



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 Nelson McCausland MLA

13 November 2014

Mr Brady: Sorry. My question is about the meeting scheduled for 27 June. You advised the Assembly on 8 July that, before the meeting took place, legal advice was sought from the Departmental Solicitor's Office (DSO):

"I sought that advice in the light of the fact that I was being asked to meet individuals from a company in administration, and I wanted to be assured of the probity of my actions. It advised me that Ministers may meet such persons as they choose."

Obviously, the Committee has not had access to or sight of that legal advice. Is it possible to obtain that? Presumably, that is generic to all Ministers, or does it relate to particular situations? Essentially, you are saying:

"Ministers may meet such persons as they choose."

I was just wondering what the content of that legal advice was.

Mr McCausland: I think, Mr Chair, that the practice is that legal advice is not normally disclosed. It is a long time ago now. I do not have that legal advice with me.

The Chairperson (Mr Maskey): Normally, Ministers, as you rightly say, would refer to the legal advice that they had received and say that, on the basis of that, they intended to do A, B, C or D. However, on this occasion, you have quoted part of that legal advice. So, on that basis, are you prepared to provide all of that legal advice to the members around the table? You quoted from part of it, but we have no way of knowing whether —

Mr McCausland: I have no access to that legal advice. I am no longer in the Department, so I do not have any access to it.

The Chairperson (Mr Maskey): OK. On that, the third paragraph in your statement begins:

"The Committee has also been provided with the note of the meeting".

You state toward the end of that paragraph that you:

"would like to have the Administrator in place until the end of August to allow all issues relating to the handover of the contracts to be considered".

You go on to mention "the official". I suggest that there is an important omission, because, on page 105 —

Mr McCausland: Sorry, you are referring to page numbers, but I do not have the same file as you. Therefore, I —

The Chairperson (Mr Maskey): Sorry, Mr McCausland. We will rectify that. Just bear with us.

Mr McCausland: Yes, it is the note of the meeting. OK, I have that. It is just that the page numbers do not correlate.

The Chairperson (Mr Maskey): Page 104 refers to the meeting with MLAs and Red Sky representatives on 27 June 2011. The paragraph that I quoted is at the top of page 105. Your submission to the Committee yesterday refers to you wanting:

"to have the Administrator in place until the end of August to allow all issues relating to the handover of the contracts to be considered."

Your submission then mentions, "the official", referring, I presume, to Jim Wilkinson. What has been omitted from that is that the record also states that it was:

"during this time the proposed new company might also be able to progress matters."

In the context of —

Mr McCausland: Which line on page 105?

The Chairperson (Mr Maskey): The second-last line on that top paragraph on page 105.

Mr McCausland: I have that now. Mr Chairman, we are dealing with a meeting on 27 June 2011 — over three years ago. I cannot recall the full detail. As we are well aware, this is a note of the meeting. The status of a note has been discussed in the past. That would have been a possibility.

The Chairperson (Mr Maskey): You referred to that note in your submission yesterday, so you have drawn from that. I am just drawing to your attention that what has been omitted from your submission yesterday is a fairly important point.

Mrs D Kelly: Paragraph 2 of your written submission relates to the instructions to —

Mr McCausland: Sorry, paragraph 2 on which page?

Mrs D Kelly: It is on the second page, overleaf. Bullet point 2, perhaps — sorry.

Mr McCausland: Bullet point 2, yes.

Mrs D Kelly: It relates to you requiring your officials to:

"rigorously review all existing contracts to same level of scrutiny".

You go on to say that you:

"would like to have the Administrator in place until end of August to allow all issues relating to the handover of the contracts to be considered".

It is really on that point. I am just wondering what your thinking was. We have heard from a number of witnesses that the level of concern raised against the Red Sky contract was way above the concern about any other contracts, contractor or the workmanship of any other contractor and that there was a historical element to that. I just wonder why you, as Minister, did not seem to share the concern of so many others about the workmanship of Red Sky, based on the information that was, presumably, available to you and has been made available to the Committee in statements from others. Why did you not share the concern about Red Sky's workmanship? Why did you seek to have the other contractors drawn in to the same level of investigation, even though they did not stand accused of the same level of poor workmanship?

Mr McCausland: The fact is that I came into the Department in the middle of May, and this was within a few weeks of that. The issues had been ongoing for quite a number of years. The member, I am sure, is well aware that the interest of the Housing Executive in Red Sky went back to at least 2007. ASM Horwath had been brought in to conduct a forensic audit investigation of both contracts. I was also informed, at the point at which I came into the Department or shortly afterwards — certainly before this point — that concerns had also been raised about another company, which no longer exists, called Leeway Maintain. In October 2010, the regional inspection unit (RIU) identified some irregularities in Leeway Maintain, and, subsequent to that, a whistle-blower emerged. I do not know the details, but the RIU and the whistle-blower raised different issues. I was also aware, then, that a second company — an adjacent company — had irregularities as well.

Mrs D Kelly: That does not really explain why all other contractors were, it would appear, drawn into the mix. Why, if there were such concerns that you sought to have the administrator in place with Red Sky for a longer period, given —

Mr McCausland: I think —

Mrs D Kelly: Sorry. If I am right in thinking that the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) would apply — I can understand that the interests of workers in their constituencies, or anywhere, are a real concern for public representatives — the employees would have found work elsewhere. I wonder why, if there were irregularities in Red Sky, you sought

this. I would have thought that the natural reaction would be to get rid of them. These people were not doing a good job.

