, the Commissioner said that, despite the fact this comment was made in a political context by one politician about another, he did not accept it was protected by the right to freedom of expression enshrined in Article 10 of the Convention. The Commissioner said that untruthfully describing someone as a “thug” is an abusive and gratuitous personal comment, that it amounted to an unreasonable and excessive personal attack on Mr Allister and that it contravened the Respect principle set out in the Code. The Commissioner’s analysis of this issue is set out at paragraph 26 of his report.
12. Finally, the Commissioner has considered Mr Wilson’s conduct in the round. In doing so he has had regard to everything that took place after Mr Wilson first intervened in the proceedings. Having done so he has concluded that Mr Wilson’s conduct was unacceptable and fell well below the required standard. He said that Mr Wilson’s conduct most certainly did not strengthen the public’s trust and confidence in the integrity of the Assembly and he was satisfied that his conduct would tend to weaken such trust and confidence. The Commissioner was also satisfied that Mr Wilson’s actions would be likely to bring the

Assembly into disrepute. The Commissioner therefore concluded that by his failure in this duty, Mr Wilson broke the provisions of the Code of Conduct. His analysis of these matters is set out at paragraphs 27 to 31 of his report.

The Committee's considerations

13. In line with the usual procedure, Mr Wilson was provided with a copy of the Commissioner's report. Mr Wilson 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 Wilson neither chose to appear before the Committee nor to provide it with any additional comments.
14. The Committee considered the report at its meeting on Wednesday 18th March 2015 when the Commissioner attended and answered members' questions. The Committee noted that Mr Wilson had cited his right to freedom of expression as a defence to the allegation that by his comments he had breached the Code of Conduct. The Commissioner again acknowledged that due regard must be paid to Article 10 of the Convention when considering whether Mr Wilson's comments had breached the Code. However, the Commissioner set out how he had done this and was satisfied that Mr Wilson's 'thug' comment was not protected under Article 10.
15. The Committee was already aware that a public authority is entitled to restrict a person's right to free expression provided that the restriction is (i) prescribed by law and (ii) is necessary in a democratic society for the protection of the reputation or rights of others. However, the Committee decided to commission its own legal advice which it then considered at a meeting on 15 April. After reflecting on its legal advice, the Committee discussed whether in this case a finding that Mr Wilson had breached the Code would be both prescribed by law and necessary in a democratic society for the protection of the reputation or rights of others. The Committee agreed to give further consideration to this issue and the other matters arising from the Commissioner's report at its next meeting.
16. This meeting took place on 20 May 2015. At this meeting, before reaching its final decision on the complaint, the Committee gave very careful consideration to all the relevant factors in this case and to a number of specific questions. Having done so, the Committee was unable to reach unanimous agreement on its position. However, following divisions, the Committee agreed that:
 - leaving aside any Article 10 considerations, Mr Wilson's use of the word "thug" was a breach of the Code of Conduct;
 - this "thug" comment was a form of expression protected by Article 10 and that a finding of breach of the Code of Conduct would therefore amount to a prima facie interference with Mr Wilson's Article 10 rights;
 - a finding by the Committee of a breach of the Code of Conduct in this case would be prescribed by law; and
 - the "thug" comment was a gratuitous personal comment rather than a form of political expression.
17. When concluding that Mr Wilson's "thug" comment was a gratuitous personal comment rather than a form of political expression the Committee considered the context of the meeting and what Mr Wilson had said before and after this comment.
18. The Committee was not persuaded that the "thug" comment was an expression or critique by Mr Wilson of the adequacy of performance of public duties by Mr Allister. The Commissioner has pointed out that the ordinary meaning of the word thug has criminal and violent overtones and has reported that Mr Wilson accepted this at interview. However, although Mr Wilson does not believe Mr Allister to be a criminal or violent person, Mr Wilson has at no

time publicly clarified that he did not mean his “thug” comment in this way. Mr Wilson told the Commissioner that his comment referred to the manner in which Mr Allister was treating witnesses – he said that Mr Allister had behaved in a bullying way and that Mr Allister “was violently using words”. Mr Wilson said that he did not think his comment needed or required an explanation as it was clear the context in which it was being used.

19. The Committee believes that Mr Wilson’s decision to not clarify his comments is instructive. The Committee believes that in calling Mr Allister a “thug” Mr Wilson was trying to insult him by making an untrue and gratuitous personal comment.
20. The significance of concluding that this was a gratuitous personal comment rather than a form of political expression is that political expression is given enhanced protection under Article 10 of the Convention. The Committee is satisfied that Mr Wilson’s “thug” comment did not attract this enhanced protection.
21. The Committee weighed up whether in this case a finding by it of breach of the Code of Conduct was necessary in a democratic society for the protection of the reputation or rights of others. In doing so, the Committee took into consideration all the relevant factors. The Committee balanced Mr Wilson’s right to freedom of expression and the public interest in this freedom against the public interest in proper standards of conduct by Members in order to protect the reputation and rights of others.
22. Having done so the Committee was unable to reach agreement unanimously. However, following a division, the Committee agreed that a finding of breach was necessary in a democratic society for the protection of the reputation or rights of others. While the Committee acknowledges the importance of Mr Wilson being able to exercise his right to freedom of expression, this right did not outweigh the public interest in this case in ensuring that Mr Allister’s reputation and rights were protected.
23. The Committee has therefore agreed that Mr Wilson’s “thug” comment amounted to an unreasonable and excessive personal attack upon Mr Allister and that Mr Wilson had contravened the Respect principle set out in the Code of Conduct. Although this finding interferes with Mr Wilson’s Article 10 rights this interference is justified. **This aspect of the complaint against Mr Wilson is therefore upheld.**
24. The Committee did not agree, however, that Mr Wilson’s conduct had brought the Assembly into disrepute. Mr Wilson’s conduct was unacceptable and fell below the required standard. However, the Committee has never previously found that a Member’s conduct has brought the Assembly into disrepute and has decided that it is not going to do so on this occasion either. The Committee has previously recognised that the ‘disrepute’ provision in the Code of Conduct is subjective – it means very different things to different people. The Committee has therefore agreed, as part of its review of the Code, that the new Code should not include as an enforceable rule provision requiring Members not to undertake any action which would bring the Assembly into disrepute.
25. The Committee agreed with the Commissioner that the other aspects of Mrs Kelly’s complaint should not be upheld. However, the Committee noted Mrs Kelly’s claim that Mr Wilson’s “outbursts” had on two occasions led to the suspension of meetings of the Committee for Social Development. The new Code of Conduct brought forward by the Committee provides, at Rule 13, that Members shall not act in any way which improperly interferes, or is intended or is likely to improperly interfere, with the performance by the Assembly of its functions, or the performance by a Member, officer or staff of the Assembly of their duties. Therefore, under the new Code, if a Member’s behaviour in committee was so improper, unreasonable and persistent that a committee was unable to exercise its functions, that Member could be in breach of Rule 13.
26. The Committee wrote to Mr Wilson on 20 May 2015 informing him of the Committee’s decision that he had breached the Code of Conduct and telling him that he should apologise

to Mr Allister for his comment. The Committee had agreed that an appropriate apology from Mr Wilson to Mr Allister would allow it to report that the matter had been resolved. Its correspondence to Mr Wilson explained this position. The correspondence went on to state that should Mr Wilson not apologise to Mr Allister by 29 May 2015, the Committee would have to give consideration to recommending to the Assembly that a sanction be imposed.

27. Mr Wilson did not apologise to Mr Allister by 29 May. He informed the Committee that he would not apologise to Mr Allister for this comment.
28. It is highly regrettable that Mr Wilson did not apologise to Mr Allister. Both the Commissioner and the Committee had concluded that he had breached the Code of Conduct. Mr Wilson should have acknowledged and accepted this outcome and apologised for his comment. An appropriate apology from Mr Wilson to Mr Allister would, in the Committee's view, have provided a fitting and proportionate resolution to the matter.
29. 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. The Committee believes that Mr Wilson's decision not to apologise means it should recommend that the Assembly impose a sanction upon him for his failure to comply with the Code.
30. Having considered the matter carefully, and having had regard to Mr Wilson's failure to apologise, the Committee has agreed that Mr Wilson should be censured by the Assembly. This is a proportionate sanction relevant to the seriousness of the breach.
31. The Committee is satisfied that the imposition of this sanction is both prescribed by law and necessary in a democratic society for the protection of the reputation or rights of others. In coming to this position, the Committee again balanced Mr Wilson's right to freedom of expression and the public interest in such freedom against the public interest in proper standards of conduct by Members in order to protect the reputation and rights of others.
32. The Committee shall therefore bring forward a motion for the Assembly to censure Mr Wilson.
33. The Committee takes this opportunity to remind all Members of the importance of treating others with respect. The Committee has brought forward a new Code of Conduct for the Assembly's agreement and it continues to include principles of Respect and Good Working Relationships. These principles respectively provide that Members should show respect and consideration for others at all time and should work responsibly with other Members of the Assembly for the benefit of the whole community. And, while the new Code upholds Members' right to freedom of expression, Members are nonetheless required not to subject anyone to unreasonable and excessive personal attack.



Northern Ireland
Assembly

Appendix 1

Report by the Assembly Commissioner for Standards

Report by the Northern Ireland Assembly Commissioner for Standards on a complaint against Sammy Wilson MP MLA by Dolores Kelly MLA

Contents

Page

Introduction

Most Relevant Provisions of Code of Conduct

The Investigation

Findings of Fact

Reasoned Decision

Conclusion

Annex A – Code Provisions

Annex B – Documents

Introduction

1. On 4 November 2014 I received from Mrs Kelly a complaint dated 23 October 2014 alleging that by comments made at the Social Development Committee ('the DSD Committee') on 16 October 2014, Mr Wilson had broken certain provisions of the Members' Code of Conduct ('the Code').¹
2. The complaint submitted did not meet the admissibility criteria set out in paragraph 3.2 of the General Procedures Direction in respect that it was not supported by enough evidence to establish a prima facie case that a breach of the Code had occurred. Following a Notice under paragraph 3.4 of the Direction Mrs Kelly, on 26 November 2014, provided the required information.²
3. Having considered the complaint and the further information provided I decided, on 27 November 2014, that the complaint was admissible. That day I advised Mrs Kelly, Mr Wilson and the Clerk to the Committee on Standards and Privileges of my decision and commenced my investigation.
4. A copy of the complaint, the further information provided by Mrs Kelly and all other documents that I have relied on in reaching my decision are at Annex B.

Relevant Code Provisions

5. The provisions of the Code most relevant to the consideration of this complaint are at Annex A.

1 Document 1

2 Document 2

The Investigation

6. In the course of my investigation I interviewed Mr Jim Allister QC MLA³, Mr Alex Maskey MLA⁴ and Mr Sammy Wilson MP MLA⁵. In addition to reading the Hansard report of the DSD Committee meeting on 16 October 2014⁶ I obtained and considered a DVD of the meeting.⁷ In view of these I did not find it necessary to interview the complainant but offered her the opportunity to meet with me if she wished to add anything to what she had sent me. Mrs Kelly did not avail of that opportunity. I researched the definition of the word ‘thug’ used by Mr Wilson⁸. I viewed the recording of Mr Wilson’s speech to the DUP annual conference published on that party’s website.

Findings of Fact

7. I found the following facts established to the required standard of proof:
1. At the DSD Committee on 16 October 2014 Mr Wilson was at all times acting in his capacity as an MLA.
 2. The DVD of that meeting is a true and unedited audio and video recording of events.
 3. Hansard of that meeting is a substantially accurate transcript of what was said during the relevant part of that meeting.
 4. The conduct of Mr Wilson at that meeting received widespread coverage on TV, the radio and in the printed media.
 5. Mr Wilson has offered no apology for what he said at that meeting: nor has he any intention of so doing.
 6. Hansard of the DSD Committee on meeting on 13 November 2014 is a substantially accurate record of what was said at that meeting.
 7. Near to the start of his speech to the DUP Conference on 22 November 2014 Mr Wilson, in a reference back to what he said at the meeting on 16 October 2014, said *‘Thank you very much for the welcome. It’s nice to know that I am amongst friends and not amongst thugs. Are there any thugs here today?’*
 8. Mr Wilson’s speech was published on the DUP website.
8. In accordance with paragraph 6.13 of the General Procedures Direction Mr Wilson was afforded an opportunity to challenge any of these findings before I finalised my report. He did not avail of that opportunity.

Reasoned Decision

9. The facts of this case are not in dispute. The issue is neither whether Mr Wilson displayed good manners nor whether his conduct at the DSD Committee on 16 October would have been acceptable in the Chamber of the House of Commons. The sole issue is whether the admitted conduct of Mr Wilson at the DSD Committee on 16 October 2014 was in breach of the provisions of the Code of Conduct.

3 Document 5
4 Document 6
5 Document 9
6 Document 3
7 Document 7
8 Document 8

10. In her complaint⁹, and in her letter of 26 November 2014¹⁰, Mrs Kelly draws attention to four aspects of Mr Wilson's conduct which she asserts breached the provisions of that Code, namely –
1. his reference to witnesses as 'dodgy' which she asserts breached the Code principles of Objectivity and Respect;
 2. his behaviour towards the Committee Chair, Alex Maskey MLA, whom he accused of partiality. Mrs Kelly asserts that this breached the Good Working Relations principle;
 3. his reference to Jim Allister MLA as a 'thug' which she asserts breached the Respect and Maintaining Good Working Relations principles; and
 4. his aggressive tone and language.
11. Mrs Kelly further asserts that Mr Wilson's conduct has done damage to the reputation of other members of the DSD Committee and of the Committee itself. Conduct that brings the Assembly into disrepute constitutes a breach of the Rules of the Code.
12. At interview Mr Wilson readily accepted that at the DSD Committee meeting on 16 October 2014 he had referred to some witnesses as 'dodgy', challenged the partiality of Mr Maskey as Chair of that Committee and called Mr Allister 'a thug'. He accepted that when so doing he had used a raised voice and gesticulated at Mr Allister. He did not accept that he had broken any provisions of the Code and asserted that his right to free speech entitled him to say everything he had. His language was, he said, an example of *'the kind of robust language that takes place in these confrontational exchanges....'*¹¹ According to Mr Wilson *'Most people like to see a bit of red meat thrown in and people fighting over it.'*¹² He had not apologised for his actions nor has he any intention of so doing as, in his view, his actions had been justified. His reference at the DUP Conference to calling Mr Allister a thug was, he said, a light-hearted and humorous comment intended to waken up his audience in the first speech after the lunch break.¹³ Mr Wilson did not contend at interview that Mr Allister was in fact a violent person or a person associated with criminals. It was surprising that in relation to the allegation of bias on the part of the Committee Chair, Mr Wilson asserted that *'everyone who is on that Committee has approached this subject from a predetermined point'* and that his own approach had been partial.¹⁴
13. The right to free speech asserted by Mr Wilson as his defence to the allegations against him is more properly described as the right to freedom of expression. Whilst it exists at common law it is now enshrined in Article 10 of the European Convention on Human Rights.
14. Article 10 of the European Convention provides:
1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers....*
 2. *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions and penalties as are prescribed by law and are necessary in a democratic society,.....for the protection of the rights and interests of others....'*

9 Document 1

10 Document 2

11 Document 9 page 13 letter B

12 Document 9 page 17 letter A

13 Document 4

14 Document 9 page 18 letter C

15. The case law on freedom of expression under Article 10 in the context of statements by elected representatives was helpfully summarised in the judgement in *Heesom v Public Service Ombudsman for Wales*¹⁵. From that judgement and the authorities referred to in it, the following propositions relevant to the present complaint can be advanced –
1. The freedom of expression, enshrined in paragraph 1 of Article 10, is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb.¹⁶
 2. While freedom of expression is important for everyone, it is especially so for an elected representative of the people.¹⁷
 3. Expressions made in a political context enjoy an enhanced protection.¹⁸
 4. *‘Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, nonrational and aggressive, that would not be acceptable outside that context, is tolerated....’*¹⁹
 5. The enhanced protection enjoyed by politicians *‘is not limited to expressions or critiques of political views but rather extends to all matters of public administration and public concern including comments about the adequacy or inadequacy of performance of public duties by others.’*²⁰
 6. The right to freedom of expression under Article 10 *‘is not absolute: it may be restricted if (and insofar as) restriction is prescribed by law and necessary in a democratic society for the protection of the rights and interests of others’*²¹
 7. The enhanced protection enjoyed by politicians does not, however, apply to *‘statements which the publisher knows to be false’*²² or *‘gratuitous personal comments’*.²³
 8. *‘Politicians are subject to “wider limits of acceptable criticism”....and ‘are expected and required to have thicker skins and more tolerance to comment that (sic) ordinary citizens.’*²⁴
16. The provisions of the Code of Conduct fall to be interpreted in a way which is, whenever practicable, compatible with Article 10 of the Convention. No argument was advanced by Mr Wilson to the effect that any of the Code provisions under consideration in the present complaint were inconsistent with that Article. No such argument could have been sustained. It is plain that the restrictions on freedom of expression imposed, for example, by the Respect principle, are not inherently inconsistent with Article 10. That said, due regard must be paid to the rights enshrined in that Article when considering whether the admitted conduct in this complaint breached the provisions of the Code of Conduct.

15 [2014] EWHC 1504 (Admin)
16 Paragraph 36 of judgement
17 Paragraph 36 of judgement
18 Paragraph 34 of judgement
19 Paragraph 38(ii) of judgement
20 Paragraph 38(v) of judgement
21 Paragraph 32 of judgement
22 Paragraph 38(ii) of judgement
23 Paragraph 38 (v) of judgement
24 Paragraph 38 (iii) of judgement

Description of Witnesses as ‘Dodgy’

17. Mrs Kelly asserts that Mr Wilson’s description of some of the witnesses as ‘*dodgy*’ was contrary to the principles of Respect and Objectivity and so in breach of the Code.²⁵
18. At interview Mr Wilson said that by describing the witnesses as ‘*pretty dodgy*’ he meant no more than that their evidence did ‘*not all add up.*’ He did not mean that the witnesses were criminals.²⁶ That is consistent with an ordinary meaning of that word. He stood by that description of some of the witnesses. When asked to name these witnesses he claimed not to be able to recall to whom he had been referring. Nor could he recollect, he said, whether he had challenged the reliability of these witnesses when they gave evidence to the Committee.²⁷ I found his claimed failure of recollection on these points far from convincing. Later in the interview Mr Wilson did identify Councillor Palmer as one of the witnesses to whom he had been referring and gave an example of what, he said, was an inconsistency in her evidence which he believed merited the description ‘*dodgy*’.²⁸
19. Describing a person as ‘*dodgy*’ is, in my opinion, at worst a mild form of abuse. Even if it could be asserted that it showed a lack of respect that would not be sufficient to constitute a breach of the Respect principle. The Code makes clear that to contravene that principle mere disrespectful conduct is insufficient. There must be conduct amounting to an ‘*unreasonable and excessive personal attack*’. The evidence does not support a finding of any such attack. I am not satisfied that by describing some of the witnesses as ‘*pretty dodgy*’ Mr Wilson contravened the Respect principle.
20. Mrs Kelly further asserts that Mr Wilson’s description of some witnesses as ‘*dodgy*’ contravened the Objectivity principle.²⁹ He had, it was claimed, reached a view on their credibility and reliability before having heard all the evidence. On Mr Wilson’s account, Councillor Palmer had contradicted her own evidence. If that is correct, or if Mr Wilson believed it was so, then it could be argued that there was some basis for describing her evidence as unreliable or ‘*dodgy*’; but whatever the truth of that may be it was neither prudent nor wise for Mr Wilson to express any view as to the credibility of any witness before having heard all the evidence. I do not, however, consider that his marked lack of judgement on this occasion was of such import as to constitute a contravention of the Objectivity principle of the Code.
21. I do not consider that Mr Wilson’s description of witnesses of ‘*dodgy*’ in itself constituted a breach of the Code of Conduct.