Mr McCausland: I wanted to be sure that we were not in a position where the Housing Executive removed contracts from one company and then transferred one of those contracts to another company in which similar issues might exist. No other company had been subjected to the same level of forensic scrutiny as Red Sky. There had been some work done on Leeway Maintain by the RIU and in view of the whistle-blowing evidence about it, but I wanted to have an assurance that we were not in a position of simply moving contracts from a company where there were issues — certainly, serious issues — to another company where there might also be serious issues.

You mentioned TUPE. What has become clear, and was very clear to me on a number of subsequent occasions for other reasons, is that when workers transfer from one company to another and a contract moves from one company to another, it is not really a seamless move, as people might suggest. Hiccups and issues always emerge in the service to tenants.

Secondly, workers in companies have told me that they have been through TUPE up to three times and hardly knew who they worked for. So, it is some comfort for workers that TUPE is there, but it leaves uncertainties. I was concerned for three reasons: the need for a seamless service; not wanting to do something that would unnecessarily harm the interests of workers; and wanting to be sure that the Housing Executive did not transfer a contract from A to B, only to find later that it had been moved on to C.

Mrs D Kelly: Is it not the case that the rationale for a more forensic investigation of Red Sky was precisely the number of complaints? It was a consequence of the complaints and concerns about its workmanship. In fact, I think that I am right in saying that some buildings against which they had submitted invoices did not even exist. Surely, the onus on you, as Minister at that time and guardian of the public purse, was to be more precautionary in favour of the public purse than Red Sky.

Mr McCausland: My interests related to the public purse, and that was why I initiated a forensic investigation and audit of other, adjacent companies to make sure that similar things were not happening elsewhere. You are aware of the ASM Horwath report and the issues that emerged in it.

Mrs D Kelly: I am willing to come back on this, but I just want to know now whether, in retrospect, you believe that you acted outside of the parameters as Minister in what was clearly the responsibility of the Housing Executive in relation to Red Sky and against the advice given to you by some in your Department.

Mr McCausland: In which particular —

Mrs D Kelly: The extension — the interference, as some perceive it, of setting the parameters of the Red Sky contract — and the decision to terminate by the Housing Executive.

Mr McCausland: I have already pointed out that this issue emerged within weeks — in fact, within days — of my arriving in the Department in May 2011. I wanted to have an opportunity to explore what the options might be so that, if there was a better option, it could be considered by the Housing Executive. That was all.

Mrs D Kelly: That decision was not yours to make.

Mr McCausland: I think that, if you look back, you will see that there was engagement between the Housing Executive and the previous Social Development Minister on Red Sky. The role of the Department with regard to a public body under its ambit is one that needs to be carefully considered. I did not do anything that was untoward, and, as you can see quite clearly from the correspondence, in the end, when the Housing Executive took its decision, I endorsed that decision.

Mr Campbell: A senior Housing Executive official was before the Committee, and, when questioned by a number of members, including me, said that Red Sky's problem was not consistently poor workmanship. He said that, in some regards, there was excellent workmanship, but that it could be very poor in other instances, so the issue was the variation in its workmanship. Was that drawn to your attention?

Mr McCausland: I was aware, through officials, the Housing Executive and my personal experience of having seen the standard of workmanship in my constituency, of issues that had emerged. I think that it is probably true to say that, across a number of companies, there were variations in the standard from time to time. There were examples of good workmanship from Red Sky — that is correct. I saw its work on some estates, and it was good; on others, it was not as good. Subsequently — much later on — having talked to people in other companies, I got the impression from observations that they made that cadres of workers sometimes moved from A to B, and some were of a better standard than others, but they were TUPE'd across from A to B. I found out that some were even on their third or fourth employer at one point.

Mr Campbell: My reason for asking Mr McCausland that is that an issue arises not just with other firms but with other contracts with a range of firms. The programme at the centre of all this, about which the BBC will not come and answer any questions, included a reference to what is now known as the Rinmore contract in Londonderry. A few weeks ago, I asked another witness about the Rinmore contract. I asked Councillor Palmer whether she was aware of the Rinmore situation, and her response is in Hansard:

“Yes, but, Chair, if you do not mind, I will say this: this investigation is not about Rinmore; it is about Red Sky. Under the terms of reference, I would prefer not to talk about Rinmore.”

That is fair enough. However, I would have liked to speak to a number of others about Rinmore, particularly Mr Rowntree, who was in a position to know about these things, but he refuses to come before the Committee. Had you any knowledge of the Rinmore contract?

Mr McCausland: I was aware of issues with Rinmore. I have said already that we are talking about three years ago. I am not absolutely certain of the exact point at which I became aware of those issues. It was a stock transfer scheme in Londonderry, which I later visited as part of the process of looking at stock transfer, to see the houses that had been improved and brought up to standard.

The member, and other members, I am sure, will remember that Mr Rowntree referred to Rinmore in the ‘Spotlight’ programme. There seemed to be, within the Housing Executive, some dispute about Rinmore. I was informed, eventually, by the permanent secretary that, as a result of the dispute, which seemed to involve the former chairman and the former chief executive, Mr McIntyre, a report had been produced, which I have not seen, and that the permanent secretary had written to the head of the Northern Ireland Office about the role of Mr Rowntree in the matter. I was informed of that only after the letter had been written. As the accounting officer, the permanent secretary dealt with that. I did not see that correspondence, but, after he had sent the letter, he made me aware that he had done so. I have not seen the letter, and I have not seen the emails to which Mr Rowntree referred in the programme or the initial report that was at the centre of that dispute.

Mr Allister: Mr McCausland, how many times have you been to the Red Sky offices?

Mr McCausland: Never.

Mr Allister: Never.

Mr McCausland: I have just said "Never".

Mr Allister: Have you ever met Mr Norman Hayes?

Mr McCausland: I do not know Mr Norman Hayes.

Mr Allister: Have you ever met Mr Norman Hayes?

Mr McCausland: Not to the best of my knowledge.

Mr Allister: Have you ever met Mr Frank Cushnahan to discuss Red Sky issues?

Mr McCausland: I have never met him either.

Mr Allister: After you became Minister, did you ever have discussions, as Minister, on Red Sky issues with the DUP or anyone else without officials present?

Mr McCausland: We are talking of something that was three years ago, so my recollection of individual conversations is, as I am sure the member will appreciate, somewhat vague. However, rows of white vans belonging to Red Sky were lined up outside this Building, workers with placards were here, too, and there were protests elsewhere in Belfast, so I am quite sure that there were conversations about it. It would be very surprising if there were not.

Mr Allister: What are the rules about Ministers discussing issues germane to their official functions without officials present?

Mr McCausland: I think that that is a rather interesting, but somewhat bizarre, question. As I said, when vans were parked outside the Building, workers were outside and someone asked me, "Do you see the Red Sky vans out there?", and commented on the issue, I do not think that, in that situation, it was practical to say, "Well, I cannot discuss that. I will have to go and get a civil servant".

Mr Allister: I do not think that we are talking about idle chatter; we are talking about matters of more substance.

Mr McCausland: The member did not specify —

Mr Allister: Well, let us deal with matters of more substance.

The Chairperson (Mr Maskey): Let the question be answered first, Jim, and then come back in again.

Mr McCausland: That is all I can say.

Mr Allister: Are there any rules governing ministerial engagements without officials? Maybe there are not.

Mr McCausland: I have not had anyone draw anything to my attention. At least, I cannot recall anything.

Mr Allister: Apart from flippant conversations such as you described — "Do you see all the Red Sky vans?" — were there any occasions —

Mr McCausland: I think that, for the members of Red Sky's staff — the workers — the issue was not flippant.

Mr Allister: I am not suggesting that the issue was flippant, but a conversation based on "Do you see the Red Sky vans?" might be more of that nature than a matter of substance. Were there any discussions of substance with you as Minister without officials?

Mr McCausland: I have very little recollection of any detailed conversation.

Mr Allister: Have you any —

Mr McCausland: I am sure that these matters were talked about. Certainly, as the member will be aware, Sammy Douglas and Robin Newton were in contact about a meeting, and I am fairly sure that they would have spoken to me about that, probably in the corridor or somewhere, but I cannot remember the details.

Mr Allister: You had knowledge that Mr Brimstone was going to call Councillor Palmer before that call was made, did you not?

Mr McCausland: Again, I make the point that we are dealing with events of three years ago. I have read the transcript of what Mr Brimstone said. My recollection of it, as I say, is very sparse, if anything, but there is nothing in what he has said that would be in any way unusual. I am quite happy

to accept what he said, because it would be natural that, if there was a telephone call to be made to someone of that nature, it would be raised with me.

Mr Allister: So you are accepting his evidence that it was the product of discussion between you and him.

Mr McCausland: Yes, I accept that entirely.

Mr Allister: You are saying —

Mr McCausland: The member's recollection is better than mine.

Mr Allister: Are you saying that although this matter has been much debated and discussed and been very prominent for quite a long time, you really have nothing but the vaguest of recollections?

Mr McCausland: Which matter?

Mr Allister: The matter of the phone call to Mrs Palmer.

Mr McCausland: The significance placed upon the phone call became apparent only when the programme went out, which was roughly a year later.

Mr Allister: What was the purpose of the phone call? This discussion that you had with Mr Brimstone — what was the point in making the phone call?

Mr McCausland: I had an interest in ensuring that all of the background to this was known by members of the board of the Housing Executive and that they should be aware of the concerns about, for example, Leeway Maintain. The issues of workmanship and overcharging were not the preserve of one company. In at least one other company in a different district, issues were emerging, and more might emerge if a forensic audit was carried out. To convey that information to a board member seems a perfectly proper thing to me.

Mr Allister: Why Mrs Palmer?

Mr McCausland: If I or someone from my office were to ring up a political representative from another political party, they might well wonder why I had rung them. It seemed the natural thing to speak to someone who was a member of the same political party.

Mr Allister: Was it thought that, because of that, she could be leant on?

Mr McCausland: That would have been a very futile exercise —

Mr Allister: As it turns out.

Mr McCausland: Sorry, if the member would at least let me answer the question — because a single member out of, I think, 10 on the Housing Executive board is not going to make much difference when it comes to the final decision, other than, if they are aware of the facts, they can pass those on. That is all.

Mr Allister: But at that point you were wanting the Housing Executive board to alter its April decision to terminate the contracts by 14 July. Is that not right?

Mr McCausland: They had taken a decision back in April — on 12 April — to give three months' notice to Red Sky, and that would have terminated on 14 July. As I have previously stated, I was of the view that two things were important here. One was that there should be clarity and certainty regarding the standard of workmanship and the operation of other companies adjacent to that company. Secondly, I was also interested in the concept of open procurement, but it was primarily that issue of getting an opportunity there to say, "Are we sure?". I had actually asked the chairman if he could give me an assurance that other companies adjacent, which would have been the recipients of the contracts, did not have the same issues.