Partiality of Chair

22. Mrs Kelly complains that when he accused Mr Maskey of chairing the DSD Committee in a partial or biased manner Mr Wilson contravened the Good Working Relations principle and so broke the Code³⁰. That principle requires Members to treat each other with ‘*courtesy and respect*’.
23. If true, Mr Wilson’s allegation that Mr Maskey was biased or partial in the way he was Chairing the DSD Committee could not constitute a breach of the Code.
24. Even if the accusation was, in fact, untrue I am satisfied that Mr Wilson was entitled to say what he did. He made the comment complained of in a political context and so enjoyed the enhanced protection afforded in these circumstances. The accusation was addressed to a politician, Mr Maskey, who is ‘*expected and required to have a thicker skin and more*

25 Document 2

26 Document 9 page 11 letter C

27 Document 9 pages 10 & 11

28 Document 9 page 11 letter C to page 12 letter C

29 Document 2

30 Document 2

*tolerance to comment that (sic) an ordinary citizen.*³¹ Whilst Mr Maskey vehemently denied the allegations against him he made no official complaint about them.³² Nor did he take any great offence at them. Mr Wilson did not accuse Mr Maskey of involvement in or association with unlawful conduct nor was there any allegation of a personal nature or which, given Mr Wilson's belief in the truth of what he said, could properly be regarded as gratuitous.

25. In these circumstances I am satisfied that Mr Wilson was, by virtue of Article 10, entitled to make the accusation of partiality even if it was wholly untrue. He did not breach any provision of the Code by the making of the accusation.

Description of Mr Allister as 'a thug'

26. Persons such as Mr Wilson must, in the absence of evidence to the contrary, be taken to use words in their ordinary meaning. The ordinary meaning of the word thug has, as Mr Wilson accepted at interview, criminal and violent overtones³³. At the DSD Committee meeting on 16 October 2014 Mr Wilson was afforded ample opportunity to explain that when he had described Mr Allister as a 'thug' he had not used that word in its ordinary meaning. Despite the fact that Mr Allister had made clear that he took offence at that description of him, Mr Wilson did not avail of that opportunity.³⁴ ³⁵ Although at interview Mr Wilson said that he did not believe that Mr Allister was a criminal or violent person he offered no such opinion at the Committee despite being given the opportunity so to do. Nor did Mr Wilson offer any explanation of the manner in which he now claims he used the word when it became apparent that his comment about Mr Allister had received widespread publicity. Mr Wilson's acceptance that he did not believe Mr Allister was a criminal or a violent person was tantamount to an admission that he knew that his description of Mr Allister as a 'thug', in the normal meaning of that word, was untrue. Untruthfully describing someone as a 'thug' is an abusive and gratuitous personal comment. Despite the fact that it was made in a political context by one politician about another, I do not accept that the comment was protected by the right to freedom of expression enshrined in Article 10 of the Convention. I do accept that it amounted to an unreasonable and excessive personal attack on Mr Allister and that it contravened the Respect principle set out in the Code.

Breach of Rules of Code

27. One of the rules of the Code is that:

'Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and never undertake any action which would bring the Assembly into disrepute.'

28. In reaching my decision on whether Mr Wilson breached that rule through his conduct at the DSD Committee I have had regard to everything that took place after Mr Wilson first intervened in the proceedings. Although I have found that his description of some of the witnesses as 'dodgy' and his allegation of bias against the Committee Chair did not, when viewed in isolation, constitute a breach of the Code, it is appropriate to have regard to them when considering whether Mr Wilson's conduct, when viewed in the round, constituted a breach of the rule. I have had regard also to Mr Wilson's description of Mr Allister as a 'thug', to his failure to apologise for or publically explain that remark, to his raised voice, to his gesticulation as well as to all the evidence Mr Wilson gave at interview and to the circumstances in which the conduct took place.

31 Paragraph 38(iii) of judgement

32 Document 6

33 Document 8

34 At interview Mr Allister said that he did not submit a complaint as he was aware that another Member had already done so

35 Document 3

29. I am not aware of any useful precedent, either in the Assembly Chamber or in any Committee, on the acceptability of conduct such as that of Mr Wilson. Unlike the House of Commons, there is no list of parliamentary language at the Assembly where each statement is considered on its merits having regard to the context in which it was made. However, I find it very hard to believe that had the events at the DSD Committee on 16 October occurred in the Chamber they would have been regarded as acceptable. Recently Mr Deputy Principal Speaker Mitchell McLaughlin (as he then was) observed, when dealing with remarks made in the Chamber by Gregory Campbell MP MLA, *'It is well established that Members are expected to adhere to the standards of courtesy and respect in the Chamber and to avoid bringing the Assembly into disrepute.'*³⁶ I see no justification for any lower standard of conduct in committee.
30. Having had due regard to all these factors, I am satisfied that Mr Wilson's conduct was unacceptable and fell well below the required standard. His conduct most certainly did not strengthen the public's trust and confidence in the integrity of the Assembly. Indeed, I am satisfied that his conduct would tend to weaken such trust and confidence. Further I am satisfied that his actions would be likely to bring the Assembly into disrepute.
31. Accordingly, I am satisfied that Mr Wilson breached the above quoted rule of conduct and so was in breach of the provisions of the Code of Conduct.

Conclusion

32. I am satisfied, on the basis of the evidence, that by describing Mr Allister as a *'thug'* at the DSD Committee meeting on 16 November 2014 Mr Wilson acted contrary to the Respect principle and so broke the provisions of the Code of Conduct.
33. I am further satisfied that by his conduct at that meeting, which resulted in the Committee being adjourned, Mr Wilson failed in his duty *'to act at all times in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and to avoid any action which would bring the Assembly into disrepute.'* By his failure in that duty Mr Wilson broke the provisions of the Code of Conduct.

Douglas Bain CBE TD Advocate

Northern Ireland Assembly Commissioner for Standards
26 February 2015

36 Hansard 04 November 2014

Most Relevant Provisions of the Code of Conduct

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:

Objectivity

In carrying out public business, including making public appointments, awarding contracts, of recommending individuals for rewards or benefits, Members of the assembly should make choices on merit.

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.

Good Working Relationships

- **Between Members**

Members should work responsibly with other Members of the Assembly for the benefit of the whole community. Members must treat other Members and the staff of other Members with courtesy and respect. Members must abide by the Assembly Standing Orders and should promote an effective working environment within the Assembly.

Rules of the Code of Conduct

Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and never undertake any action which would bring the Assembly into disrepute.

Annex B

Documents

Document No	Description
1	Complaint letter – 23 October 2014
2	Further information letter – 26 November 2014
3	Hansard – DSD Committee – 16 October 2014
4	Extract – Mr Wilson's DUP Conference Speech
5	Jim Allister QC MLA – Note of Meeting
6	Alex Maskey MLA – Note of Meeting
7	DVD – DSD Committee – 16 October 2014
8	Dictionary definitions of 'Thug'
9	Interview Transcript – Sammy Wilson MP MLA
10	Hansard – DSD Committee - 13 November 2014

Document 1

1



012-DK/RMCM/MMCA/WILSON

23 October 2014

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

Dear Commissioner

I am writing to you to express my deep concern at the comments made by MP and MLA Sammy Wilson at the Social Development Committee on the 16/10/14.

The committee inquiry meeting set up to probe allegations of inappropriate political interference in the Housing Executive was suspended after Mr Wilson referred to committee member Jim Allister as 'a thug' and described witnesses of the Redsky investigation as 'dodgy'.

I take serious issue with the aggressive tone and language Mr Wilson used to refer to those involved with the committee's investigation and I find it deeply disturbing that an experienced MP and MLA can act in such an unparliamentary and offensive fashion.

I would contend that Mr Wilson's comments breach the code of conduct in a number of respects. His reference to witnesses before the Social Development Committee as 'dodgy' are clear breaches of the principles of objectivity and respect. In relation to objectivity, Mr Wilson's comments were clearly the result of a politically prejudiced desire to protect his party colleagues, whose behaviour is the subject of concern in the inquiry. He has sought to discredit the honest and very brave evidence given to the committee by key witnesses.

Head Office
121 Ormeau Road
Belfast BT7 1SH

Phone
+44 (0)28 9024 7700

Fax
+44 (0)28 9023 6699

Email
info@sdlp.ie

Website
www.sdlp.ie

Leader
Dr. Alasdair McDonnell

Deputy Leader
Dolores Kelly

Partí Sóisialta Daonlathach an Luimnigh
Socialist Workers Party of Ireland



I would further contend that the offensive comments amount to a breach of the principle of respect. How can the public have confidence in the ability of statutory committees to hold decision makers to account if members are allowed to unfairly taint the evidence given with spurious attacks on the character of witnesses?

While the false characterisation of witnesses remains my primary concern, it is also clear that Mr Wilson's remarks describing Jim Allister MLA as a 'thug' and his subsequent behaviour toward committee Chair Alex Maskey MLA are a breach of the principle of maintaining good working relationships. The code requires members to treat each other with courtesy and respect. Mr Wilson stepped far beyond that and has done damage to the reputation of other members as well as the committee.

I also find it highly alarming that this is the second time Mr Wilson's unacceptable outbursts have led to the suspension of the Social Development Committee and I believe it represents a continued trend of unacceptable attempts to undermine evidence before the committee relating to the behaviour of the DUP members.

I find it unacceptable and indeed intolerable that Mr Wilson believes he can conduct himself in such a manner during a committee meeting and I seriously consider that his childish, belligerent behaviour has amounted to a breach of the Members' Code of Conduct.

I would ask that you and your office undertake an official investigation to determine if the tone and language of Mr Wilson amounted to a breach of the Members' Code of Conduct.

Thank you for your assistance in this matter.

Yours sincerely

Dolores Kelly MLA
SDLP Deputy Leader
Member of the Social Development Committee

Document 2

2



Ref: 012-DK/PK/MMCA/WILSON

26 November 2014

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

Dear Commissioner

I am writing to you to respond to your letter of 5th November 2014 in which you advised of me of Direction 3.4 of the General Procedures Direction. I have provided the necessary additional information.

I originally wrote to you 23rd October 2014 to you to express my deep concern at the comments made by MP and MLA Sammy Wilson at the Social Development Committee on the 16/10/14.

The committee inquiry meeting set up to probe allegations of inappropriate political interference in the Housing Executive was suspended after Mr Wilson referred to committee member Jim Allister as a "thug" and described witnesses of the Redsky investigation as "dodgy"¹. Please find attached a copy of the Hansard report of the meeting in question.

I take serious issue with the aggressive tone and language Mr Wilson used to refer to those involved with the committee's investigation and I find it deeply disturbing that an experienced MP and MLA can act in such an unparliamentary and offensive fashion.

I would contend that Mr Wilson's comments breach the code of conduct in a number of respects. His reference to witnesses before the Social Development Committee as 'dodgy' are clear breaches of the principles of objectivity and respect. In relation to objectivity, Mr Wilson's comments were clearly the result of a politically prejudiced desire to protect his party colleagues, whose behaviour is the subject of concern in the inquiry. He has sought to discredit the honest and very brave evidence given to the committee by key witnesses.

Head Office
121 Ormeau Road
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Phone
+44 (0)28 9624 7700

Fax
+44 (0)28 9623 0900

Email
info@sdlp.ie

Website
www.sdlp.ie

Leader
Dr. Aislinn McDonnell

Deputy Leader
Dolores Kelly

¹ Official Report: Minutes of Evidence Report, Committee for Social Development, meeting on Thursday, 16 October 2014

<http://aims.niassembly.gov.uk/official-reports/minutesofevidence/videoreport.aspx?AgendaId=10198&evidID=6581> accessed 26/11/14

Partí Sóisialta Daonlathach an Lucht Oibre



I would contend that Mr Wilson's comments breach the code of conduct in a number of respects. His reference to witnesses before the Social Development Committee as 'dodgy' are clear breaches of the principles of objectivity and respect. In relation to objectivity, Mr Wilson's comments were clearly the result of a politically prejudiced desire to protect his party colleagues, whose behaviour is the subject of concern in the inquiry. He has sought to discredit the honest and very brave evidence given to the committee by key witnesses.

I would further contend that the offensive comments amount to a breach of the principle of respect. How can the public have confidence in the ability of statutory committees to hold decision makers to account if members are allowed to unfairly taint the evidence given with spurious attacks on the character of witnesses?

While the false characterisation of witnesses remains my primary concern, it is also clear that Mr Wilson's remarks describing Jim Allister MLA as a 'thug' and his subsequent behaviour toward committee Chair Alex Maskey MLA are a breach of the principle of maintaining good working relationships. The code requires members to treat each other with courtesy and respect. Mr Wilson stepped far beyond that and has done damage to the reputation of other members as well as the committee.

I also find it highly alarming that this is the second time Mr Wilson's unacceptable outbursts have led to the suspension of the Social Development Committee and I believe it represents a continued trend of unacceptable attempts to undermine evidence before the committee relating to the behaviour of the DUP members.

I find it unacceptable and indeed intolerable that Mr Wilson believes he can conduct himself in such a manner during a committee meeting and I seriously consider that his childish, belligerent behaviour has amounted to a breach of the Members' Code of Conduct.

I would ask that you and your office undertake an official investigation to determine if the tone and language of Mr Wilson amounted to a breach of the Members' Code of Conduct.

Thank you for your assistance in this matter.

Yours sincerely

Dolores Kelly MLA
SDLP Deputy Leader
Member of the Social Development Committee



Northern Ireland
Assembly

Committee for Social Development

**OFFICIAL REPORT
(Hansard)**

**Inquiry into Allegations Arising from a BBC NI
'Spotlight' Programme Aired on 3 July 2013 of
Impropriety or Irregularity Relating to NIHE-managed
Contracts and Consideration of any Resulting Actions:
Mr Stephen Brimstone**

16 October 2014

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

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

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

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

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

Mr Allister: How was she then to be contacted?

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

Mr Allister: How did you get them?

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

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

Mr Brimstone: Yes.

Mr Allister: That is literally how it happened?

Mr Brimstone: Yes.

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

Mr Brimstone: No. None at all.

Mr Allister: OK. Why were you contacting her?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr Allister: Could you have used it?

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

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

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

Mr Wilson: Chairman, with respect —

The Chairperson (Mr Maskey): Sorry, Sammy —

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

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

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

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

Mr Wilson: So stop the badgering.

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

Mr Wilson: You are only a bully.

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

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

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

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

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

Mr Wilson: We have got evidence of your bullying —

The Chairperson (Mr Maskey): Sammy Wilson.

Mr Wilson: — on record.

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

Mr Wilson: Thug.

The Chairperson (Mr Maskey): Sammy —

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

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

Mr Campbell: You object, Jim?

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

Mr Campbell: Are you wounded — hurt?

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

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

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

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

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

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

The Chairperson (Mr Maskey): I appreciate that.

Mr Allister: I have been called a thug.

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

Mr Campbell: Or behaviour.

Mr Wilson: Chairman —

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

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

Mrs D Kelly: That is ridiculous, Chair.

Mr Wilson: — this kind of bullying behaviour before.

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

Mr Campbell: Until?

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

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

Document 3



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

**Inquiry into Allegations Arising from a BBC NI
'Spotlight' Programme Aired on 3 July 2013 of
Impropriety or Irregularity Relating to NIHE-managed
Contracts and Consideration of any Resulting Actions:
Mr Stephen Brimstone**

16 October 2014

NORTHERN IRELAND ASSEMBLY

Committee for Social Development

Inquiry into Allegations Arising from a BBC NI 'Spotlight' Programme Aired on 3 July 2013 of Impropriety or Irregularity Relating to NIHE-managed Contracts and Consideration of any Resulting Actions: Mr Stephen Brimstone

16 October 2014

Members present for all or part of the proceedings:

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

Witnesses:

Mr Stephen Brimstone

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

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

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

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

Mr Brimstone: Yes.

Mr Allister: When was that decision made?

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

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

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

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

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

Mr Allister: How was she then to be contacted?

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

Mr Allister: How did you get them?

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

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

Mr Brimstone: Yes.

Mr Allister: That is literally how it happened?

Mr Brimstone: Yes.

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

Mr Brimstone: No: none at all.

Mr Allister: OK. Why were you contacting her?

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

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

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

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

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

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

Mr Allister: Is Jenny Palmer an honest person?

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

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

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

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

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

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

Mr Allister: What do you have a recollection of?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr Allister: Could you have used it?

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

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

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

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

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

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

Mr Brimstone: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr Wilson: Chairman, with respect —

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

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

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

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

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

Mr Wilson: So stop the badgering.

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

Mr Wilson: You are only a bully.

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

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

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

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

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

Mr Wilson: We have got evidence of your bullying —

The Chairperson (Mr Maskey): Sammy Wilson.

Mr Wilson: — on record.

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

Mr Wilson: Thug.

The Chairperson (Mr Maskey): Sammy —

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

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

Mr Campbell: You object, Jim?

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

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

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

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

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

Mr Wilson: I have reflected on it.

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

Mr Wilson: I have reflected on it —

The Chairperson (Mr Maskey): — your conduct —

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

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

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

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

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

The Chairperson (Mr Maskey): Well, sorry —

Mr Campbell: — attempt to say —

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

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

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

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

Mr Campbell: Are you wounded, Jim?

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

Mr Allister: Sorry?

Mr Campbell: Are you wounded — hurt?