Mr Allister: Yes, but, Mr McCausland, let us not beat about the bush: your letter of 1 July to the Housing Executive made it very clear that you were wanting the —

Mr McCausland: Sorry, which line is that?

Mr Allister: I do not know which line it is, but I am sure you are well familiar —

Mr McCausland: Well, no, I —

The Chairperson (Mr Maskey): A wee second, folks. Jim, can you indicate to where you are referring? And then, on the back of that question, I am moving on to two other members coming in behind you.

Mr Allister: Yes. It is the letter that was written to the chairman, asking him to review the April decision about terminating on 14 July.

Mr McCausland: Which page is this?

Mr Allister: I cannot recall what page it is in. It is pretty much clear in my memory. I would have thought that it would be pretty clear in yours, but —

The Chairperson (Mr Maskey): Refer to the page number, please, when you are asking a question.

The Committee Clerk: Is it page 121?

The Chairperson (Mr Maskey): Is it 121? That is to Jim to answer.

Mr Allister: Yes.

Mr McCausland: Page 121?

Mr Allister: Yes. Do you see that?

Mr McCausland: I can see the letter, yes.

Mr Allister: And in that letter, you are asking:

“to put to the ... Board that the termination date of the Red Sky contract should be extended from 14 July”.

And there you ask for a period of six months.

Mr McCausland: That is correct.

Mr Allister: I am putting it to you that it was quite clear that you were anxious to obtain support for that proposition when the board met. That would be the purpose of the call to Mrs Palmer. Is that fair?

Mr McCausland: I have already said that I have very little recollection other than some awareness that there was a telephone call to Mrs Palmer, but the —

Mr Allister: She was not being —

The Chairperson (Mr Maskey): Sorry, Jim. Go ahead, Nelson.

Mr McCausland: Of the detail beyond that, the letter is there. It is quite clear. It makes a request, and that is all. The period of six months was in order to give an opportunity. It was going to take a longer period than I had initially thought to carry out a proper forensic audit. I have no experience of forensic audits, but they do take some time.

Mr Allister: But, Mr McCausland, I suggest to you that it was not a phone call to enquire after the state of her health or anything else.

The Chairperson (Mr Maskey): Just ask the question.

Mr Allister: It was a phone call, quite clearly, to get her onside to support the action you wanted the board to take in reviewing its decision. Are you denying that?

Mr McCausland: I think that, first of all, the suggestion that it might — I do not think that anybody would suggest that it was a conversation about the state of anybody's health, but the content of the conversation that was held, I was not party to. I cannot comment on it, but I have to say and I have put on record that I have read what Mr Brimstone says in his evidence, and there is nothing there that seems untoward to me in any way. It makes good sense.

Mr Allister: You were not present when the phone call was made.

Mr McCausland: No.

Mr Allister: Did Mr Brimstone report back —

Mr McCausland: Not that I can — I would have remembered, I think, but the fact is that I have no real recollection of it.

Mr Allister: Did Mr Brimstone report to you?

Mr McCausland: He would have, and he indicates that he did. Again, at the time, it meant very, very little.

Mr Allister: Is that the best you can do on this matter?

Mr McCausland: Well, all I can —

The Chairperson (Mr Maskey): We are going to move on, Jim, in a second. I was just going to let you finish that one question, and then I am moving on to the next member.

Mr McCausland: Sorry, Chairman, the best I can do is tell the truth, and that is what I have done.

Mr Allister: Indeed.

The Chairperson (Mr Maskey): I will come back round to you again, Jim, if you want back in again.

Mr Dickson: Thank you, Mr McCausland. It is really, in a sense, a continuation of just that little area of discussion that we have had, not specifically about Mrs Palmer. On quite a number of occasions this morning, you have said to the Committee that you have no memory or little recollection, and you have relied on that quite extensively by way of answering questions. What papers do you now, today, have access to as a Member sitting in front of this Committee with regard to the issues of this inquiry? Are they only the papers that are in the public domain — in other words, the Committee papers that have been published, and the Hansard reports? Have you any other documents in your possession? You have no access to departmental —

Mr McCausland: I have no access to anything in the Department. I have the documentation that has been provided to the Committee, and probably not even all of that.

Mr Dickson: But you do have access to that?

Mr McCausland: Well, the papers that were provided to the Committee are in the public domain.

Mr Dickson: Yes, but you have no private or personal papers or notes of your own, taken —

Mr McCausland: I have no notes — nothing.

Mr Dickson: So you are not going to write a book?

Mr McCausland: I might write a book, but I do not think it will be about that.

Mr Dickson: But you do not retain any personal notes or —

Mr McCausland: No.

Mr Dickson: As a Minister — a former Minister?

Mr McCausland: None at all.

Mr Dickson: None whatsoever. And does that therefore account for the fact that you are entirely relying on your memory this morning in terms of how you answer these questions?

Mr McCausland: No, I am simply stating what would be understandable by any reasonable person: that three years is quite a lot of time. A lot of things have happened in three years, and a lot of water goes under the bridge. Detailed events that, in retrospect, acquire some significance, but at the time meant very little, do not become etched in the memory. All I can say, therefore, is that it is not surprising that the recollection of some of this is vague. The broad issues are very clear in my mind.

Mr Dickson: Would it be fair —

Mr McCausland: That is as far as it goes. I have no other paperwork that I can refer to.