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

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

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

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

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

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

The Chairperson (Mr Maskey): I appreciate that.

Mr Allister: I have been called a thug.

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

Mr Campbell: Or behavior.

Mr Wilson: Chairman —

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

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

Mrs D Kelly: That is ridiculous, Chair.

Mr Wilson: — this kind of bullying behaviour before.

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

Mr Campbell: Until?

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

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

Document 4

4

**EXTRACT OF SPEECH GIVEN BY SAMMY WILSON MLA AT DUP ANNUAL
CONFERENCE – NOVEMBER 2014**

Thank you very much for the welcome. It's nice to know that I am amongst friends and not amongst thugs. Are there any thugs here today? You've all had a good lunch but I hope that you all had a chance to buy some of Asher's – I don't know whether they're call tea cakes, cupcakes, fairy cakes or what kind of cakes they are but I tell you one thing I've a whole box of them.

Document 5

5

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Northern Ireland
Assembly

INVESTIGATION INTO COMPLAINT – SAMMY WILSON MLA

Meeting with Mr Jim Allister QC MLA

8 December 2014

Room 283

Start: 10.00 am End: 10.15 am

Present: Douglas Bain, Commissioner for Standards (DB)
Mr Jim Allister QC MLA (JA)
Sheila McCaughley (Note taker)

DB sought confirmation from JA that he had received a note outlining the procedure and offences relevant to the investigation. JA acknowledged that he had.

DB referred JA to page 6 of Hansard of the Social Development Committee on 16 October 2013 where Mr Wilson was reported as calling JA a '*bully*' when he was questioning Mr Brimstone. DB asked JA if he agreed that '*bullying*' involves intimidating conduct by a person in some authority towards a weaker or vulnerable person. JA said that he agreed with that description but went on to say that Mr Brimstone was a person with considerable authority in his role as Special Adviser and also that he (JA) was in a position of some authority. JA went on to state that he was merely seeking answers from Mr Brimstone about a relevant matter. JA added that the Chairman did pull him up about an earlier question he had asked which he (the Chairman) deemed to be unfair. He (JA) had accepted the ruling and moved on. JA said that he was questioning an individual, Mr Brimstone, who had appeared before the Committee on a previous occasion and who had a tendency to be evasive and to avoid issues. He was only questioning Mr Brimstone in that context. JA rejected totally the suggestion that he was '*bullying*' the witness. JA explained that the questions asked were designed to get all the relevant factual information, to establish the sequence of events and then to give Mr Brimstone the opportunity of making any comment on what had been alleged by Councillor Palmer. JA went on to say that the Chair did not seem to have any unease, apart from the one occasion, about his line of questioning.

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DB asked JA for his opinion on whether the line of questioning or the questions asked at the Committee were of the nature that would have been stopped by a judge in a courtroom. JA replied that he could not conceive of being asked to stop such a line of questioning in any court. JA opined that the reason Mr Wilson had got himself so exercised was the fact that Mr Brimstone may have had motive for not answering the questions. If Mr Brimstone had admitted the truth of what Councillor Palmer alleged he would have been admitting that he had breached the Code of Conduct that applied to SPADs. JA went on to say that when the hearing resumed on 13 November he had put to Mr Brimstone the point about him having a motive for not answering the questions. No one had objected to the questions on that occasion.

DB referred to the point where Mr Wilson had called JA a *'bully'* and asked him what his reaction was at that point.

JA said that at the time he responded saying that he knew who was bullying and explained that that was a reference to his perception of how Mr Brimstone had treated Councillor Palmer and was not a reference to Mr Wilson. JA said that he did not like being called a *'bully'* but wasn't inclined to be thin-skinned about it and was prepared to take it as it was. He added that he did not think he was *'bullying'*.

DB moved on to question JA about Mr Wilson's description of him (JA) as being a *'thug'* and noted that JA had straightaway objected to this. DB asked JA what he found objectionable about it. JA responded saying the connotation of *'thug'* in his view was inextricably linked with violent or criminal behaviour and that he took grave exception to that word being applied to him. JA made reference to the origins of the word. JA said that he could take the rough and tumble in the political process but that he objected to being called a *'thug'*.

In response to a question from DB, JA said that he had never heard the word *'thug'* used in relation to an MEP or an MLA and that, although he had not researched the matter, he would be surprised if it was acceptable language at Westminster.

DB moved to Mr Wilson's description of some of the witnesses before the Committee as *'dodgy'*. DB asked JA if he thought there was anything improper about describing some of the witnesses as *'dodgy'*.

JA said that when a Committee is conducting an enquiry there would come a point where the Committee as a corporate body would consider the whole body of evidence provided and that at that stage he would not be surprised if some Members indicated that they didn't think much of some of the witnesses' evidence or indicated that some of them appeared to be *'dodgy'*. JA said that he thought there was a distinction between that later decision making stage and the earlier part of an enquiry when a Committee was still taking evidence. At that

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earlier stage such comments indicated an improper pre-judging of the credibility of the witnesses before all the evidence had been heard. JA added that Mr Wilson did not give the Committee the benefit of identifying whom he was referring to and felt that it was more a slur or slight on the Committee and its enquiry. JA added that if he had been appearing before the Committee as a witness he would not have taken too kindly as being labelled as 'dodgy'.

DB asked JA if he thought this was in the same order as calling someone a 'thug'. JA said that he didn't think this was of the same order adding that calling witnesses 'dodgy' was inappropriate as you were pre-judging their credibility before hearing all of the evidence. It was not in the same order as calling someone a 'thug'.

DB then brought JA's attention to the allegation directed at the Chair or to the Committee as a whole that proceedings were in some way partial. DB asked JA if he thought there was any factual basis to this.

JA pointed out that the Chairman of the Committee, was a Sinn Fein Member, and was no ally of his. He had no criticism of how the Chairman had conducted the enquiry. Everyone had had every opportunity to make their points in the way that they wished.

DB suggested that in the rough and tumble of any debate people may use colourful language and asked if JA thought that this was all that Mr Wilson was doing.

JA said that if this had been the case then Mr Wilson had every opportunity to correct himself when the Chairman had afforded him the opportunity to reflect on what he had said. Mr Wilson had very consciously not taken that opportunity, confirming to that whatever Mr Wilson's initial intention, his conduct, including the use of the word 'thug', was considered. It went beyond mere colourful language and crossed the line. JA added that since 16 October, Mr Wilson had been revelling in the use of the terminology. JA drew attention to Mr Wilson's opening remarks in his speech at the DUP Conference he had said '*It's nice to know I am among friends not thugs*' and had asked '*Are there any thugs here today?*'

DB asked JA if Mr Wilson had every offered an apology for his conduct at the Committee. JA said that he had not.

DB asked JA why he had not made a complaint himself. JA said that he was aware that a complaint had already been made.

DB asked JA if he had anything he wished to add. JA said that he did not.

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Document 6

6

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Northern Ireland
Assembly

INVESTIGATION INTO COMPLAINT – SAMMY WILSON MLA

Meeting with Mr Alex Maskey MLA

17 December 2014

Room 283

Start: 10.00 am End: 10.22 am

Present: Douglas Bain, Commissioner for Standards (DB)
Mr Alex Maskey MLA (AM)
Sheila McCaughley (Note taker)

DB sought confirmation from AM that he had received a note outlining the procedure and offences relevant to the investigation. AM acknowledged that he had.

DB referred AM to three areas of this investigation that he wished to explore –

- the conduct of Mr Wilson at the Committee meeting on 16th October 2014;
- the allegation that the enquiry was being conducted in a partial manner; and
- whether Mr Wilson had offered an apology to AM for his conduct on 16 October 2013.

DB, dealing with the third point first, asked AM if Mr Wilson had offered an apology for his conduct at the meeting. AM said that he did not.

Moving to the second point, DB asked AM if, in his opinion, the enquiry was being conducted in a partial manner, if he had been chairing it in a partial manner; or if Mr Wilson had, prior to 16 October, ever complained to AM about the manner in which the enquiry was being conducted. AM pointed out that on previous occasions DUP Members had accused him of conducting the Committee in a partial manner but he rejected these accusations which were unfounded. Furthermore AM pointed out that other Members of the Committee

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had publicly stated that AM was conducting the Committee meetings in a fair manner.

DB sought further clarification from AM of, as far as he was aware, anyone other than those he referred to ever made any representations to him or to the Speaker about conducting the meetings in an improper manner. AM said that he was not aware of any such representations and stressed that there was no evidence to suggest that he conducted the meetings in a partial manner. He always abided strictly by the Assembly's procedural guidelines.

DB, moving to the third point, asked AM for his opinion on what he thought of Mr Wilson's conduct at the Committee meeting. AM said that Mr Wilson was totally out of order and that his conduct was unacceptable. AM said that he had considered suspending the meeting after Mr Wilson had refused to withdraw his remarks but explained that he had tried to let the meeting continue to allow Mr Allister to get some answers to the questions being asked of Mr Brimstone.

DB asked AM if, in his time as an MLA or as a Councillor had he ever heard elected representative being called a 'thug' in the Chamber? AM responded saying that he had not heard such language being used in recent times and that he found its use totally unacceptable. AM acknowledged that there were, at times, some confrontational instances but said that he had never seen such a blatant outburst as he had witnessed at this Committee meeting.

DB asked AM if the events that took place at the Committee meeting on 16th October had received wide-spread media coverage. AM acknowledged that it had and that, in his opinion, this had brought the enquiry and the Assembly into disrepute.

DB referred AM to the Committee meeting which had resumed again on 13 November in which Mr Allister had resumed the same line of questioning as the initial Committee meeting. DB sought clarification from AM on whether Mr Wilson had made further objections at that meeting. AM said that his recollection was that Mr Wilson did not challenge the line of questioning in the same manner as he had at the meeting on 16 October.

DB asked AM whether as Chair, involved in an investigation where there is evidence being presented, one of his responsibilities is to ensure that the witnesses providing the evidence are treated fairly. AM responded that it was.

DB went on to ask AM if a question could be appropriate for an experienced public official but inappropriate or too robust for a vulnerable person or elderly person. AM replied that he would always have to ascertain whether the questions being asked needed to be answered in order to address a relevant issue but that he would expect it to be done in a respectful manner. AM said that he would not want to convey an impression of him ignoring questions just

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because they were being asked to a vulnerable person but he would expect that to be done in a respectful manner even if a Member were asking questions of a public official. AM said that he had to strike a balance and pointed out that he had in the past stopped Mr Allister on a number of occasions. AM said that the Committee were investigating serious allegations, as Chair, he had taken steps to ensure that there were no Courtroom dramatics throughout the investigation.

Focusing on the 16 October meeting DB asked AM whether he thought that there was anything improper about the line of questioning Mr Allister was putting to Mr Brimstone. AM said even though Mr Allister had a tendency to ask a series of questions before the witness was able to answer the first one he wouldn't say that Mr Allister was being overly aggressive.

DB asked AM if he thought that what Mr Allister was doing on this occasion was 'over the top', AM would have stopped him. AM said that he would have stopped him if he had thought so.

DB asked AM if he wished to add anything to what had already been said.

AM said that on 16 October he believed that the outburst by Mr Wilson had been contrived, at least in part, to protect Mr Brimstone who in giving evidence had appeared to contradict his written submission and to avoid him having to answer difficult questions.

Meeting ended at 10.22 am.

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Document 8

8

DEFINITIONS OF 'THUG'

Shorter Oxford English Dictionary 6th Edition

Thug –

1. (Historical) – a member of an organisation of professional robbers and assassins in India, who strangled their victims.
2. A violent person, especially a criminal.

The Chambers Dictionary (12th Edition)

Thug –

A violent ruffian, a cutthroat, a member of a religious fraternity in India who murdered stealthily by strangling or poisoning with datura, extirpated 1826 – 35 (hist).

New Partridge Dictionary of Slang and Conventional English (2nd Edition)

Thug –

A youth gang member.

Document 9

9

INTERVIEW TRANSCRIPT

Complaint Against: Sammy Wilson MP MLA

Witness: Sammy Wilson MP MLA

Date: 15 January 2015

Place: Room 283, Parliament Buildings

Present: Douglas Bain, Standards Commissioner
Sheila McCaughley, Notetaker
Sammy Wilson MP MLA

Time Started: 14.38 pm

Time Ended: 15.29 pm

A. DB: As you can see, we're tape-recording this. Before we get started, can I just draw to your attention a few things? Following this interview, you will be provided either with a note of the interview or a transcript, and you will have the opportunity to suggest revisions. And you'll have 14 days to do that. If you don't, or if you take longer than the 14 days, the transcript will go forward as the final version. There is no leeway for going beyond the 14 days. Thereafter, once I've concluded my investigation, I will send you my findings in fact, and you will have the opportunity to comment on them or to challenge them. Again, you will have 14 days. There will be no leeway beyond that 14 days. At the end of the 14 days, I will proceed to submit my report.

Can I ask you to confirm, Mr Wilson, that you've received a note outlining the purpose of this interview, drawing your attention to the relevant offences and the procedure, both for the interview and for the investigation?

B. SW: Well I'm not aware of any offence, other than saying what I am entitled as a free person to say when making an assessment. In fact, I think — actually, to use the term "offence", Mr Bain, I actually find quite offensive.

DB: Could you just —

SW: This is, this is, this is —

DB: Could you just stop there?

SW: No —

DB: No, Mr Wilson.

C. SW: No, this is a week in which —

DB: Mr Wilson.

SW: This is a week in which we have —

DB: Mr Wilson.

SW: This is a week in which we have had Prime Ministers lining up to support freedom of speech to offend whoever a magazine wished to offend in France, and you describe to me an exchange, which I had across a Committee as an "offence".

A. Now, you know, if this is where we're starting, then I think you've probably already made your mind up on this, and there's probably not really a great deal of point in us having this interview.

DB: Mr Wilson, if you'd let me interject, I think you misunderstood what I was asking you.

SW: Well I think the word "offence" is well understood by even a primary-school child.

DB: What I asked you was to confirm that you have received a note from me, which draws your attention to various offences: if any person fails to answer without reasonable excuse a question put to them or fails to attend the interview or gives false and misleading answers.

B. That was the question. That is a criminal offence, and I asked you simply had you received a note drawing that to your attention.

SW: I received a note from you, yes.

DB: That is all.

SW: No, well, that actually, if you read your own transcript, Mr Bain, I think you'll find out, "outlining the offence". I am not aware that I am guilty of any offence, and, if you have already made up your mind that I am guilty of an offence, then I don't think there is really much point in you and I having this conversation, is there?

C. **DB:** Well that is not the position, and we will proceed with the interview.

Did you understand the note drawing attention to the criminal offences and the procedure for this interview and for the investigation?

SW: I can understand English.

DB: Did you understand the note?

SW: I can understand English, Mr Bain.

DB: Do you have any questions about anything in the note?

SW: I've no questions about it.

A. **DB:** Thank you. Can you confirm that you have also received from me a copy of the complaint made by Mrs Kelly?

SW: Yeah.

DB: Was that a yes?

SW: It was, yes.

DB: Thank you. Do you admit or deny that you breached the code of conduct in the various ways, as specified by Mrs Kelly?

SW: No, I didn't. I didn't breach any code of conduct.

B. **DB:** So you deny it.

SW: Yes, of course I do, yeah.

DB: Have you had the opportunity of reading Hansard of the Committee meeting on 16 October?

SW: No, I've taken no interest in the Hansard of the Committee meeting at all.

DB: Perhaps I could let you see a copy now then.

SW: Well I think I'm well acquainted of what happened at the meeting so I don't think I need to read the Hansard. You have got the Hansard.

C. You have also got the, I assume, if you've done your research, you have also got the recording of the meeting, so I don't need to read the Hansard and I think that you are probably well acquainted of all the facts of that meeting.

DB: Do you accept then that the Hansard of the DSD Committee meeting on 16 October last is substantially accurate?

SW: Not having read it, but I'm sure the Hansard is always accurate cos it's a word-for-word transcript.

A. **DB:** Well, that's not the case, as I would've thought you would know as an experienced MP and MLA. The question is is it substantially accurate?

SW: Well, it's, it's —

DB: If you wish to take time to peruse it.

SW: No, I don't, no.

DB: No, you don't. OK.

Can we come then to the first part of Mrs Kelly's complaint? Do you accept that, at the Committee meeting on 16 October last, you accused Mr Jim Allister of being a bully and of bullying Mr Brimstone?

B. **SW:** He has done it not on one occasion; he did it again today and he has done it with a substantial number of other witnesses.

DB: Thank you. Could you answer the question, please?

SW: Well, I'm just telling you he's a bully.

DB: The question, I'll repeat it in case you didn't understand: do you accept that, at the Committee meeting on 16 October last, you accused Mr Allister of being a bully and of —

SW: I have accused him of that on a number of occasions, Mr Bain.

C. **DB:** — and of bullying Mr Brimstone?

SW: Look, do you not understand what I'm saying? I have accused him on a number of occasions of being a bully, including, again, today.

DB: And do you accept that you did that on 16 October?

SW: Well —

DB: It is a very simple question.

SW: — have you read the Hansard?

A. **DB:** I'm asking you if you accept —

SW: Have you read the Hansard?

DB: I have read the Hansard.

SW: I have told you I accused him on a number of occasions, including today, and I am sure I did it on that day as well.

DB: What did you mean by that?

SW: Well, what —

B. **DB:** By calling him a bully.

SW: Do you understand what a bully is?

DB: What do you mean by it?

SW: I mean someone who harass — first of all, who gets people into a position where they're vulnerable and then harasses them.

DB: OK. Was — in your view, was Mr Brimstone a weak or vulnerable witness?

C. **SW:** He was, certainly, and he was being harassed and he was not being given any protection by the Chairman during that harassment either, and, of course, his treatment, his treatment varied greatly with the treatment that was given to a number of other witnesses who, when the Chairman thought they were being pushed too hard, would have intervened. He didn't intervene on this occasion. Cos he was quite happy for somebody else who was more competent bullying to do the bullying for him.

DB: Mr Brimstone is a senior civil servant, isn't he?

SW: Yes.

DB: And yet you think he's weak or vulnerable.

A. **SW:** Well I think that anyone who's been placed in that position tends to — Some of them come in with more fear and trepidation than others. I have seen witnesses, fairly strong witnesses, having to go towards Committees and being made in nervous wrecks, yeah.

DB: And earlier, during the meeting on 16 October, he had in fact sought the assistance of the Chair in declining to answer a question, hadn't he?

SW: As he's entitled to.

DB: And the Chair had supported him on that occasion, hadn't he?

B. **SW:** The Chair may have done, yes. I'm sure your recollection's very good.

DB: If you'd care to check for yourself halfway down page 3 of the Hansard.

SW: Well I think, since you're asking the question, you probably know the answer, so that's OK.

DB: So why, if Mr Brimstone had been able to do that and indeed had been upheld by the Chair, did you feel it necessary to intervene rather than —

SW: Well because the Chair —

DB: — rather than let him simply do the same again?

C. **SW:** Well because the Chair, on many occasions, and he did it with other witnesses as well, allowed Mr Allister to do his courtroom act on them, including some female witnesses who had appeared before the Committee on previous occasions. In fact, I think it is significant that the Chair now has changed his attitude totally and intervenes much more quickly on Mr Allister since that intervention of mine and doesn't allow him the same leeway as he did before. So I think it probably it got the message over to both of them that they are not there as some type of Gestapo-type officers but they do have a responsibility to treat witnesses in a proper way. In fact, I should just point out: the kind of prejudices that there are against certain witnesses are evidenced by, for example, the tweets, which Mr Allister puts out about witnesses such as Mr Brimstone when, last week, he accused him of being like an OTR — on-the-run — etc.

A. Hardly an example of somebody who approaches an inquiry in an impartial way, and, I think, probably confirms my view of the man who, I believe, is twisted, wants to have an opportunity to have a go at anyone who is associated with the DUP and, unfortunately, is afforded that opportunity by the Chairman.

DB: It must have been clear to you before attending the meeting on 16 October that Mr Brimstone was likely to come under fairly rigorous questioning.

SW: I think everybody who comes before that Committee goes under rigorous questioning, yeah. Standard practice.

B. **DB:** And, eh —

SW: There's rigorous questioning and there's fair questioning.

DB: And had you discussed with anyone else before that meeting how to protect Mr Brimstone from that questioning?

SW: No, I hadn't. I mean, are you basing that question on some prior knowledge that I had sat down and — Or is this just again an example of the prejudice with which you are approaching this particular investigation?

DB: You see, it has been suggested to me —

C. **SW:** By whom?

DB: It's been suggested to me that your intervention at the meeting was not on the spur of the moment but was contrived.

SW: And suggested by whom?

DB: What do you say to that?

SW: Suggested by whom?

DB: That's for me to know.

A. **SW:** Well, no, I think it is important if you are asking me questions about my behaviour that I be made aware of who makes those allegations.

DB: Well you'll discover that in due course but, at the moment, all you have to do is answer the question, and I think you're saying that's not correct.

SW: If you think that I sit down and contrive these things, Mr Bain, just think again.

DB: Have you discussed with anyone the evidence you are to give to me today?

SW: I haven't discussed even coming here with you to talk to you today.

B. **DB:** Except with Mrs Barron, I presume.

SW: Well, except with my secretary.

DB: Yes.

SW: In fact, I don't even think anyone else is aware that I'm here apart from my secretary. With all due respect, it didn't feature as an important issue, which I thought I should discuss with anyone.

DB: OK. If you believe that the questions or the line of questioning of Mr Brimstone by Mr Allister was improper, why didn't you raise the matter with the Chair?

C. **SW:** It's been raised with the Chair on a number of occasions. Indeed, I think if you look at the Hansards of previous meetings, this is a constant theme right throughout this politically driven inquiry. From stage one until today, I have raised this on a number of occasions and, indeed, I have accused the Chair of being biased; the inquiry of already having a predetermined outcome; and the Chairman of facilitating those who happen to help his and his party's objectives in this. So, I mean, by the way, this was not a one-off situation; this is one, which, you'll find, is a constant theme because it is a constant problem. Right up until today.

DB: When you called Mr Allister a bully on 16 October, were you treating him with courtesy and respect?

A. **SW:** I was treating him as he was treating the people who came to give witnesses — who came to give witness. I was treating him in exactly the same way as he treated people who come before the Committee.

DB: But then there's an adage that two wrongs don't make a right.

SW: Well —

DB: Were you treating him with courtesy and respect?

B. **SW:** I was treating him as — Wait till I tell ya, we're in a political arena, which is a confrontational political arena, and, as far as I'm concerned, robust exchanges, whether you call somebody a bully or whatever, are part of that arrangement, and I would hope that we're not going to go down the road where those kind of robust exchanges are no longer possible. I don't mind. I can tell you: read Hansards of the Assembly on a number of occasions, things people have said to me. I laugh them off cos that is part of the way in which the kind of confrontational democracy and arrangements that we live in, whether here or at Westminster, happen to go, and, to me, it's not discourteous, it is not disrespectful, it is simply the way. In fact, I welcome the fact that we can have those kinds of exchanges and would hope that I give as good as I get on them.

C. But we would be poorer without the freedom for people to speak their mind, so I don't agree that it was discourteous or disrespectful. It is simply the way in which people robustly exchange and, indeed, look at some of the comments that Mr Allister has made about Members in the Assembly and you'll find out that he could not, under any circumstances, have been offended by what was said because he gives even better than he gets.

DB: Can we move on to another aspect of the complaint? Your description of witnesses as being "dodgy". And I think if you want to refresh your memory, that is two-thirds of the way down the page, page 8.

SW: We've had a fair number of dodgy witnesses, yeah.

A. DB: And you did refer to “some fairly dodgy witnesses” in the course of the debate on 16 October. Who were these “dodgy witnesses”?

SW: Who were these “dodgy witnesses”?

DB: Yes.

SW: Well, we had a number of — I can’t recall all the names of the witnesses offhand.

DB: Well, some will do.

SW: But we’ve had some fairly dodgy witnesses and fairly dodgy statements made by some witnesses who have come along to the Committee.

B. DB: But who are some of the dodgy witnesses?

SW: I don’t recall names offhand, and going through all of the witnesses, off the top of my head, I don’t want to say. People would be —

DB: Well, I’m quite prepared to have you back on another occasion to answer the question if you are unable to do so now.

SW: And I’ll probably just give you the same answer on another occasion, Mr Bain.

DB: Well —

C. SW: You’ll have to be satisfied with that answer, won’t you?

DB: No, I don’t.

SW: Well that’s fine.

DB: I reminded you at the start: there is a duty not only to cooperate with an investigation —

SW: Yeah.

DB: — by answering questions but it is also an offence not to answer questions.

A. **SW:** And equally, and equally, if —

DB: Just for the record, Mr Wilson is leaning forward and pointing his finger at me.

SW: Yes. And equally, cos I'm emphasising the point, equally, if I can't recall, you cannot make me recall either.

DB: So you don't, at the moment, know who you were referring to.

SW: I can't offhand recall who the dodgy witnesses would've been or what part of their evidence might've been dodgy, but there were dodgy.

B. **DB:** And then, can you recall this, Mr Wilson? When these witnesses were giving their evidence, had you challenged their credibility, reliability or recollection?

SW: I think I probably did. I am sure I engaged. In fact, I think, on a number of occasions, maybe the Chairman did pull me back from some of the questioning, which was one of the reasons why, of course, I would've taken umbrage at the free rein that he gave to Mr Allister. On a number of occasions, he told me that, "you've gone far enough", yeah.

DB: What did you mean by the word "dodgy"?

SW: Well —

C. **DB:** It can sometimes mean that they're criminal or it can mean they're not reliable.

SW: Just that it doesn't all add up sometimes. What they were saying.

DB: And how could you reach a sensible view on whether or not a witness was dodgy before you'd heard all the other evidence?

SW: All these things are subjective, aren't they? You ask somebody a question and you get a — Well, let me give you an example, cos it has jumped to mind. Jenny Palmer came along and told us that she had no recollection and didn't even know that there was any sectarian element attached to the allegations made against Red Sky. Then, when I asked her about why she — I can't remember the exact line of questioning — but I asked her how she knew about Red Sky and everything else, and she said she'd read it in the papers.

A. I pointed out to her, well, actually, the papers were full of allegations, which were made by members of my party, that Red Sky were being targeted because they were from a Protestant area. And she said, "Oh no, the paper part that I read about were TUPE arrangements and changing people over". Now, it was quite clear it didn't add up. She'd either read the papers or she hadn't. If she'd read the papers, she would've known there were sectarian elements involved in it. Now, that's a subjective, a subjective, a subjective conclusion you come to that she said she knew about Red Sky from the papers; then she denied that she knew there was any sectarian element to it, but if she'd read the papers, she couldn't have been left in any doubt; and also she knew, of course, that our own party representatives had been making these kinds of allegations.

B. I suppose another example was she — I'll just stick to this one or this witness as well — I mean, she alleged that, while she was standing beside me at the site of the Boyne, she received this telephone conversation, or this telephone call, from Stephen Brimstone. Yet I can't really recollect. It was three and a half years ago, but I know she was there, and she reminded me that she was standing beside me and everything else. Yet, although she was deeply offended by what a SPAD had said, she didn't even think to mention it to me. Now, it just struck me that that's a bit dodgy. If I'd been offended, I would've been saying, "Did you hear what yer man said to me? I want you to say something to somebody." Cos, I mean, her and I were on fairly good terms. We'd been having kinda light-hearted conversations.

So, I mean, that's the kind of thing which I mean by dodgy. But, you know, all of those, I suppose, are subjective conclusions.

C. **DB:** OK. That's very helpful. Just to be fair to you, the basis of Mrs Kelly's complaint on this aspect appears to be that, by reaching a conclusion that a witness was dodgy before you heard all the evidence from other witnesses, you didn't demonstrate an objective approach in line with the principles.

SW: Mr Bain, could I tell you? Nobody on that Committee is objective. No one's objective. I mean, that Committee was set up, or that inquiry was set up, and read the Hansard of the original debate in the Assembly, on the basis that the Minister had been corrupt, that his SPAD had been part of that, and, you know, nearly every member on that Committee was already out and had already condemned the people under investigation in their speeches in the Assembly. So, you know, don't run away with this idea that we're all sitting up there, weighing up the evidence, putting it in the balances, and we'll finally come to a reasoned conclusion.

A. The conclusions have already been reached.

DB: OK. And another part of Mrs Kelly's complaint on this aspect is that, by describing the witnesses as dodgy, you failed in your duty to treat persons with respect.

SW: Well that is a lot of nonsense as well.

DB: On page 6 of Hansard, it is recorded that you called Mr Allister a "thug".

SW: Yes, I went, I went — Well, supposedly, the next step, or if you conclude that somebody is a bully, then, of course, they are a thug as well, and I described him as that. He's been described as far worse, by the way, and he's described other people in the Assembly.

B. I mean Jim Allister is well aware that this is the kind of robust language which takes place in these confrontational exchanges and he engages in it himself. Fortunately for him, nobody makes complaints about his language — I wouldn't — because most people accept that, and indeed it is significant that Jim Allister, as far as I know, has not made a complaint about it because Jim Allister fully understands that that kind of freedom to express yourself and to express your abhorrence of some of the things that people do, say and are in that Assembly — don't forget, we've got a bunch of killers up there as well — the ability to do that is something which is valuable in this democracy.

DB: What did you mean by calling him a "thug"?

C. **SW:** I meant exactly what it said. That when he had had Nelson McCausland's private secretary, a very, very quiet girl, along, he treated her in the exact same way as he treated Stephen Brimstone. Jim Allister knows, when he gets somebody vulnerable, when he gets them on the ropes, that the thing to do, if you want to get them to slip, a slip of the tongue, or you want to get them to say something, which, later on, they regret or whatever, the thing to do is get them on the ropes and make sure you keep hitting them, and that is exactly what he was doing that day, and that, to me, is thuggish behaviour and I described him as such.

DB: But eh —

SW: I am talking metaphorically, of course. *[Laughter.]* He wasn't actually beating them.

A. DB: No. *[Laughter.]* Do you accept, Mr Wilson, the normal meaning of thug in a dictionary has violent and criminal overtones?

SW: Well, he was violently using words. He was using words to the same, to the same, in the same way. What he was doing was, as I say, he got somebody in a vulnerable position and he kept on hammering at them, and, you know, I am sure that everyone understands that the context in which you use a word conveys what exactly you mean by it. It was used in the context of verbal exchanges.

DB: But if you were attaching that special definition to the word, why did you not make that clear when you were given the opportunity to reflect on your comments?

B. SW: This was an off-the-cuff exchange, for goodness sake.

DB: Isn't that all the more reason to say, "Look, I certainly didn't mean that he was a physically violent person or criminal. I was using it in a political context."?

SW: I don't think it needed or required that explanation. It was quite clear the context in which it was being used.

DB: You perhaps recall that Mr Campbell interjected that you'd used the word "thug" in the political context.

SW: Aye, he might well have done, yeah. So he probably felt that he had made the explanation for me, but I didn't — I don't think it required any explanation cos it was done within the context of exchanges in a Committee.

C. DB: In your time as an MP, have you ever heard a Member described as a "thug" in the Chamber of the Commons?

SW: I've heard them described as worse. Sometimes a Speaker will intervene; sometimes he'll not. But, yeah, I've heard people described as far worse than that.

DB: Have you ever heard anyone described as a "thug"?

SW: Well term "thug", has it ever been used at Westminster? I can't really, I can't recall, but I have heard in the Assembly the terms "murderers", "killers" and other terms used to describe Members in the Assembly, including by Mr Allister himself.

DB: And I think, on these occasions, the Speaker has ruled that out of order.

A. **SW:** No, he doesn't always do so, no. In fact, I'm sure I've used the term myself without being called to order, cos it's factual in most cases, unfortunately.

DB: And you don't assert, do you, that giving "thug" its normal dictionary meaning that Mr Allister is a thug?

SW: No. I have known Jim since university. Probably outside the Chamber, and can I just remind you, Mr Bain, that, since that, we have had pleasant exchanges outside the Chamber, we have laughed about certain things outside the Chamber, so Mr Allister, obviously, fully understands that I was not referring to him as a violent man in any way. I am not aware that he has ever been engaged in acts of physical violence, and I think he knew full well, when I was using the term, the context in which it was used.

B. **DB:** But, of course, whatever he may have known, members of the public, listening to the exchange, wouldn't know what was in your mind.

SW: I think members of the public listening to the exchange saw the context in which it was being used and would've fully understood exactly what I meant.

DB: When you used that word to describe him, that was a term of abuse on that occasion, albeit, you would say, a mild term of abuse.

SW: It was, it was part of the exchanges that you have, as I say, in a situ, in a forum, which is confrontational.

C. **DB:** And when you were saying he was a thug, you used a raised voice and gesticulated at him.

SW: I did, yeah.

DB: Why did you do that?

SW: Well, that's the way you emphasise things, just as, a moment ago, I emphasised a point to you as well. I mean, communication — I taught for 27 years — communication involves more than just what you say. It's how you say it. It's the emphasis you give to it and everything else, and, of course, you know, in those kind of situations, it can get quite dramatic, yeah.

A. DB: And do you accept that you were given ample opportunity by Mr Maskey to withdraw the comment?

SW: Yeah.

DB: Or to explain it?

SW: Oh absolutely, yeah.

DB: And why did you not take any of these opportunities?

B. SW: Well, after witnessing what he had done, and after saying what I'd said and meaning what I'd said, it would have been a bit, in fact, inexplicable to then say "Oh, by the way, I didn't mean all that." Of course I meant it. He had behaved in a bullying way. He continues to — he hasn't learnt anything from it — he continues to behave like a bully when he gets the opportunity, and, as I say, I say that as somebody who, on many other occasions, would work closely with Jim on other issues. So, I mean, why would I withdraw it?

DB: Do you think that your conduct towards Mr Allister on that occasion would tend to strengthen the public's confidence in the Assembly?

C. SW: I think that it highlights to the point that I wanted to make — I was making it — it highlights to the, ahm, anyone who was watching it that, when people come to the Assembly and believe they've got a job to do, they are doing it to the best of their ability, and, certainly, the comments that I got in relation to it afterwards were "we're glad you didn't let him off with what he was doing".

DB: Would you agree that your actions on that occasion would tend to bring the Assembly into disrepute?

SW: No. No more — I mean, if you want to have sanitised Assembly, as some people tend to want to do, where we all stand up and read things from sheets of paper and talk across the Chamber at each other like it was some kind of a dinner party, if that's what people think you need to have the Assembly brought into high regard, then, to be quite honest, I think that most of the public would be turned off by it. Significant, the part of Westminster, which most people look at, is Prime Minister's Questions, when they behave worse sometimes than people at a Linfield and Cliftonville football match.

A. So, you know, to suggest that those kinds of exchanges bring a public body — now, for some people, you know, for those who like their politics genteel, it may well have that impact on them. Most people like to see a bit of red meat thrown in and people fighting over it. At least there's a bit of passion there, and, as I say, it is significant that the one time in which constituents ring me up, time and time again, to get tickets for the House of Commons is Prime Minister's Question Time, so I don't accept that those kinds of exchanges bring any political institution into disrepute.

DB: OK. Now, moving to the party conference a few weeks later in November; I think you, rather fortunately or unfortunately, you had the graveyard slot immediately after lunch.

B. **SW:** I do. I always do. I get that, yeah.

DB: And you started your, no doubt you were interested to try to waken everyone up, metaphorically —

SW: No, literally as well.

DB: And you started, or very close to the start of your speech, you said, I think I've got it correct: "It's nice to know I am amongst friends and not amongst thugs. Are there any thugs here today?" Do you remember saying that?

C. **SW:** I do, yeah. I'm not actually so sure what the relevance of what I say — I don't know if you monitor everybody else's Assembly or party speeches.

DB: I'll just come to the relevance if you bear with me. Do I take it that, first of all, that that was a reference back to what had happened on 16 October?

SW: Yes, absolutely, yeah.

DB: And you were making a light-hearted and, hopefully, what people would regard as a humorous comment.

SW: And that's how they took it. Everybody laughed and, of course, everybody knew that it was a — As I'm sure you can imagine, Mr Bain, the TUV and Jim are not flavour of the month with some of our party members, and it was taken as it was meant: a humorous remark. And that was the end of it.

A. DB: But, using that reference in a humorous way, does that not demonstrate to the public that you'd found calling another Member a "thug" acceptable and humorous?

SW: Well I've already told you; in the context in which it was used, and given the behaviour that Mr Allister had displayed and continues to display, I used the term because I believed that's how he was acting and how he continues to act. I mean, since I've known Jim, all the time I've known him since I was 18, Jim will not change. He will still be the kind of person who goes — I actually admire it on many occasions as well — but he will still be the kind of person who will go out there, all guns blazing and will use every means and weapon at his disposal to get what he wants.

B. So, you know, I've made it quite clear: the term was used; it was used; it was calculated; it was used because I believed it was justified in the circumstances; and that's the end of it.

DB: And you said he had behaved in the same way since.

SW: He has, yeah.

DB: Have you repeated your calling him a thug? .