Mr Dickson: But would it be fair to say that, if you were still Minister today, those memory losses — those absences of memory — could potentially be prompted by officials in preparation for this meeting?

Mr McCausland: I think that the Department has provided the Committee — I do not know how many forests were killed off in so doing — with a huge amount of paper. And since everything that the Committee has access to, I have access to — and if I have not referred to something, as was the case earlier on, a member will refer to it and raise the point — there is nothing that would be additional. I think that you have got every bit of paper that there could possibly be in any cupboard anywhere in DSD, judging by the amount of paper that has gone to the Committee.

Mr Dickson: But would you agree with me that it is not just the paper and what is written on it? We need your personal input to it, and you are indicating to us today that that is not as fresh in your mind as it might have been at the time, or if you were supported by officials.

Mr McCausland: I am not clear what the member is getting at.

Mr Dickson: I am just wondering. Obviously the paperwork has to be supported by the sort of questions that members round this table will ask of you, but it seems to me this morning that you are indicating that you really do not have much memory of these things.

Mr McCausland: I have stated that on several occasions. It is three years ago — in fact, three and a half years ago.

The Chairperson (Mr Maskey): Before I bring Sammy in, I will follow up that point. You referred earlier on to having read the transcripts of Mr Brimstone's evidence. Do you accept, from that evidence, that you and he alone decided that Mrs Palmer would be contacted?

Mr McCausland: That seems fairly reasonable to me.

The Chairperson (Mr Maskey): OK.

Mr Wilson: When you took over as Social Development Minister, what background were you given to the involvement of the previous Minister in this whole issue of Red Sky and the Housing Executive contract?

Mr McCausland: I was informed that the issue had been going back for quite a number of years and given an outline of it, so I knew that the issue had been raised in 2007, and a contract terminated then cancelled, and that whistle-blowers had been around in 2009. There was the ASM Horwath report in October 2010. And I was aware, in a general sense — I would not have had any detail on it — that the previous Minister had taken a very particular and personal interest in it. It certainly occurred to me that he was a representative from west Belfast, and one of the contracts related to west Belfast, so it would have been natural for him to take a particular interest.

Mr Wilson: Was any indication given to you that the previous Minister had given any view as to what should happen with the contract?

Mr McCausland: There is a practice of almost a line being drawn at the end of a period when someone comes to the election, with the previous Minister there prior to the election. It was made clear that he had taken a particular interest. The details of it, I would not have had. As regards what he wanted, I was conscious anyway from a range of Assembly questions. The issue had been aired in the 'Andersonstown News' on various occasions. It was pretty clear that there was a determination there that the contract should be terminated.

Mr Wilson: But you are not aware that the previous Minister had had —

Mr McCausland: Not other than the fact that he was supportive of that.

Mr Wilson: In a lot of the letters that we have, or the correspondence from Brian Rowntree — and, indeed, other evidence that we have had from Mr Cuddy, for example, at this Committee — there was a view that for any Minister to talk about a contract, which was live like this, was regarded as taboo. It was political interference in the operational matters of the Housing Executive and, indeed, in a live contract. Are you aware, or did officials warn you, "The previous Minister has had his fingers burnt on this. Don't be doing this."?

Mr McCausland: I think, for the 40 years of its existence, the Housing Executive operated in a particular way, and there was a very distant relationship for most of that period as regards the Department. That is why it was interesting that the previous Minister started to take a much more hands-on approach. He initiated governance reviews because he was aware that there were governance issues, as anybody would have been. I think that all politicians would have been aware that there were governance issues. That is why he initiated the investigations and reviews — the gateway review and so on. So there was work under way that indicated that there was an awareness that the very distant, hands-off, stay-away-from-it approach was not good. There has to be a good relationship and a close relationship where it is a body that is under the ambit of the Department. At the end of the day, if there are questions being asked in the Assembly by MLAs, I am the one who has to answer them, not Brian Rowntree.

Mr Wilson: And tell me this: you continued, then, the interference, if you want to use the pejorative word, that the previous Minister had exercised. What was the response of Housing Executive officials to this interest by the Minister?

Mr McCausland: It was most evidenced in the fact that we initiated the ASM Horwath forensic audit of all of the companies, particularly the adjacent ones. That simply confirmed what had been clear, I think, to some people for some time: that the management of contracts by the Housing Executive was not well done. I was interested to read some of the evidence of Stewart Cuddy and others. There seems to be an acknowledgement now, belatedly, that things were not as they should be within the Housing Executive. But there were those within the Housing Executive, coming from different angles — and one could speculate, although I do not intend to, as to motivations and whether someone is trying to cover their own back or whether there is a dispute between A and B. People have all sorts of reasons for doing things, but it was clear that there was a resistance. There was a state of denial by some people in there, and they felt that there should not be a more hands-on approach. In particular, the chairman felt that he was doing everything that needed to be done — that he had done everything that he could possibly do. I was most alarmed when he gave me an assurance, in one case, that adjacent companies had no problems there, and they could move ahead and hand contracts over, because there would not be issues there. At the same time, as early as October 2010, it was already clear to the RIU within the Housing Executive that they needed to investigate issues about Leeway Maintain.

Mr Wilson: Did it surprise you, then — I do not know if you saw the report that the chief executive gave to the board meeting on 13 April 2011.

Mr McCausland: Is that in the pack?

Mr Wilson: Yes, it is in the pack — pages 26 to 35.

Mr McCausland: Yes.

Mr Wilson: When talking about the termination of the Red Sky group and going into detail as to —

Mr McCausland: Sorry, which paragraph?