SW: I think I called him a bully today and I was on the point of calling him a thug because he was getting, he was, he was, he was, he was getting to the point where he was nearly doing the same as what he had done the last time, except, to be fair, and this is a point to make, the Chairman now doesn't let him and give him as much free reign as what he used to.

C. DB: Then can we come to the last matter, which I think you've already covered, a little bit of it anyway. Part of the complaint is that you questioned the partiality of the Chair.

SW: Not for the first time.

DB: And your answer to that, I take it, is, yes, you consider that the Chair is biased in the way that he is chairing the Committee? At times?

SW: I, I do. And, indeed, I questioned, including me own partiality, by the way. Let's make this clear: everyone who is on that Committee has approached this subject from a predetermined point. They have made their mind up. I am not impartial. The Chair's not impartial.

- A.** The rest of the Committee members aren't impartial. And I think if you, since you've had a chance to read through some of the Hansards, you'll see quite clearly that some of us go after some witnesses a bit harder than we go after other witnesses because that reflects the partiality which there is there.

So I'm not, I'm not accusing the Chairman. The Chairman actually happens to be in a different position than I am because he's chairing the Committee and, I suppose, his partiality becomes a bit more apparent and is probably a bit more important than mine, but I am not, and I never have, cos I've made it clear in the Committee and, indeed, I've been accused of it as well by Mr Allister, I think, on a number of occasions, I never have tried to disguise where I'm coming from as far as this inquiry is concerned or, indeed, what I believe about the inquiry or what I see the outcome of the inquiry being.

- B.** **DB:** So, just so as I — I wouldn't want to misunderstand you on this — you, in your own mind, have decided the outcome of this inquiry.

SW: As has everybody else.

DB: Yeah.

SW: I mean I took part in the debate on 1 July 2000-and-whatever-it-was, and if anybody reads what I said in that debate, they'll know exactly the conclusions that I had come to on this matter, but nobody else should pretend that the words, which they said on the same occasion and the interviews which they gave on the same occasion to BBC and UTV and others, don't reflect where they're coming from either.

- C.** **DB:** So, essentially, in your view, taking the evidence is a complete waste of time.

SW: Yes, it is. In fact, let me give you an example. The first part of the report, which we have already debated in the Assembly, I had to push for a minority report because there was some of the evidence, which would've exonerated and would've called into question some of the conclusions that they reached about Nelson McCausland, wouldn't even be accepted by the Committee. And I had to have it included in the minority report because they had already, in my view, come to conclusions, and there was some evidence, which didn't really suit those conclusions, so they decided it wouldn't be included, and I had to push for it to be put in the minority.

- A.** So, you know, yes, while some may deny it, they have already publicly — and they can't get away from that bit — they have already publicly stated their position on what they believe happened and they talk about, "We'll go where the evidence leads us." Well, we haven't actually gone where the evidence leads them.

Secondly, the line of questioning — and I'd say this for most of us, cos, as I say, I'm not exempt from this either — the line of questioning very often illustrates the prejudices. What I don't like, and this is what I was referring to with Jim, what I don't like is that those prejudices then impact on how you treat witnesses, and where it becomes apparent that those prejudices — I mean, he was particularly vicious when it came to DUP witnesses because of the long history that there is between his party and our party on a range of other political issues — and, you know, whilst it is difficult — and, as I say, I find it difficult to hide my prejudices as well on occasions — but whilst it is difficult sometimes for people to hide their prejudices, the one thing which should not happen and was allowed to happen that isn't happening as much now is that you should then be given free reign to exercise those prejudices.

- B.** And, if you do, and I can tell you, Mr Bain, despite the conversation we are having here today, if it continued to happen, I'd have no hesitation in doing exactly what I did before.

DB: OK. Just on this question of the partiality of the Chair: why haven't you taken that up elsewhere?

SW: Because, you know, I take the view that, rather than gum up the works with these kinds of complaints etc, I take a fairly laissez-faire approach to these things. I like to have the freedom in this place, whether it's down in the Assembly or in the Committee, to do what I want to do. Now, you see the more complaints come to you and go to the Speaker.

- C.** I've never complained to the Speaker once about what people have said about me. People called me things down in that Assembly when I was a Minister and everything else. I could've gone to the Speaker, and probably could have — In fact, on occasions was by my officials: "You shouldn't let him off with that."; "You shouldn't let her off with that." My view is, look, if that's what you have to do and it makes the place a bit more colourful and if sometimes you get offended, I'll get me own back sometime.

And that is why — And it's the same with the press.

A. I mean, while other people have run, I have been advised on a number of occasions, things written about me in the papers, that I could've got thousands from the court from, and I always take the view — at the start of this, and I know we got off to a bad start at the beginning of this conversation — I take the view that I would rather have people free to say things in the Assembly or in the papers or whatever. I'm not going to run and try and curtail their freedom to do it. I'll find some other way of responding to it and, anyways, someday I might be as guilty of overstepping the mark as they are and I would like to think I will be given the same latitude.

DB: OK. Then can I, just for summary for the transcript, if that's what we do, can I just check — am I correct in thinking that you do not accept that you conduct on 16 October would have tended to bring the Assembly into disrepute?

B. **SW:** No; absolutely not.

DB: And you do not accept that it would tend to weaken public trust and confidence in the Assembly?

SW: No.

DB: And you don't believe that you failed to treat Mr Allister and Mr Maskey and, for that matter, other members of the Committee with courtesy and respect?

SW: No. I treat them as I get treated and as, I think, they expect to be treated, and, indeed, it's significant that neither the two of them felt that they were being so badly treated that they felt that they had to make a complaint.

C. **DB:** And you do not, as I understand it, regret the comments you made at the Committee?

SW: Not a bit.

DB: And you're not going to apologise for them because you don't think there was anything wrong with them?

SW: No; I'm not. And, as I've said, if the same situation arose, I believe that, given the parameters which we should be allowed to operate on in this place, I would do the same.

A. **DB:** OK. Now the time is now — Sorry. Is there anything you want to clarify or add to what you've said?

SW: No, other than, I mean, I know you've got a job to do, but I just find, and I would like to put this on the record, I just find it appalling that, in a week when millions of people have marched to allow and to support a magazine in France having the right to say what it wants about other people, even to the point where that causes offence, and even to the point where that causes some people to be so offended, they want to go out and murder people, that, somehow or other, it is acceptable in the kind of microcosm of this Assembly that you're time and my time should be spent seeking to curtail people's freedom to express what they think about something that someone else has done.

B. I mean, I could have understood it and I accept it would've brought the place into disrepute if I'd walked round the table and hit him a smack. You know, there are limits, but where it is simply a case of saying, speaking your mind, speaking your mind in a way had it been libellous, and, again, you know, had I accused him of being a child molester or something, I could understand that, you know, totally false and, in the context, had no grounds at all. I can understand that there have to be some limits there, but this is a political forum in which people use words to express what they think of someone else, what they think of what someone else has said, what they've done, how they've behaved, and I just find it amazing that, in a week when we are talking about freedom for people to express themselves, you and I are sitting having this conversation.

C. **DB:** Well, of course, the purpose of this investigation is to decide whether or not the freedom is as you wish it to be.

SW: Yes, but, Mr Bain, I mean it doesn't deter me; and I suppose because I'm long enough at this game, and whatever consequences there are from your report, I'll take anyway because you always have to take responsibility for what you say and how people interpret it and everything else. While it doesn't deter me and it won't deter me, and I've just told you that, should the same situation happen again, I'd have no hesitation, should you be bringing me in here every week for a conversation like this, in doing the same. It does have a chilling effect on others who perhaps are a bit less willing to have, you know, the confrontation or whatever. It does have a chilling effect on the freedom of expression and it's one of the reasons why, you know, I actually have a lot of time for John Bercow in the House of Commons who allows things to drift almost to the point of a near riot at times because he recognises that, you know, people will have different ways of expressing themselves and everything else.

A. He always tells us off, of course, if he thinks it's going too far, but, nevertheless, he recognises the parameters which ought to be set for a parliamentary forum, and I fear that exercises like this are going to make this place poorer because people will be afraid to say exactly what they mean or to be robust in their exchanges. And that, to me, is what would kill the Assembly. I mean, I don't want this to be an essay-reading place, but some people think that that's what it should be.

DB: OK. Thank you for that. The time is now 3.29, and we will conclude this interview.

B. **SW:** OK.

DB: Thanks very much.

Document 10



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Inquiry into Allegations Arising from a BBC NI
'Spotlight' Programme aired on 3 July 2013 of
Impropriety or Irregularity Relating to NIHE-managed
Contracts and Consideration of any Resulting Actions:
Mr Stephen Brimstone

13 November 2014

NORTHERN IRELAND ASSEMBLY

Committee for Social Development

Inquiry into Allegations Arising from a BBC NI 'Spotlight' Programme aired on 3 July 2013 of Impropriety or Irregularity Relating to NIHE-managed Contracts and Consideration of any Resulting Actions: Mr Stephen Brimstone

13 November 2014

Members present for all or part of the proceedings:

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

Witnesses:

Mr Stephen Brimstone

The Chairperson (Mr Maskey): We have Stephen Brimstone here to continue his session from 16 October, which was interrupted. We are now resuming business. On that basis, I again ask any members to declare any interest relevant to today's business. As no one has anything to declare, we can move on.

As you aware, Mr Brimstone provided a written submission, which is on page 186 of your pack. Members have also been provided with a cover note from officials, as is normal, which is at page 179. I want to pick up where we left off. Jim Allister was just finishing a line of questioning, and I had indicated that we were going to move to the next member to speak, Gregory Campbell, and then move back around to the members who had indicated. Jim, you have questions that you want to return to later.

Mr Allister: I do.

The Chairperson (Mr Maskey): I want to move on, first, to Mr Gregory Campbell.

Mr Campbell: I have no idea what I was speaking on; it was that long ago, Chairman. That is the point I made.

The Chairperson (Mr Maskey): It is entirely up to you. I have called you to ask your questions.

Mr Campbell: I will maybe start afresh.

Mr Brimstone, just as a matter of interest, how many times have you been before the Committee?

Mr Stephen Brimstone: This is my fourth.

Mr Campbell: My question is similar to one that I posed to former Minister McCausland. There is serious concentration on the Red Sky contract, for understandable reasons, but not exclusively so. Therefore, when Councillor Palmer was in front of the Committee, I asked her about Rinmore, and she said:

"I would prefer not to talk about Rinmore."

Did you have any knowledge of this Rinmore contract?

Mr Brimstone: I am not so sure that it is around the Rinmore contract, but issues appeared to emerge around how the Rinmore issue had been dealt with. From my recollection, it was some time after the Red Sky issue. I understand that allegations were made both within the Housing Executive about officials within the Department. I understand that the permanent secretary, on the back of that, instigated some sort of review, report or investigation. On the back of that and the concerns raised on the back of that, with the former chairman having taken up a new position as chair of the Civil Service Commissioners, the permanent secretary wrote a letter to —

Mr Campbell: Sorry, but, by "former chairman", do you mean Mr Rowntree?

Mr Brimstone: Yes.

The permanent secretary wrote a letter to the then director general of the Northern Ireland Office. I think that reference was made in the 'Spotlight' programme to a courtesy call that the permanent secretary made to the former chairman Mr Rowntree in relation to the letter that he had sent, or was about to send, to the then director general of the Northern Ireland Office.

Mr Campbell: This is in relation to the Rinmore — whatever it was, whether it was contract, scenario or whatever it was. Was there any direct relevance to that Rinmore situation during your time as special adviser (SpAd) in the Department?

Mr Brimstone: No, the Rinmore issue had been dealt with. In fact, the Minister went to see the completed project in Rinmore in Londonderry shortly after entering office.

Mr Campbell: But you did not have any direct knowledge of it. Fair enough. OK.

Mr Brady: I have a couple of questions. Jenny Palmer gave evidence, which seemed to be very clear, about the conversation that you had. In your last evidence session, you said that you could not really recall the specifics. She said that, at a subsequent meeting with, I think, Mr Robinson, she was with Jeffrey Donaldson and that you were there. She said that you agreed that what she was saying was said was accurate. In your last evidence session, you said that you would not have used that phraseology. You cannot necessarily remember the details of the original conversation on 1 July, but you could remember what was not said when you gave evidence here the last time. It seems that there is a bit of a dichotomy there somewhere.

Mr Brimstone: Just so that we are clear, I think that we are talking about a number of different conversations. We are using the remarks I made at the last appearance, which were in regard to my telephone conversation with Councillor Palmer. I do not think that I made any comment around the conversation, although I stand to be corrected on that.

The Chairperson (Mr Maskey): I think that you did actually.

Mr Brimstone: Could we look at that? Could you point it out?

Mr Allister: Page 5. It is in the middle of the page of the transcript.

The Chairperson (Mr Maskey): Do you have that, Stephen?

Mr Brimstone: Yes.

The Chairperson (Mr Maskey): Bear with us a second. Yes, page 5. It is right in the middle of the page. You said:

"I did not at that meeting".

I take it that it is the meeting where Jenny Palmer says she was accompanied by Jeffrey Donaldson. She said that it was attended by a number of others, including Peter Robinson. Is that what you are asking about, Mickey?

Mr Brady: Yes.

The Chairperson (Mr Maskey): Stephen, you said:

"I did not at that meeting acknowledge that her account was accurate."

Go ahead, Mickey.

Mr Brady: You could not remember the details of the specific conversation that you had with Jenny Palmer when you originally rang her, but, in the evidence you gave, you were sure that you did not acknowledge that her account was accurate. You had a recall of one but not necessarily of the other. That seems to be a bit of a contradiction.

Mr Brimstone: If we go to page 3 of that same Hansard, you will see that I outlined as clearly as I could my recollections of the phone conversation.

Mr Brady: The point that I am making is that Jenny Palmer, in her evidence, said that, in the telephone call on 1 July, you demanded that she vote against the termination of the Red Sky contract and that she should ask for an extension. You also said, "The party comes first; you do what you are told". You are saying that you would not have used that phraseology. In fact, I think she used the word "aggressive". You are sure that her version is not accurate. You can recall that, but you cannot recall the specifics of the original conversation.

Mr Brimstone: What I said was that I did not accept her version of the conversation. On page 5 of Hansard, you will see that I was clear to the Committee that I did not, at that meeting, acknowledge that her account was accurate. So, I was not accepting her recollection of the internal party meeting where I accepted that her recollection of the conversation was accurate.

Mr Brady: In phase 1 of the inquiry, you said:

"I have no powers to give instructions in the Department. I have no powers at all to give instructions to anyone."

In relation to the email that was sent on 5 July 2011, did you instruct Michael Sands, under the authority of the Minister, to send an email?

Mr Brimstone: I referred to that in my written submission to the Committee. If you give me a second, I will turn it up here. According to the official record, Mr Sands sent an email to the chairman stating that the Minister's SpAd thought that six months was too long a time frame for continuation by the Red Sky administrator. There is further detail of the Central Procurement Directorate (CPD) advice on the time that we required to prepare a contract. The chairman was asked, not instructed, whether the question could be put to the administrator to ascertain whether it would be able to continue with response maintenance service. I did not issue any instructions.

Mr Brady: So, Mr Sands did that of his own volition. He is an official in DSD dealing specifically with housing, as far as I am aware, and has been for a long time. Would he have taken that initiative himself to send an email to the chair of the Housing Executive about something like that without having prior instructions from you or the Minister?

Mr Brimstone: I cannot recall the conversation with Mr Sands, but looking at the evidence that is here in front of me about what the official record states, it is clear that I had a conversation with Mr Sands. The outcome of that conversation was that he would send an email to the chairman asking whether certain things were possible.

Mr Brady: My last question is this: did you have any conversation with Mr Sands about the phone call to Jenny Palmer at any stage? Was that ever discussed?

Mr Brimstone: I do not recall having any conversations with Mr Sands about the telephone conversation with Mrs Palmer.

Mr Allister: Mr Brimstone, when we were interrupted, the point that I was giving you an opportunity to comment on was this: it could be thought that you would have a motive to deny Jenny Palmer's evidence as to the content of the phone call, because, to admit it, would put you in obvious breach of your code of conduct. Do you want to comment on the point that that could be a motive for you denying the content of Mrs Palmer's evidence?

Mr Brimstone: Following on from the last evidence session, I cannot answer questions of opinion. I am here to answer questions of fact. Members asking my opinion on a matter to do with conditions of employment —

Mr Allister: I am really just giving you an opportunity to comment and disabuse us, or otherwise, if some of us thought that that could be a motive.

Mr Brimstone: I am here to answer questions of fact.

Mr Allister: Dealing with questions of fact, in your evidence the last day — I want to be as fair to you as I can — you said to us six times in relation to the content of that phone call that you cannot recollect saying that or using that phraseology. You will appreciate that that is different from denying saying something. Do you want to rest your evidence on that, that you simply cannot recollect saying the things that Mrs Palmer alleges were said in that phone call? Is that your position?

Mr Brimstone: I go back to the previous evidence, at the bottom of page 4, when you asked almost the same question. You asked:

"Could you have used it?"

In essence, it is the same question, and I answered:

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

Mr Allister: That is the point I am trying to get you to clarify. Do you want the Committee to believe that you did not use any of the language? When I talk about the language, I am talking about the pertinent matters that I recited with you. You know what they are: "The party comes first; you do what you're told" etc. Do you want the Committee to believe that you did not say any of that? Are you quite positive and clear about that, or is your evidence, as appeared to be the burden of it the last day, that you have no recollection of saying any of that?

Mr Brimstone: Neither have I any recollection, and I do not believe that I said any of that.

Mr Allister: "Believe". Where that leaves the Committee is that we have Mrs Palmer very emphatic and clear that that is what you said, and you telling us, "I don't recollect and don't believe that's what I said". That is the situation we are at.

Mr Brimstone: Well, the basis of my recollection of the phone call is on whatever notes I took of the phone call subsequent to the phone call. I can only operate on the basis of that.

Mr Allister: When did you take notes?

Mr Brimstone: When I became aware that there was an issue around the phone call and that the BBC 'Spotlight' team was looking at the phone call in particular.

Mr Allister: So, that was 18 months after the phone call.

Mr Brimstone: Well, no —

Mr Allister: Thereabouts.

Mr Brimstone: We became aware of it before then because they had started to ask questions.

Mr Allister: Yes, I think they started to ask questions in the latter part of 2012, is that right?

Mr Brimstone: Yes.

Mr Allister: And we are talking about July 2011.

Mr Brimstone: Yes.

Mr Allister: So, a year-plus later, you started to make some notes about a conversation.

Mr Brimstone: Yes.

Mr Allister: Where are those notes?

Mr Brimstone: I provided those — the outworking of those — in the evidence that I gave in the previous session.