Mr Wilson: I am referring to it generally.

Mr McCausland: OK, sorry.

Mr Wilson: Referring to duplication of payments, etc etc, there is not one mention, in that report from the chief executive, that other companies may have been involved in the same practice.

Mr McCausland: I have actually seen that report previously. It is in my own papers that I have there. Yes, it is a surprise. It would have been a very natural thing to have that reference to another company where there were things happening that should not have been happening. It would have been right and proper that that be mentioned, in order to set the context for that, but it was not mentioned, which is a surprise.

Mr Wilson: I then turn you to the meeting that occurred exactly two weeks after that report went from the chief executive to the board in which he does not mention anybody other than Red Sky. On pages 43 to 51, there is the meeting that there was at the chairman's office — you were not there — on 28 April, where Mr Cuddy, having not said a thing to the board on 13 April, indicated that:

“there are currently one of two other Contractors ‘on the radar’”.

Does it surprise you? Maybe you can let us know, but did the Housing Executive ever inform you, as Minister, that its contract arrangements were so loose that not only were Red Sky able to abuse it, but others were able to abuse it?

Mr McCausland: My recollection is that this was raised with me by officials within DSD soon after I came into the Department. I do not have a precise date, but I am conscious that I was made aware of other contractors. In conversation I had raised that, as well, with the Housing Executive. That is why I asked, “Can I have an assurance that other contractors adjacent — there are not issues there? And are you therefore going to go ahead and transfer the contracts from Red Sky to other companies? Can you give me an assurance that there is nothing wrong there?”. The chairman assured me that they would be able to go ahead, and there would not be any problems.

Mr Wilson: So the Housing Executive —

Mr McCausland: It is inconsistent.

Mr Wilson: Yes, and the Housing Executive's chief executive did not think to inform the board on 11 April, then admitted to other public representatives two weeks later, that there were other people involved in the same practices.

Mr McCausland: And he would have been conscious of that. Those meetings were in March 2011. I am sure that he would have been aware, if that is March 2011, that, in February 2011, the whistle-blower had emerged regarding Leeway Maintain. Prior to that, it was simply the RIU identifying issues. I do not know what the whistle-blower produced about Leeway Maintain. I am not party to that.

Mr Wilson: Did you ever have any discussions with officials as to why there was this culture of almost keeping the practices of firms other than Red Sky under wraps?

Mr McCausland: As to why that was done, that is a question that only the chairman of that time, and the acting chief executive, can answer. I was not given any explanation as to why it was.

Mr Wilson: Were you ever able to determine whether there was any sectarian motive on behalf of the chairman?

Mr McCausland: I cannot comment on that. I have no evidence, other than to say that it is totally inconsistent on the part of the chairman and the acting chief executive, when they were aware of the issues with the other company — Leeway Maintain — to not bring it to the attention of the board at that point. I understand that Mrs Palmer was a board member. Was she aware of this? Who was aware of it? Who was on the audit committee? There are a lot of questions that need to be asked and answered, but, again, the only people who can answer those are Brian Rowntree and Stewart Cuddy.

Mr Wilson: Just coming to Mrs Palmer —

The Chairperson (Mr Maskey): Sammy, now —

Mr Wilson: It is my last question.

The Chairperson (Mr Maskey): Fair enough. I am just —

Mr Wilson: Thanks for your indulgence. Just coming to Mrs Palmer, then. Quite clearly, the chief executive of the Housing Executive never intended to inform the board of the practices of other companies. Quite clearly, Housing Executive officials knew that their contracts were so poor that other companies could abuse, and were abusing, them. You have told us that the purpose of the phone call to Mrs Palmer was to see if she would at least draw the board's attention to things that the Housing Executive officials were not prepared to draw its attention to. Were you surprised that she then took the attitude that she did — that she wanted to be part of this culture of secrecy?

The Chairperson (Mr Maskey): You are making what I consider to be clearly subjective remarks. Just for the record: that is the member's opinion. I am just making that clear for the record.

Mr Wilson: OK. It is my opinion.

The Chairperson (Mr Maskey): That is fair enough. You are entitled to say that, but I am just making the point.

Mr Wilson: Were you surprised, then, that she refused to at least accede to the request to draw some of these issues to the attention of the board?

Mr McCausland: It is certainly disappointing that people who were aware, and who had been made aware, of these issues — and should have been aware of them anyway — did not convey that to the board meeting. This is central to the thinking that was taking place on my part regarding this. I was only in the Department, but I had picked up very quickly that this was a wider problem than just one company. It may be more deeply entrenched in one than another. We will probably never know, to some extent, because to actually carry out a full forensic audit of the extent that was done, with the intensity that was done, with regard to Red Sky, would be a phenomenally lengthy and expensive piece of work if you were to do it across all of the contracting.

But certainly, even without that, the fact was that the whistle-blower had emerged and the RIU had already picked up on something that showed there was a problem there. Why people did not want to acknowledge that contracts were not being well managed at the time is something that they will have to answer for. I should say just one point: after this, we certainly came to the point where, with changes within the Housing Executive, there was a much more open approach to things, and an acknowledgement that it had not been well run with regard to contracts.

Mr F McCann: Thank you, Mr McCausland, for your evidence. Did you know Mrs Palmer?

Mr McCausland: I would have seen her on about half a dozen occasions, probably, at different events. That is about all.

Mr F McCann: What was your impression of her? Would you say she would be a trustworthy and honest person, in your belief?