Mr Allister: Presumably, that is not the format they were in. You have extracted from other notes.

Mr Brimstone: No, that is the note of my —

Mr Allister: That is the note you made at that time. When was that?

Mr Brimstone: Whatever date it was when the BBC started looking around the phone conversation.

Mr Allister: Where were you when you made that call?

Mr Brimstone: Specifically, as in —

Mr Allister: Yes, specifically.

Mr Brimstone: I assume that I was in my office at the Department.

Mr Allister: You have no recollection of where you were.

Mr Brimstone: No, I do not.

Mr Allister: Who was with you when you made it?

Mr Brimstone: Again, I assume that I was on my own.

Mr Allister: How soon did you make it after agreeing with the Minister that it would be made?

Mr Brimstone: Again, I think we looked at that the last time. My answer to the Committee at the last session was that I believed that we had a conversation earlier in that week, so I assume that it was days.

Mr Allister: "Days". And then on the Friday — if I remember correctly — you made the phone call. You cannot remember where and you do not think there was anyone with you.

Mr Brimstone: No, I said I assume that I was in my Department —

Mr Allister: You assume. You are leaving some —

Mr Brimstone: It was over three and a half years ago, Mr Allister.

Mr Allister: Yes, but it is a matter that has been of some controversy ever since.

Mr Brimstone: It is still a matter of three and a half years ago as to where I was.

Mr Allister: Did you report back to the Minister on the phone call?

Mr Brimstone: Yes, I believe that I did.

Mr Allister: Do you know when you did that?

Mr Brimstone: I can only assume that it was shortly after the phone conversation itself.

Mr Allister: Things were moving at quite a fast pace at that point, because the Housing Executive board was meeting on the Tuesday. That was the Friday. Your intervention was to try to steer Mrs Palmer in a certain direction, and she was not being cooperative, so presumably you reported that back quite quickly.

Mr Brimstone: No, my phone conversation with Mrs Palmer was to inform her fully of what the Minister's concerns were at that time and to ask that she inform the rest of the board, accurately and fully, of what the Minister's concerns were at that time.

Mr Allister: And she was making it plain that she was not happy doing what you were asking her to do.

Mr Brimstone: Yes.

Mr Allister: And she, of course, has a very different account of what you were asking her to do. The common denominator is that she was not cooperating in being willing to do what you were asking her to do.

Mr Brimstone: Yes.

Mr Allister: She says that that was because you were asking her to go against the board decision, the probity of which and the reasons for which she was satisfied with, and that you were directing her to do that in a quite heavy-handed way.

Mr Brimstone: That is what she says.

Mr Allister: At the subsequent meetings with Mr Robinson etc, did you say anything by nature of apology whatsoever?

Mr Brimstone: I want to be careful that I do not get into the internal workings of the party or discussions within the party, but I am quite content to make it clear that I never set out, in anything that I do or say, to cause anyone any offence or any sort of discomfort. Watching the programme that was broadcast on the BBC, it was clear that, for whatever reason — I do not accept the reasons that were put forward — Councillor Palmer felt upset or aggrieved at her recollection of the phone conversation. I made it clear that I never set out to cause any distress, and I apologise for any distress that was caused.

Mr Allister: So you said that in the meeting.

Mr Brimstone: Yes.

Mr Allister: Let us be clear: at that meeting, she was emphatic and clear in saying what the content of the phone call was, according to her. She said that you had said things like, "the party comes first", etc.

Mr Brimstone: Where?

Mr Allister: At the review meeting that the party held.

Mr Brimstone: I am not getting into the detail of the conversation at that internal party meeting.

Mr Allister: I am not sure you have that luxury. Is it fair to say --

Mr Campbell: I think he has, Chairman.

Mr Allister: Is it fair to say --

The Chairperson (Mr Maskey): Sorry, Jim, just a wee second. We need to be clear, because the issue is, perhaps, not necessarily about where the comments were made. You are being asked about the accuracy, for want of a better way of putting it, of the remarks that Jenny Palmer attributed to you. That is the substance of the issue.

Mr Allister: I was going to put it this way: is it being fair to Jenny Palmer to say that what she alleged you had said in the phone call, when she was making those allegations at the internal party investigation, was consistent and compatible with what she has told this Committee you said?

Mr Brimstone: Again, I cannot comment on internal party discussions.

Mr Allister: You can comment on whether, as a fact, she was making the same allegations about what you had said as she made to the Committee. Why could you not say that?

Mr Brimstone: I cannot comment on internal party decisions.

Mr Allister: Sorry, that is some sort of refuge you are trying to take.

Mr Campbell: Chairman, now we are going down the same route again.

The Chairperson (Mr Maskey): Sorry, a wee second --

Mr Campbell: Three times he has tried this. Badgering a witness.

The Chairperson (Mr Maskey): Wait a moment.

Mr Campbell: Badgering a witness.

The Chairperson (Mr Maskey): Wait a moment, everybody.

Mr Campbell: Go back to the Bar library for that.

The Chairperson (Mr Maskey): Gregory, that includes you. Everybody, wait a moment. We are doing well; we had a professionally handled briefing this morning.

Mr Campbell: We were doing well.

The Chairperson (Mr Maskey): We are doing well, relatively speaking. That includes everybody. Let us just ask one question at a time. The witness is not compelled to answer any question, because the Committee cannot compel anybody to answer a question. That will set the record straight. However,

we expect witnesses to be as cooperative as possible. We can work around the parameters of all of that. Please ask one question at a time and allow the witness to respond.

Mr Allister: I am giving you the opportunity, Mr Brimstone, to say if, at the review meeting within the party, Mrs Palmer repeated the allegations as she repeated them to the Committee.

Mr Brimstone: I am not prepared to discuss internal party discussions.

Mr Campbell: That is the fourth time, Chairman, that that question has been asked.

The Chairperson (Mr Maskey): Gregory, excuse me. I will deal with this.

Mr Campbell: I hope so. Five was his record the last time, and he is coming close to it this time.

The Chairperson (Mr Maskey): The question has been dealt with by me. Jim, I remind you that you have asked the question, and the witness is refusing to answer it.

Mr Campbell: He has answered it, Chairman.

Mr Allister: I note that he has refused to answer.

Flowing from that meeting or meetings — in fact, I have forgotten whether there were one or two meetings of internal review.

Mr Brimstone: I am not aware of any comment on the number of meetings of internal —

Mr Allister: I am asking you whether there were one or two meetings.

Mr Brimstone: As I said before, I am not prepared to discuss internal party discussions.

Mr Allister: As a consequence of those encounters, Mrs Palmer told us that there then was a flurry of draft apologies passing between the parties or between her and the party. Is that correct?

Mr Brimstone: Again, Chair, I am not prepared to discuss internal party matters.

Mr Campbell: That is five now, Chairman. One more to beat the record.

Mr Allister: I must object to the barracking —

The Chairperson (Mr Maskey): Sorry, Gregory Campbell.

Mr Allister: — of Mr Campbell.

Mr Campbell: Then you are objecting to your own line of questioning.

The Chairperson (Mr Maskey): Gregory Campbell, please be quiet a moment. We are dealing with this, in my opinion, in a measured way, so let us keep it that way. Jim, you are aware that the witness is not going to answer any questions, as he already indicated very clearly and repeatedly, about the internal discussions within the DUP. On that basis, I am directing you to move on to another —

Mr Allister: Can I ask this question? I wanted to ask him whether he contributed to draft apologies.

The Chairperson (Mr Maskey): That is a fair question.

Mr Brimstone: Again, Chair, with respect, I am not prepared to comment on internal party discussions or workings.

Mr Allister: Mrs Palmer said that you did, so you are leaving us only with the evidence of Mrs Palmer on that issue.

Mr Brimstone: Chair, my position is clear on the matter, I hope.

The Chairperson (Mr Maskey): OK.

Mr Allister: Tell me this: in the DFP investigation, what was the timeline on that? When were you interviewed?

Mr Brimstone: I cannot recall. Chair, I am very uncomfortable answering matters relating to personnel-related investigations and inquiries.

Mr Allister: This was a fact-finding investigation. You were interviewed. Yes?

Mr Brimstone: Again, Chair, I am very uncomfortable answering —

The Chairperson (Mr Maskey): All right, Stephen, but, in fairness, it is a fair question. You are not being asked to comment on whether it was personnel or otherwise. You are simply being asked whether or when you contributed to a fact-finding exercise. Whatever the substance or the deliberation of that was, you are not in a position to give that answer, but it is a fair question to be asked and for you to answer whether or when you took part in an interview on a fact-finding exercise.

Mr Brimstone: OK. Yes, I did partake. I cannot recall at this point when exactly that happened.

Mr Allister: Were you interviewed on one occasion or more than one occasion?

Mr Brimstone: Once.

Mr Allister: Were Mrs Palmer's allegations put to you?

Mr Brimstone: I am not getting into the detail of the fact-finding exercise.

Mr Allister: Again, Chair, I think that that is a question of fact.

The Chairperson (Mr Maskey): I accept that, but the witness is making it clear that he is not going to deal with it. I will ask him: are you prepared to give any information in relation to the fact-finding exercise in terms of your participation?

Mr Brimstone: No. I do not believe —

The Chairperson (Mr Maskey): You are going to stand —

Mr Allister: I think that it is important, Chairman, for the probity of the inquiry, that we get on the record the type of questions that the witness is refusing to answer. Therefore, he needs to be given the opportunity to answer them. If he wishes to compound the situation by refusing to answer them, then I think that the record needs to show that.

The Chairperson (Mr Maskey): I am not disputing that at all, which is why I put the question directly to the witness myself. I am simply reminding ourselves that we cannot compel a witness to give a response. Members will, perhaps, infer or make their own judgement. At the end of the day, this is an inquiry that is taking place over a period of time, there is a range of witnesses, and there is evidence and documentation. Ultimately, the members of the Committee have to make their judgements in the round of all of the evidence that they read, hear and see.

Mr Wilson: But, Chairman, this is only a circuitous route by which to try to get an answer on an issue. The former Minister has already indicated that he was advised by the Attorney General that this was a personnel issue which he was unable to reveal.

The Chairperson (Mr Maskey): I made it clear earlier that the matter is now subject to engagement between the Committee and the new Minister. It will resurface as a substantive item in this inquiry.

Mr Allister: Chairman, I want to have the opportunity to put on the record questions to see whether this witness will answer them. If he does not answer them, I have to accept that, but I believe that I am entitled to have the opportunity to put those questions on the record.

The Chairperson (Mr Maskey): You have put a number of questions of that nature. I have obviously quite clearly permitted you to do that and will continue to do so, but there will come a point when the same questions will have been asked. Clearly, if the witness chooses not to answer them, we have to move on to the next question. We have other members.

Mr Allister: Well, I will ask a different question.

When you were interviewed in the fact-finding exercise, were you asked about the sending of the email of 5 July 2011?

Mr Brimstone: Again, Chair, I do not feel comfortable answering questions that relate to the personnel matter.

Mr Allister: With regard to the fact-finding investigation, did you see the report that was produced?

Mr Brimstone: Again, Chairman, I do not feel comfortable answering any questions that relate to the fact-finding exercise.

Mr Allister: You do not wish to deny that you may have read it.

Mr Brimstone: Chair, I will revert to my earlier answer.

Mr Allister: Did you discuss the report with the Minister?

Mr Wilson: Chairman, since all of these questions are about a personnel report —

The Chairperson (Mr Maskey): Hold on a second. Sorry, Sammy, I will conclude on this. Jim, I take your point. I share your view and concern on it, but the matter has been exhausted. The questions have been put. The witness has given his responses. That has been very clearly made. Members will have to draw their own conclusions from that.

Mr Allister: I want to ask one final question, because it is relevant to what Jenny Palmer told us about how she was treated on this matter. I want to ask whether Mr Brimstone was told the outcome of the fact-finding investigation.

The Chairperson (Mr Maskey): That is the final question that you will be asked on it.

Mr Brimstone: I revert to my earlier answer, Chair.

Mr Allister: I might have something to say later about the obstruction of this Committee.

The Chairperson (Mr Maskey): Obviously, again, everybody will have their opportunity to deal with all of these issues in the round. I remind you that we will discuss the evidence thus far at the meeting on 27 November. I imagine that it will be a full and fulsome occasion for us to look at all of this.

Mr Allister: Chair, I will have other questions later.

The Chairperson (Mr Maskey): I will come back to you.

Mr Wilson: Mrs Palmer also made a number of other allegations about you and conversations that you had with members of the Department. Will you just tell us, first of all, Stephen, about you and Michael Sands? He works in the Department. He is obviously in fairly regular contact with the Minister. What would your relationship with him have been?

Mr Brimstone: I would like to think that, as with all officials in the Department, I have a good working relationship with each of them.

Mr Wilson: Are you on friendly, "palsy-walsy" terms with each other?

Mr Brimstone: Did we socialise together? No.

Mr Wilson: Would you regularly visit his office?

Mr Brimstone: No. I do not.

Mr Wilson: Is he the kind of person to whom you would go and have a conversation? Would you tell him all about a telephone conversation that you had the other day with one of our councillors?

Mr Brimstone: No.

Mr Wilson: Did you ever talk to him about the telephone conversation that you had with Jenny Palmer?

Mr Brimstone: No. I do not believe that I did.

Mr Wilson: Jenny Palmer says that he recounted that conversation in great detail.

Mr Brimstone: She does, yes.

Mr Wilson: But you are saying that you did not have the conversation with him at any stage.

Mr Brimstone: That is correct. I do not believe that I ever discussed it with him, no.

Mr Wilson: The other allegation was that Michael Sands argued that you were in a bit of a flap about this email that was sent early one morning. Did you go searching for an email that had been sent about the termination of the contract or about extending the contract?

Mr Brimstone: I cannot recall getting in a flap around anything, to be honest, or running around like mad — I think that was the phrase that was used. There are occasions when you query things and you might get the private office to get you an email or whatever.

Mr Wilson: I was going to ask you that. Can you retrieve the emails yourself from the system?

Mr Brimstone: I do not generally do that, but I probably could if I wanted to, yes.

Mr Wilson: So you have access to all the departmental emails. If an email was sent, you can do whatever you do on a computer.

Mr Brimstone: I have never used it.

Mr Wilson: So, if an email was required that you wanted to have a record of, how would you have got it? Who would you have asked for?

Mr Brimstone: I likely would have gone through the Minister's private secretary to get me a copy of the email or ask for a copy of the email.

Mr Wilson: Would there be any reason why you would have to, especially if it was an embarrassing email, run around frantically asking somebody to do that for you?

Mr Brimstone: No, and there was nothing embarrassing that I can read in it anyway. No.

The Chairperson (Mr Maskey): Can members speak up a wee bit?

Mr Dickson: Thank you, Stephen, for coming to us this morning. On the day that Jenny Palmer received the phone call, she did not receive it directly. Why was that?

Mr Brimstone: I refer back to my earlier remarks. As I said on page 2 of the Hansard report from my earlier visit, I contacted Councillor Allan Ewart with the initial intention to enquire as to whether I could get Councillor Palmer's phone number as he sat on the Lisburn City Council with Councillor Palmer. It so happened that he was at an event that Councillor Palmer was at as well.

Mr Dickson: So, even though it was your intention to speak directly to Councillor Palmer, which you did, you had not prepared to check with DUP headquarters or the Minister's private contacts or whatever for that individual's phone number.

Mr Brimstone: I was going through internal party contacts.

Mr Dickson: It was just to ring another councillor and ask him.

Mr Brimstone: Yes.

Mr Dickson: Allan Ewart took the call from you and, on the basis of what Jenny Palmer told us, he passed the phone to her, you had that conversation and she then handed him his phone back. She says that she was in distress at that stage, certainly on the verge of if not actually in tears, and it was sufficient for Allan Ewart to pick those signals up immediately from the conversation. Do you believe that you had driven her to tears in that conversation?

Mr Brimstone: Absolutely not.

Mr Dickson: Do you believe that you had driven her to the point of resignation from the conversation that you had?

Mr Brimstone: Absolutely not.

Mr Dickson: Why then do you believe that her reaction to that phone call would be to tell Allan Ewart, "I need to resign", in a very emotional or tearful manner?

Mr Brimstone: With respect, Chair, I can only answer questions of fact. I cannot surmise or —

Mr Dickson: I appreciate that you were not present and did not see her at the time of phone call. Nevertheless, were you not in a position to pick up how she felt, what her voice was like and what she said to you in that conversation? Do you think that it was a fairly reasonable conversation and certainly one that should not have distressed her or driven her to the point of resignation?

Mr Brimstone: Absolutely not. I was perfectly aware that Councillor Palmer was in disagreement with me. She took a completely different view, and she made that point very clear to me. But in no way did I pick up that she was on the verge of tears, on the verge of resigning or any of that, no.

Mr Dickson: Moving further on to the reconciliation moves between you and Councillor Palmer, was Mr Gavin Robinson your legal representative in those discussions?

Mr Brimstone: Again, Chair, with respect, those were internal party discussions and I do not wish to comment further on them. I am sorry.

Mr Dickson: You at no stage appointed a legal representative.

Mr Brimstone: Regarding?

Mr Dickson: These proceedings — in order to represent yourself on any of those matters.

Mr Brimstone: Just in relation to my responses to the BBC. My legal adviser responded to the BBC on my behalf.

Mr Dickson: OK. That was the only legal representation you had?

Mr Brimstone: Yes.

Mr Dickson: Thank you very much.

The Chairperson (Mr Maskey): Gregory.

Mr Campbell: It is not really a question to the witness; it is a query about what you said earlier. If people put questions to Mr Brimstone, the Minister or whoever and, for whatever reason, the witnesses say that they do not want to comment on internal matters of the party, people can then draw whatever conclusion or outcome they want from that. I assume that that is equally the case for those who, unlike Mr Brimstone, have not come here once, never mind four times. In other words, we are asking a certain series of questions of the BBC, Mr Rowntree and Mr Hayes, none of whom have come. In fact, some of them — all of them, I think — have taken legal action to ensure that they do anything but come in front of the Committee. Are we entitled to draw the same inferential conclusion from their non-appearance as we are from a witness who has come voluntarily, not just once but four times, to subject themselves to badgering?

The Chairperson (Mr Maskey): I made it very clear that, at all times, from the outset — I repeat it again — this Committee is bound to make decisions or judgements on the basis of evidence. I also made it very clear a couple of minutes ago that people have to make their judgements in the round. That includes what they have heard. I am not sure how you factor in what you do not hear, but people will make their judgements in the round on the evidence presented to them — written, email, oral and so on. It is the entitlement of all of the members to do that.

Stephen, you said that Ms Palmer disagreed with you on the telephone call. Will you tell us what she disagreed with? What was the disagreement about?

Mr Brimstone: I am going on the transcript of the 'Spotlight' programme of that night. There was clearly a difference in opinion, as there was in her evidence to this Committee, as to what was or was not said during that phone conversation, and the tone of the conversation.

The Chairperson (Mr Maskey): I understand that. That is not what I am asking. A moment ago in your response you said, in answer to Stewart's question, that, yes, she disagreed with you. Stewart asked — I am not using his words — if you were aware of any distress, upset or emotion in her voice when you spoke to her on the phone. You did say that she disagreed with you, but you did not detect any of that. Can you give us any indication of what she disagreed with? What you are saying you asked her to do was make the board aware of the Minister's concerns, so what would she have disagreed with? I am just trying to elicit some substance of the conversation. You are saying that she disagreed, so it would be helpful if we understood what the disagreement was about.

Mr Brimstone: I refer back to page 4 of the report of my earlier visit to the Committee, when I went into detail on that — the second paragraph on page 4. I do not think I can add anything further to that.

Mr Campbell: Chairman, can I ask one question?

The Chairperson (Mr Maskey): I will bring you in in a wee second, Gregory.

I understand in reading that, but I am not quite sure whether that addresses the issue in my mind. As I said, it is of what the actual disagreement was about. You make the case that you wanted to get her, on behalf of the Minister, to advise the board of his concerns. Did she disagree with putting those concerns to the board or with the substance of the Minister's concerns?

Mr Brimstone: Just as I outlined there, my recollection of the call was that she became very defensive, particularly about the chairman. I could not quite get to the bottom of that. She strongly contested any suggestion that he was not carrying out his duties appropriately. She did not accept my remarks around Leeway Maintain and the concerns that we had become aware of that related back to 2010 with regard to the same issues pertaining to another contract in a different area. She would not accept that either.

The Chairperson (Mr Maskey): I will bring in Stewart, because it is pertinent to that, and then I will bring you in, Gregory.

Mr Dickson: Going back to my earlier question, I appreciate Stephen's answer in respect of the internal party matters. He has acknowledged that Gavin Robinson was involved in that. Have you,

Stephen, received any advice or guidance on what might happen in similar circumstances if you as a special adviser were asked to represent or act as a friend to another special adviser by way of disciplinary or other matters?

Mr Brimstone: I am not sure where I actually confirmed who was or was not at the meeting.

Mr Dickson: Mrs Palmer told us who was there. We will take a hypothetical question, then, if you are not indicating your involvement —

Mr Brimstone: Can I just get guidance from the Chairman on hypothetical questions?

Mr Campbell: I do not think that it is a good idea.

Mr Dickson: Well, it is not a hypothetical question. Have you received any guidance on how you would act if you were asked to act in the role of a friend to another special adviser?

Mr Brimstone: In the role of a friend?

Mr Dickson: Yes, in any interdepartmental matters, for example, disciplinary or otherwise. Is there anything contained in the guidance to you as a special adviser on how you should act in those circumstances?

Mr Brimstone: No, I do not think that the —

Mr Dickson: So you would feel free to act as a friend to somebody who was being disciplined or act as someone who would go along as a witness.

Mr Brimstone: I am not sure that I can answer that question, Chair, with all due respect.

The Chairperson (Mr Maskey): You have just answered it how you feel you can. Thank you.

Mr Brimstone: Sorry, Stewart.

Mr Campbell: The issue occurred to me after I asked the last question. When Councillor Palmer was here, I asked her about the 'Spotlight' programme turning up unannounced, and the tenor of it was that she was quite shocked and did not know who they were when they arrived at her house etc. I seem to recall from the programme that there was a piece with a reporter at a car park somewhere. I do not whether that was at the Department or where it was. The reporter approached you. Was that a prearranged event, or how did that come about?

Mr Brimstone: Most definitely not.

Mr Campbell: Did they just arrive there?

Mr Brimstone: They came out from behind a hedge, from what I can recall.

Mr Campbell: Was that how they conducted their attempt to have a discussion with you — an interview?

Mr Brimstone: Clearly it was not a discussion, and clearly it was not an attempt. It was clearly an action to get a piece of television footage.

Mr Allister: You were running away from questions that day too.

The Chairperson (Mr Maskey): Jim — Jim Allister. Sorry, no interruptions. Gregory, continue on with your question.

Mr Campbell: The point that I am trying to make, despite the attempted interruption, is that Mrs Palmer was fairly clear that this was an out-of-the-blue arrival by the BBC, unannounced, in her home. There is no disparity here — none whatever. The two of them appear to be saying the exact same

thing. The people who have created our 17-month hiatus refuse to come here every single time. They want to have a correspondence course with us, which seems to be the in-vogue response now by a number of people. Mr Brimstone is confirming that he was approached, if you can call it that, by the BBC in an unannounced fashion. Councillor Palmer said likewise. That is the nature of the programme that we are left with. That is the only question that I have.

Mr Wilson: Maybe we should hide behind a bush and jump out on Chris Thornton.

Mrs D Kelly: Thank you for your evidence, Stephen. I have just a couple of points to make. I noted that you were in the Public Gallery when the Minister gave evidence, for part of the time if not all of it. You heard the Minister say that it was unlikely that you would have made that phone call, or made those interventions, with the Housing Executive and others without his knowledge and instruction. Is that fair comment?

Mr Brimstone: I am sorry. What is the question?

Mrs D Kelly: Given Mr McCausland's evidence to the Committee this morning, is it fair comment that it is unlikely that you would have made the phone call to Mrs Palmer and made the interventions with the Housing Executive and others without explicit instruction from the Minister?

Mr Brimstone: You use the word "instruction". The Minister would have been aware of it. He would have been consulted, and it would have been discussed. I cannot get into whether it was an instruction. I have no recollection of being told to do that.

Mrs D Kelly: It is just that, in some of the evidence and the board minutes, there is deemed to be political interference from you, as special adviser, that was believed to be inappropriate. I am trying to ascertain whether you were acting on behalf of the Minister on those occasions.

Mr Brimstone: If you look at that particular occasion, there was no instruction and no interference. A question was raised, and that was it. I am unclear as to how that can be perceived as political interference on a contractual matter.

Mrs D Kelly: The board minutes reflect the Minister's concerns, which you were then asked to, and felt compelled to, raise in a phone call to Mrs Palmer. According to the board minutes, those concerns had already been outlined to the board membership, and it did not concur with and, indeed, refuted the matters raised by the Minister. Is that not the case?

Mr Brimstone: Forgive me. I am unclear as to what you are getting at.

Mrs D Kelly: Maybe you do not understand. What I am getting at is this: you made a phone call to Jenny Palmer, or had to make it — whatever. There were concerns as to whether the Minister's fears around Red Sky and other contractors would not be properly articulated in the board's decision-making. He had been asked, by email but not by letter, I think from you, to raise that at the board. The board minutes reflect that concerns were raised about the Minister's comments about the termination by the chair of the Red Sky contract.

Mr Brimstone: Those related to letters that were sent from the Minister to the board and to discussions that he had with chairman.

Mrs D Kelly: Yes.

Mr Brimstone: Where the board accused the "political adviser" — I think that that is the term that the minutes used — refers to the email from Mr Sands. Again, I would be grateful if someone could point out to me whether there is an instruction or an implied instruction in that email. Queries were raised as to what was and was not possible.

Mrs D Kelly: This morning, the Minister told us, I believe, that it is unlikely that you would have made those contacts without him having requested you to do so.

Mr Brimstone: OK.

Mrs D Kelly: You do not ring up councillors, willy-nilly, and say that you need them to vote this way or that, I presume?

Mr Brimstone: No.

Mrs D Kelly: You are there to advise the Minister and check correspondence. You are there to perform that interface role, if you like.

Mr Brimstone: Yes.

Mrs D Kelly: All that I am trying to say is that you would concur with the Minister that it is unlikely that you would have made such interventions without his prior knowledge or instruction.

Mr Brimstone: I would not call it an "intervention", but I do not want to get hung up on that word. Yes, the Minister should have been aware of the issues around that time.

Mrs D Kelly: Otherwise, you would have been the de facto Minister, would you not? Some people might say so.

Maybe it is more appropriate to ask at the end of the meeting for guidance on what constitutes internal party matters and what is pertinent evidence to the inquiry. Mrs Palmer indicated that four draft apologies were submitted to her, which may or may not indicate the version of the phone call that was accepted. You have said on a number of occasions that there was no intent to cause her any distress, and I accept that, but distress was caused, and some form of wording had been agreed as a consequence of your internal party discussions. I believe that those matters are pertinent.

The other bit is on the issue around Leeway Maintain. Why would those concerns have meant that the Minister would have sought to stall the very appropriate actions that were to be taken on Red Sky? Can you shed any light on that?

Mr Brimstone: The Minister had concerns that the potential existed, if the issues pertaining to Red Sky were procedural system issues in the Housing Executive — in part, in whole or on the contractor side — for those same issues to pertain to other response maintenance contractors operating across Northern Ireland. As June progressed, we became aware that the Housing Executive had been aware of issues of a similar nature from 2010, which is before our time in the Department. Therefore, a suspicion that he had at that point that those issues potentially existed had been confirmed. Here was another contractor operating in a different Housing Executive district but with similar issues emerging. Therefore, the conclusion was that if issues existed in not one but two different areas, the potential existed at least for the same issues to be happening elsewhere.

Mrs D Kelly: I am a bit puzzled as to why you just would not stop the contract with Red Sky, halt the Leeway Maintain one and then look at others. Why would you make a decision to try to seek to extend a contract based on the evidence before you that the contract was not serving the public well.

Mr Brimstone: I can give answers only to questions that relate to decisions or actions that I undertook. Those are questions that should be addressed to the Minister, and I believe were.

Mrs D Kelly: That is OK for now.

The Chairperson (Mr Maskey): I have a couple of points. In your evidence a few minutes ago, you referred to the TRIM system and to the fact that you have access to it.

Mr Brimstone: I do not have access to the TRIM system. I have access to the knowledge network system, but what is on it, I do not know.

The Chairperson (Mr Maskey): The point that I was going to make was that, in previous evidence in an earlier session, you were emphatic that you did not have access to the TRIM system.

Jenny Palmer is making certain allegations attributed to you about the conversation that you had. Did you ask Jenny Palmer to vote in any particular way if the matter went to a vote on the board?

Mr Brimstone: I do not believe that I did, Chair.

Mr F McCann: I will try to be as brief as possible, which will be a surprise to some people. We established this morning that it was former Minister McCausland who asked you to contact Mrs Palmer about the board meeting that was about to take place. In fact, I think that she was a bit shocked to hear that a board meeting was taking place, because it was off-schedule. How long did the phone conversation take? There seems to be a lot in it. Was it two minutes? Three minutes? Five minutes?

Mr Brimstone: In my evidence to the Committee on the previous occasion, I think that I said five or six minutes. I could be wrong.

The Chairperson (Mr Maskey): You said that it was five or six minutes.

Mr F McCann: It seems strange that it was a five-minute conversation yet your recollection of what took place in the phone call is completely at odds with Mrs Palmer's. I cannot get my head around why she would say what she said when she seemed so shocked at getting the phone call in the first place. What would her motive be?

Mr Brimstone: With respect, Fra, I cannot answer a question about what is in someone else's mind.

Mr F McCann: Fair point. I have one other point to raise. Mrs Palmer said that she had had a conversation with the councillor from Lisburn and that she was quite shocked, was close to tears and felt as though she was being intimidated. Would it be worthwhile asking Councillor Ewart to come before the Committee?

The Chairperson (Mr Maskey): That is a question that you can put to the Committee at another point. That is nothing to do with Stephen.

Mr Allister: Did you go to Michael Sands's office at around 7.30 am on 5 July 2011?

Mr Brimstone: No. I am trying to think when I was ever in the Department at 7.30 am. I can think of one such occasion. It was the morning after the 'Spotlight' programme, and the Minister was being briefed prior to his appearance at the Committee.

Mr Allister: Do you challenge Mr Sands's evidence to the Committee that he was in from about 7.10 am and that you came to his office at about 7.30 am and asked for an email to be sent?

Mr Brimstone: I have no idea about the time or anything else. I am afraid that I have no recollection, Chair.

Mr Allister: Let us be clear: did you go to his office at any time that morning for the purpose of ensuring that that email was sent?

Mr Brimstone: I cannot recall going to his office. That is not to say that it did not happen, but I cannot recall going to his office.

Mr Allister: You said that it did not happen at 7.30 am.

Mr Brimstone: At 7.30 am or at any other time on that day or any other day.

Mr Allister: We know at what time the email was sent. I am trying to recall whether it was 7.38 am or 7.58 am.

The Chairperson (Mr Maskey): It was at 7.40 am.

Mr Allister: Yes, so whatever instruction or equivalent of that word was given, it was obviously given before 7.40 am. You are saying that you would not have even been in the office by then.

Mr Brimstone: I genuinely cannot recall being in the office at that time of the morning.

Mr Allister: What time do you normally come into the office?

Mr Brimstone: Any time from 8.00 am or 8.15 am onwards.

Mr Allister: We are left with the puzzle of why Mr Sands would tell us that. You are disputing whether that is likely to be true.

Mr Brimstone: As to what time I was in the office —

Mr Allister: As to you going to the office as early that morning.

Mr Brimstone: I cannot recall going to his office that early in the morning.

Mr Allister: Do you recall giving instructions or making requests about the sending of that email?

Mr Brimstone: I do not, no.

Mr Allister: Yet the email refers to something that you wanted done.

Mr Brimstone: Clearly, yes.

Mr Allister: It is hard to imagine that you had no involvement in the genesis of that email.

Mr Brimstone: I never disputed that.

Mr Allister: Tell us what your involvement was in the genesis of that email.

Mr Brimstone: Just so that I am clear, I thought that I had already answered that. I do not recall.

Mr Allister: Indulge me by answering it again.

Mr Brimstone: I do not recall.

Mr Allister: You do not recall. Therefore, we have an email that, on the face of it, appears to involve an instruction from you, and you cannot help the Committee, because you cannot recall how it came about. Is that it, Mr Brimstone?

Mr Brimstone: I am not sure how else I can answer that.

The Chairperson (Mr Maskey): Maybe I can come in. You are being asked about an email that was sent at 7.40 am. Michael Sands said that he sent that email at your behest.

Mr Brimstone: Yes.

The Chairperson (Mr Maskey): You were asked at what time you were in the office, and you said that you could not recall. You were then asked whether you were in the office, and you said that you could not recall. Can you give us any information about how you engaged with Michael Sands to elicit that email?

Mr Brimstone: No, I cannot.

Mr Allister: You cannot help us at all on that. Very well.

The email should form part of the system of records at the Department. Is that right?

Mr Brimstone: I would imagine so, yes.

Mr Allister: Can you shed any light on why it seems for a long period not to have been?

Mr Brimstone: I cannot, no.

Mr Allister: Are you aware that the paper trail to the Committee indicates that, when the BBC asked the Department, under a freedom of information (FOI) request, for all emails from that date, there was no disclosure of that email and that there was an affirmation on the review that anything that was there had been provided? Are you aware of that?

Mr Brimstone: I am aware — sorry, I am not aware that that email was not disclosed, why it was not disclosed or —

Mr Allister: As late as 12 August 2013 — this is on page 279 of the pack.

Mr Brimstone: I am afraid that I do not have the pack.

Mr Allister: I am sure that you can be given it.

That appears to be the letter from the Department as a result of the review that was requested by the BBC on the discovery by FOI of, including other things, all email correspondence of 4 July and 5 July. In that letter, the Department confirmed that there is nothing left to give. Were you aware of that FOI exercise?

Mr Brimstone: I am sure that I was, but I have no involvement in the —

Mr Allister: But the significance of this, Mr Brimstone —

Mr Brimstone: Sorry. If I might clarify, I have no involvement in the discovery of information around FOIs. If that is what the Department said, I am sure that that is what it believed at that point.

Mr Allister: The significance of that point is that, according to Mrs Palmer, a month later, after the Department had affirmed that it had no such email, you were going mad looking for it. You see the point. If the record of the Department does not contain the email, you might well be going mad looking for it if you had been asked about it during the fact-finding investigation.

Mr Brimstone: Is there a question, Chair?

Mr Allister: The question is how it could be that the email was not within the DSD system. If it were not in the DSD system, it would not be there for you to look up. Therefore, you might well be going mad looking for it.

Mr Brimstone: I have already said how I would go about getting a copy of an email. It would not be a case of me looking up an internal system. It would most likely involve me going to the private office and asking it to go to the individual who had sent the email and for it to get me a copy.

Mr Allister: Presumably, the Department had done all that in pursuit of honourably dealing with the FOI request and went formally on the record to say that, effectively, there was no such email.

Mr Brimstone: That is a question that you need to put to the Department.

Mr Allister: You are more than familiar with the departmental processes. I am just painting the factual picture.

Mr Brimstone: I am not familiar with the processes that are used when an FOI request comes in.

Mr Allister: Except for these purposes, which are that we can put total trust in what the Department said to the BBC on 12 August. The effect of that is that we did not have an email from 5 July 2011 from Mr Sands to the chairman of the board of the Housing Executive.

In September 2011, there was a fact-finding exercise, and, when Mrs Palmer told the fact-finders about that email, you started to look for it. It was not in the system. Hence the credence to the suggestion that you were going mad looking for it.

Mr Brimstone: I can only assume that the first time that I became aware of the email was when the board minutes of the Housing Executive meeting became available and that point was made in those minutes. It was definitely nothing to do with any fact-finding exercise.

Mr Allister: Can you shed any light on why that email would not be in the system?

Mr Brimstone: I am afraid that I cannot.

Mr Allister: Do you know enough about the system to know that matters can be expunged, removed and edited — I think that we had some evidence about that during the first phase of the inquiry. Do you know about that?

Mr Brimstone: No.

Mr Allister: The mystery, Mr Brimstone — shed some light on it if you can — is that, when the Department came to provide information to the Committee, it provided the email that it had denied to the BBC existed. Do you have any explanation for that conundrum?

Mr Brimstone: I do not. The permanent secretary was before the Committee some weeks ago. You would need to put that question to him.

Mr Allister: If the factual situation was that, in August or September 2013, there was no trace of the email, it lends credence to the suggestion that someone might be going mad looking for it.

The Chairperson (Mr Maskey): Just because that is in your mind, Jim, it does not necessarily follow that it is anybody else's. I am just making that point for the record.

Mr Allister: I want to ask you one other thing. You had had a conversation with Jenny Palmer —

Mr Brimstone: May I say one thing? On the one hand, there is an implicit allegation that somehow I was involved in some sort of expungement of an email that I was not aware of —

Mr Allister: Sorry, I am not alleging that.