Mr McCausland: There is no point in — you do not have —

The Chairperson (Mr Maskey): Fra, sorry. We had to remind a member at a prior evidence session about asking someone about someone else's motivations. You cannot really do that.

Mr F McCann: OK. Thank you, Chair. In terms of who took the decision to phone Mrs Palmer, your former PA said that it was —

Mr McCausland: What page is that on?

Mr F McCann: Pardon?

Mr McCausland: What page are you referring to?

Mr F McCann: It is in the evidence given by Stephen Brimstone on 6 October 2014.

Mr McCausland: What page?

Mr F McCann: Pages 1 and 2.

Mr McCausland: Right, OK.

Mr F McCann: Mr Brimstone said —

Mr McCausland: Sorry, you said PA; did you mean special adviser?

Mr F McCann: Stephen Brimstone.

Mr McCausland: Right, OK. Sorry. I understand now.

The Chairperson (Mr Maskey): SpAd.

Mr F McCann: SpAd. [*Inaudible.*] When Mr Brimstone was asked about who made the decision, he said:

"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."

That is, to phone Mrs Palmer. However, on page 1, he had actually said that, after discussion, in his recollection, of what would be the appropriate next step, he felt that the Minister felt it appropriate to make contact with Mrs Palmer. I take it that it was you who made the eventual decision to ask Mr Brimstone to make the phone call.

Mr McCausland: That would have been the natural thing, yes.

Mr F McCann: So it was you who asked him to do it.

Mr McCausland: I keep having to make the point, and it has come into the answer, that I have no real recollection of it, but that would have been the normal practice.

Mr F McCann: Did you talk about what he should say to Mrs Palmer in the phone call?

Mr McCausland: Again —

Mr F McCann: Let me remind you that Mrs Palmer said that, when asked to approach the board, she was asked to vote against —

Mr McCausland: Sorry, I just —

Mr F McCann: That is page 3 of Mrs Palmer's evidence on 9 October 2014.

Mr McCausland: OK. What page number?

Mr F McCann: It is at the bottom of page 3.

The Chairperson (Mr Maskey): Just hold on until we establish the electronic page number.

Mr McCausland: I was not party to the conversation. I was not there when it took place, so I cannot comment on that.

Mr F McCann: In evidence to the Committee, she said that she was being asked to vote against the taking of the contract from Red Sky and to give an extension to it. She said that she refused to do that. She said that, at that stage, Mr Brimstone became more aggressive and his language was more abrupt. In fact, it was intimidating when he said, "Look, there is no point in you being on the board of the Housing Executive unless you are prepared to do what the party needs you to do". Again, she felt that, because of her personal integrity, she could not do anything like that. You said that you took on board what your former SpAd had said. Somebody has to be telling lies. If you accept that it is not Mr Brimstone, I take it that you are saying that that is untruthful.

Mr McCausland: I cannot make any comment on the telephone conversation because I was not party to it.

Mr F McCann: So, he never came back to you and advised you.

Mr McCausland: He would have come back to me, but I cannot remember now. I appreciate the fact that it may be a bit repetitive, but it simply is the fact of the matter: it is three and a half years ago.

Mr F McCann: I understand and accept that. However, the total of that conversation is a DUP councillor who sits on the board of the Housing Executive being reminded that she needs to represent the party and to go against what she believes is right, and she stood up against that. The evidence last week from your former SpAd and some of what you have said this morning calls into question the evidence that Mrs Palmer gave about that conversation.

Mr McCausland: I have no reason to disbelieve what the SpAd said in his testimony to the Committee on 16 October. I worked with him for five years altogether in two different Departments, and what he said seems perfectly reasonable to me. I have no recollection of it. I have no reason to doubt him.

Mr F McCann: It goes back to the question that I raised earlier. You have no reason to doubt him, and he is saying that he did not say that.

Mr McCausland: I am here to answer questions of fact and things that I have knowledge of and can contribute in that way; I am not here to draw conclusions about what others may think.

Mr Allister: Something, Mr McCausland, that you have knowledge of, because you were there, is the meeting of 27 June.

Mr McCausland: What page is that?

Mr Allister: I am referring to pages 104 and 105 of the pack. I remind you that that is the meeting that you held with DUP colleagues and with Red Sky representatives without either the administrators or the Housing Executive present. I will read from the bottom of page 104 to the top of 105. This is a minute of the meeting, recording things that you said.

Mr McCausland: I point out that it is a note, not a minute. I did not see it until a long time later, at least a year later.

Mr Allister: It is a note that your private office would have had the opportunity to verify.

Mr McCausland: It is a note of the meeting.

Mr Allister: We have some knowledge from phase 1 that the private office took considerable interest in the accuracy of notes, so presumably we can assume the same in regard to this. Can we?

Mr McCausland: A person can assume whatever they want, but I do not make assumptions.

Mr Allister: Let us say what you said —

Mr McCausland: Mr Chairman, if I can finish, I can only report on things as I know them to be.

Mr Allister: OK. This note records you advising that "he", that is you:

"would like to have the administrator in place until the end of August to allow all issues relating to the handover of contracts to be considered, during this time the proposed new company might be able to progress matters."

What proposed new company were you talking about?

Mr McCausland: It is quite a vague statement there indeed.

Mr Allister: That is why I am asking you what company you were talking about.

Mr McCausland: I cannot recall the exact significance of that; I do not know.

Mr Allister: You do not know what you were talking about.

Mr McCausland: I would have known at the time.