Mr Brimstone: That is OK.

Mr Allister: I am saying that it was not there. Hence, if you had an interest in it and could not find it, you would be going mad looking for it. That is what I am suggesting. I am not suggesting that you had a hand in expunging it.

Mr Brimstone: Going mad looking for it when?

Mr Allister: In September 2013, after it was raised with you in the fact-finding investigation.

Mr Brimstone: OK.

Mr Allister: You had the conversation with Jenny Palmer on the phone and had initiated it by going through Allan Ewart. In fact, it took place on his phone. Did you speak to Allan Ewart after about the conversation?

Mr Brimstone: I have no recollection of that.

Mr Allister: Remind us of what you said about when you spoke to the Minister about it.

Mr Brimstone: All that I said was that I assumed that it would have been that afternoon or shortly after the phone conversation.

Mr Allister: If you did not say anything untoward, why would you be apologising at all?

Mr Brimstone: I do not know, but I was brought up a certain way, Mr Allister. I do not know whether you were, but I was. If a woman — indeed, especially a female — appears to be broken on national television, or at all, and it appears that she is broken because of an action that I had supposedly taken, all that I can do is apologise. That is the case even though I did not believe that I had done anything wrong and had no recollection of having done anything wrong. I can only apologise for leaving her in that state.

Mr Allister: She is very clear about why and how you left her in that state. Was that what you were apologising for?

Mr Brimstone: No.

Mr Allister: The BBC allegations in the programme laid out matters pertaining to you. You then had your solicitor write to the BBC to threaten legal proceedings because of alleged untruthful, unfounded, defamatory allegations. How did those legal proceedings turn out?

Mr Brimstone: There was a response sent to the BBC. That was it.

Mr Allister: You never initiated legal proceedings.

Mr Brimstone: No, I did not.

Mr Allister: This is a programme that you tell us made unfounded and untruthful allegations about you by repeating what Jenny Palmer said, and you did nothing about it.

Mr Brimstone: That is correct.

Mr Allister: Thank you.

Mr Wilson: I have a couple of questions. On the last point, we have heard contradictory evidence. Mrs Palmer said that you said certain things to her, and you say that you did not. Mrs Palmer said that Mr Sands said certain things to her, and he said he did not. Mr Palmer said that certain assurances were given to her by party officers but has not been able to produce any evidence of those assurances. Given that there is quite a lot of hearsay involved, would there be any point in pursuing legal proceedings?

Mr Brimstone: I operate under advice at all times.

Mr Allister: That you had no case.

Mr Wilson: The advice was that, given that there was hearsay on both sides, it would be difficult, just as the Committee would find it difficult, to establish what the facts of the issue were.

Mr Allister: With respect, it was not hearsay. One party who was there — Mrs Palmer — very expressively and explicitly said what was said, and Mr Brimstone took the view that that was defamatory of him but did nothing about it.

Mr Wilson: No. Mrs Palmer, it appears, had been quite happy to make allegations about conversations that she had with other people, who then denied that such conversations took place. She has a record for that, has she not?

The Chairperson (Mr Maskey): All those matters will be discussed by members but not in the presence of the witness or, indeed, any other witness.

Stephen, do you have any other remarks that you want to make before we conclude this session? You know the routine: the Committee may want to come back to you. It is open to you whether you want to come back. For the record, it has been the practice thus far when we get conflicting evidence to bring people back without judging the accuracy of any comments attributed to any of the witnesses. The Committee will return to that in due course.

Stephen, you seem to be happy enough to leave it for now. Thank you for being here.



Northern Ireland
Assembly

Appendix 2

Correspondence of 20 May 2015 to Mr Wilson

Correspondence of 20 May 2015 to Mr Wilson



COMMITTEE ON STANDARDS AND PRIVILEGES

CONFIDENTIAL

Room 254
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Tel: 028 9052 0333
Email: paul.gill@niassembly.gov.uk

Mr Sammy Wilson MP MLA
Room 355
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

20 May 2015

Dear Mr Wilson,

I write to inform you that at its meeting today the Committee on Standards and Privileges considered again the report of the Assembly Commissioner for Standards into a complaint made against you by Mrs Dolores Kelly.

Having done so, the Committee has agreed with the Commissioner's conclusion that when you called Mr Allister a "thug" at the meeting of the Committee for Social Development on 16 October 2014 you failed to comply with the Respect principle set out in the Assembly's Code of Conduct.

The Committee also agreed that the other aspects of Mrs Kelly's complaint against you should not be upheld.

Standing Order 69B provides that where it appears to the Committee that a member has failed to comply with any provision of the Code of Conduct the committee may make a report to the Assembly. The report may include a recommendation that a sanction be imposed upon the member.

The Committee has agreed that, prior to it reporting on this complaint, you should apologise to Mr Allister. You should do this and report back to me before Friday 29

May 2015. The Committee has agreed that an apology from you to Mr Allister will allow it to report that the matter has been resolved.

In these circumstances it would not be necessary for the Committee to consider recommending to the Assembly that a sanction be imposed. However, should you not provide an apology to Mr Allister, the Committee will have to give consideration to recommending to the Assembly that a sanction be imposed. Sanctions may include, but are not limited to –

- (a) a requirement that the member apologise to the Assembly;
- (b) censure of the member by the Assembly;
- (c) exclusion of the member from proceedings of the Assembly for a specified period;
- (d) withdrawal of any of the member's rights and privileges as a member for that period;

and for the avoidance of doubt, the rights and privileges withdrawn under subparagraph (d) may include the rights to salary and allowances.

Please note that the Committee will publish in its report on this matter any response that you provide to it.

Please also note that the Commissioner's report and this letter are both strictly embargoed and should not be shared with anyone else until such time as the Committee on Standards and Privileges has published its own report on this matter. These documents should not be copied and should be stored securely by you. You should not approach any member of the Committee about this case.

Should you have any questions regarding any issue in this letter please let me know.

Yours sincerely,

Paul Gill
Clerk of Standards



Northern Ireland
Assembly

Appendix 3

Minutes of Proceedings of the Committee relating to the Report

Wednesday, 18 March 2015, Room 21, Parliament Buildings

Present: Mr Jimmy Spratt (Chairperson)
Ms Anna Lo (Deputy Chairperson)
Mr Steven Agnew
Mr Cathal Boylan
Mr Sammy Douglas
Mr Colum Eastwood
Mr David Hilditch
Mr Fra McCann
Mr Robin Newton
Mrs Sandra Overend

In Attendance: Mr Paul Gill (Assembly Clerk)
Mrs Hilary Cleland Bogle (Assistant Assembly Clerk)
Mr Jonathan Kerr (Clerical Officer)

Apologies: None

6. Report from the Assembly Commissioner for Standards on a complaint against a Member

Members noted the Clerk's Paper; and the Report from the Assembly Commissioner for Standards.

The Chairperson invited Mr Bain to brief the Committee on his Report.

1.21pm Mr McCann left the meeting

Following this briefing Mr Bain answered questions from members. The Chairperson thanked Mr Bain who then left the meeting.

Agreed: Following discussion the Committee agreed to seek Legal Advice and give further consideration to the Commissioner's Report at a future meeting.

[EXTRACT]

Wednesday, 15 April 2015

Room 21, Parliament Buildings

- Present:** Ms Anna Lo (Deputy Chairperson)
Mr Steven Agnew
Mr Cathal Boylan
Mr Sammy Douglas
Mr David Hilditch
Mr Robin Newton
Mrs Sandra Overend
- In Attendance:** Mr Paul Gill (Assembly Clerk)
Mrs Hilary Cleland Bogle (Assistant Assembly Clerk)
Mr Jonathan Kerr (Clerical Officer)
- Apologies:** Mr Jimmy Spratt (Chairperson)
Colum Eastwood

6. Report from the Assembly Commissioner for Standards on a complaint against a Member

Members noted the Clerk's Paper; the Report from the Assembly Commissioner for Standards; and the Legal Advice.

The Chairperson welcomed Ms Kiera McDonald, Legal Adviser and invited her to brief the Committee on the Legal Advice.

2.01pm Mr Douglas left the meeting.

2.07pm Mr Douglas returned to the meeting.

Following discussion the Chairperson thanked Ms McDonald for attending the meeting.

The Committee discussed the timing of the decision that it needed to take.

Ms Lo proposed that the Committee should take its decision at today's meeting.

The Committee divided:

Ayes	Noes	Abstentions
Ms Anna Lo	Mr Cathal Boylan	None
Mr Steven Agnew	Mr Sammy Douglas	
Mrs Sandra Overend	Mr David Hilditch	
	Mr Robin Newton	

The proposal fell.

Agreed: The Committee agreed to give further consideration to this issue at its next meeting.

2.20pm Mr Newton left the meeting.

[EXTRACT]

Wednesday, 20 May 2015

Room 21, Parliament Buildings

Present: Mr Jimmy Spratt (Chairperson)
 Ms Anna Lo (Deputy Chairperson)
 Mr Steven Agnew
 Mr Cathal Boylan
 Mr Tom Buchanan
 Mr Colum Eastwood
 Mr David Hilditch
 Mr Declan McAleer
 Mr Fra McCann
 Mr Robin Newton

In Attendance: Mr Paul Gill (Assembly Clerk)
 Mrs Hilary Cleland Bogle (Assistant Assembly Clerk)
 Miss Alison Ferguson (Clerical Officer)

Apologies: Mrs Sandra Overend

5. Report from the Assembly Commissioner for Standards on a complaint against a Member

Mr McCann declared an interest as a member of the Social Development Committee who was present when the alleged misconduct occurred. Mr McCann informed the Committee that he had given consideration to this and was satisfied that it was unnecessary for him to stand aside from the proceedings of the Committee on Standards and Privileges relating to the complaint.

Members noted the Clerk's Papers; the Report from the Assembly Commissioner for Standards; and the Legal Advice.

1.10pm Mr Agnew joined the meeting.

The Clerk briefed the Committee on the issues to be considered.

The Committee discussed whether, leaving aside any Article 10 considerations, the Member's use of the word "thug" was a breach of the Code of Conduct.

Following discussion, the Chairperson put the question that leaving aside any Article 10 considerations, the Member's use of the word "thug" was a breach of the Code of Conduct.

The Committee divided:

Ayes	Noes	Abstentions
Mr Steven Agnew	Mr Tom Buchanan	None
Mr Colum Eastwood	Mr David Hilditch	
Ms Anna Lo	Mr Robin Newton	
Mr Declan McAleer	Mr Jimmy Spratt	
Mr Fra McCann		

The question was carried.

The Committee discussed whether the Member's 'thug' comment was a form of expression protected by Article 10 and that a finding of breach of the Code of Conduct would therefore amount to a prima facie interference with the Member's Article 10 rights.

Agreed: The Committee agreed that the Member's comment was a form of expression protected by Article 10 and that a finding of breach of the Code of Conduct would amount to a prima facie interference with the Member's Article 10 rights.

The Committee discussed whether a finding by it of a breach of the Code of Conduct in this case would be prescribed by law.

Following discussion, the Chairperson put the question that a finding by the Committee of a breach of the Code of Conduct in this case was prescribed by law.

The Committee divided:

Ayes	Noes	Abstentions
Mr Steven Agnew	Mr Tom Buchanan	None
Mr Colum Eastwood	Mr David Hilditch	
Ms Anna Lo	Mr Robin Newton	
Mr Declan McAleer	Mr Jimmy Spratt	
Mr Fra McCann		

The question was carried.

The Committee discussed whether the Member's 'thug' comment was a form of political expression or a gratuitous personal comment.

1.25pm Mr Boylan joined the meeting

Following discussion, Mr Eastwood proposed that the Member's 'thug' comment was a gratuitous personal comment.

The Committee divided:

Ayes	Noes	Abstentions
Mr Steven Agnew	Mr Tom Buchanan	None
Mr Cathal Boylan	Mr David Hilditch	
Mr Colum Eastwood	Mr Robin Newton	
Ms Anna Lo	Mr Jimmy Spratt	
Mr Declan McAleer		
Mr Fra McCann		

The proposal was carried.

The Committee discussed whether a finding by it of breach of the Code of Conduct in this case would be necessary in a democratic society for the protection of the reputation or rights of others. In doing so, the Committee took into consideration all relevant factors in the case. The Committee balanced the Member's right to freedom of expression and the public interest in such freedom against the public interest in proper standards of conduct by Members in order to protect the reputation and rights of others.

Following discussion, Mr Agnew proposed that a finding in this case by the Committee of a breach of the Code of Conduct was necessary in a democratic society for the protection of the reputation or rights of others.

The Committee divided:

Ayes	Noes	Abstentions
Mr Steven Agnew	Mr Tom Buchanan	None
Mr Cathal Boylan	Mr David Hilditch	
Mr Colum Eastwood	Mr Robin Newton	
Ms Anna Lo	Mr Jimmy Spratt	
Mr Declan McAleer		
Mr Fra McCann		

The proposal was carried.

The Committee therefore agreed that by his ‘thug’ comment the Member had breached the Code of Conduct and that the interference with his Article 10 rights was justified as it was both prescribed by law and necessary in a democratic society for the protection of the reputation or rights of others.

The Clerk briefed the Committee on some remaining issues to be considered.

Agreed: The Committee agreed that the Member’s behaviour did not bring the Assembly into disrepute.

Agreed: The Committee agreed with the Commissioner’s decision that the other aspects of the complaints were not upheld.

The Committee discussed the action it should take as a result of its conclusions.

Mr Eastwood proposed that the Member should apologise to the Member whom he had called a ‘thug’ before Friday 29 May 2015 and that such an apology would allow the Committee to report that the matter had been resolved.

Mr Buchanan proposed that the Committee should report that no further action was required.

The Committee divided on the first proposal (Mr Eastwood’s):

Ayes	Noes	Abstentions
Mr Steven Agnew	Mr Tom Buchanan	None
Mr Cathal Boylan	Mr David Hilditch	
Mr Colum Eastwood	Mr Robin Newton	
Ms Anna Lo	Mr Jimmy Spratt	
Mr Declan McAleer		
Mr Fra McCann		

The proposal was carried.

As the first proposal was carried the question was not put on the second proposal (Mr Buchanan’s).

Agreed: The Committee agreed that the Clerk should write to the Member setting out the Committee’s position that the Member should apologise and that if he did not the Committee would have to give consideration to recommending to the Assembly that a sanction be imposed.

[EXTRACT]

Wednesday, 3 June 2015

Room 106, Parliament Buildings

Present: Mr Jimmy Spratt (Chairman)
Ms Anna Lo (Deputy Chairperson)
Mr Steven Agnew
Mr Cathal Boylan
Mr Tom Buchanan
Mr Colum Eastwood
Mr Declan McAleer
Mr Fra McCann
Mr Robin Newton
Mrs Sandra Overend

In Attendance: Mr Paul Gill (Assembly Clerk)
Mrs Hilary Cleland Bogle (Assistant Assembly Clerk)
Miss Alison Ferguson (Clerical Officer)

Apologies: Mr David Hilditch

5. Report from the Assembly Commissioner for Standards on a complaint against a Member

The Committee noted the relevant papers, including the legal advice.

The Clerk briefed the Committee on the current position and the options open to the Committee.

1.25pm Mr McCann joined the meeting.

The Committee discussed the relevant circumstances and how serious they considered the breach to be.

Following discussion, Mr Newton proposed that the Committee should not take any further action.

The Committee divided:

Ayes	Noes	Abstentions
Mr Tom Buchanan	Mr Steven Agnew	None
Mr Robin Newton	Mr Cathal Boylan	
Mr Jimmy Spratt	Mr Colum Eastwood	
	Ms Anna Lo	
	Mr Fra McCann	
	Mrs Sandra Overend	

The proposal fell.

The Committee discussed whether the imposition of a sanction in this case would be prescribed by law.

Agreed: The Committee agreed that the imposition of a sanction in this case would be prescribed by law.

The Committee discussed whether the imposition of a sanction in this case would be necessary in a democratic society for the protection of the reputation or rights of others. In doing so, the Committee took into consideration all relevant factors in the case. The Committee balanced the Member's right to freedom of expression and the public interest in

such freedom against the public interest in proper standards of conduct by Members in order to protect the reputation and rights of others.

Following discussion, the Chairman put the question that the imposition of a sanction in this case would be necessary in a democratic society for the protection of the reputation or rights of others.

The Committee divided:

Ayes	Noes	Abstentions
Mr Steven Agnew	Mr Tom Buchanan	None
Mr Cathal Boylan	Mr Robin Newton	
Mr Colum Eastwood	Mr Jimmy Spratt	
Ms Anna Lo		
Mr Fra McCann		
Mrs Sandra Overend		

The question was carried.

The Committee gave consideration to which sanction would be the most appropriate to recommend. The Committee agreed that any sanction must be proportionate to the seriousness of the breach, bearing in mind all of the circumstances.

Following discussion, Mr Boylan proposed that the Member be censured by the Assembly.

The Committee divided:

Ayes	Noes	Abstentions
Mr Steven Agnew	Mr Tom Buchanan	None
Mr Cathal Boylan	Mr Robin Newton	
Mr Colum Eastwood	Mr Jimmy Spratt	
Ms Anna Lo		
Mr Fra McCann		
Mrs Sandra Overend		

The proposal was carried.

Agreed: The Committee agreed that the Clerk should prepare a draft Report and draft Motion for the Committee's consideration at its next meeting.

1.34pm Mr McAleer joined the meeting.

[EXTRACT]

Wednesday, 10 June 2015

Room 21, Parliament Buildings

Present: Mr Jimmy Spratt (Chairman)
Mr Steven Agnew
Mr Cathal Boylan
Mr David Hilditch
Mr Declan McAleer
Mr Robin Newton

In Attendance: Mr Paul Gill (Assembly Clerk)
Mrs Hilary Cleland Bogle (Assistant Assembly Clerk)
Miss Alison Ferguson (Clerical Officer)

Apologies: Ms Anna Lo (Deputy Chairperson)
Mr Tom Buchanan
Mr Colum Eastwood
Mr Fra McCann
Mrs Sandra Overend

5. Report from the Assembly Commissioner for Standards on a complaint against a Member

Agreed: Members discussed and agreed the draft Committee Report (as amended) and ordered that the report be printed.

Agreed: Members agreed the draft Motion.

Agreed: The Committee agreed that the Committee's report should be embargoed until the commencement of the debate.

Agreed: The Committee agreed that the Clerk should write to the complainant and the Member complained of informing them of the Committee's decision and forwarding a copy of the Committee's embargoed Report.

[EXTRACT]



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