The Chairperson (Mr Maskey): Sorry, can I make a point? I would not characterise that as "a vague statement"; I think that it is quite specific. "Proposed new company" seems to me a specific rather than a vague reference.

Mr Wilson: There is a reference in the earlier part of that minute, where it is Mr Cooke who talks about a new company.

Mr Allister: Yes, but this is now the Minister speaking; it is the Minister advising.

Mr McCausland: Give me a moment to read it. There is a reference to that in paragraph 4; that is correct.

Mr Allister: Yes, but this was you coming in on side with that to give the new company time. So, is the new company the reincarnation of Red Sky? Is that what we should understand?

Mr McCausland: The phrase "new company" must refer to the new company that Mr Cooke referred to in paragraph 4.

Mr Allister: It is fair to characterise that as a reincarnation of Red Sky.

Mr McCausland: The terminology regarding company law is a matter that I will leave to others.

Mr Allister: Let us not quibble, Mr McCausland. We are talking about whatever new company might emerge out of Red Sky. Is that right?

Mr McCausland: I do not know whether it was going to be bought over or dealt with in some other way. I could not possibly —

Mr Allister: When you were talking about the "proposed new company", you were talking about a proposed new company — a phoenix that would arise from the ashes of Red Sky.

Mr McCausland: That is an interesting phraseology.

Mr Allister: Do you quibble with it? Surely, that is clearly what Mr Cook is talking about and which you are then endorsing.

Mr McCausland: I have no knowledge, and did not have any knowledge at the time, of the detail of that. He obviously did refer to some company or other, but I have no knowledge of it.

Mr Allister: What were you saying when you said that this time might also give them time to be able to progress matters? What does that mean?

Mr McCausland: We are dealing with events of over three years ago. It does not specify: it is a note of a meeting; it is not a full minute. If it were a full minute, it might explain exactly what was meant, but it is only a note.

Mr Allister: I am asking you to do the best you can to explain what you meant when you talked about giving time so that the new company might be able to progress matters.

Mr McCausland: It is also important to bear in mind that I was brought here under oath. Therefore I have to be very careful in what I say to make sure that I am not saying something that is untrue or which would misrepresent something. I can, therefore, simply state the fact that there is not sufficient information in that note to enable me to comment on it.

Mr Allister: I do not think, factually, that you are under oath today.

Mr McCausland: I assumed that that continued from previous occasions, because I was never informed differently.

Mr Campbell: Is that the case, Chairman?

The Chairperson (Mr Maskey): I do not think so, but we can seek to establish that.

Mr McCausland: It is a cause for concern that, over an hour into the meeting, the Committee is not clear whether it is under oath.

Mr Allister: You are not suggesting to us, Mr McCausland, that your evidence would be any different if you were or were not under oath, are you?

The Chairperson (Mr Maskey): I do not believe that you are under oath. It is interesting to note that if you had thought that, you might have thought of asking or you might have just presumed so. There is no fault intended anywhere. I do not believe that you are under oath.

Mr Allister: But it could be under the assurance that you are not suggesting that your evidence would be different.

Mr McCausland: I am not suggesting anything; I am simply stating.

The Chairperson (Mr Maskey): One at a time. Fra, Mickey, a wee bit of order. We are doing well here. The meeting is measured.

Mr Campbell: At least the meeting is still going on, Chairman; that is progress.

The Chairperson (Mr Maskey): I am working on the presumption and the understanding, as advised, that you are not under oath. No oath was administered for this session.

Mr McCausland: That said, it makes no difference, because I would answer the questions honestly in every case.

Mr Allister: Then why did you raise the point?

Mr McCausland: Because, I think, a document was circulated earlier that was borne of legal implications. I understand now that the Chairpersons' Liaison Group intends to produce guidelines and guidance on bringing people under oath, because there are no such guidelines at present. This was at the first meeting that I had attended of the Chairpersons' Liaison Group a few weeks ago. The Chairperson was not there, but the main item on the agenda was people being brought to Committees under oath. It was pointed out to the Chairs there that there is no Assembly guidance on that and that there was a need to produce some.

Mr Campbell: Was that as a result of this inquiry, Chair?

The Chairperson (Mr Maskey): I was not at that meeting, so I am not going to speak in any detail on it, but a report was brought to the Chairpersons' Liaison Group; it is a matter in progress. The administration of the oath or affirmation was directed and guided by the Assembly's legal services, so we took guidance. It is clear that the administration of an oath has legal implications.

Mr Campbell: Is that directly as a result of our inquiry?

Mr McCausland: Reference was made to this inquiry at the meeting.

Mr Campbell: I am glad to hear that, Chairman, because that means that at least some good will come of this.

The Chairperson (Mr Maskey): I have no doubt that members will have views on it in due course, but the administration of an oath or affirmation, as was opted for by a number of witnesses, has its own implications.

Mr F McCann: Do they have equal weight?

The Chairperson (Mr Maskey): Yes, they do, and this inquiry has been directed and assisted by the Assembly's legal services, so I am satisfied, as I believe are all members, that the system under which we are working has been guided by fundamental legal requirements and obligations. Until such time as that may change, that is the guidance under which we are operating.

We will move off that issue because it is clear that the Member is not here under oath.

Mr Allister: So that we are clear, Mr McCausland, you say that you cannot help us as to what you were talking about when you said that the proposed new company might be able to progress matters.

Mr McCausland: I would not know the precise meaning of that.

Mr Allister: But they are words or sentiments attributed to you.

Mr McCausland: That is correct.

Mr Allister: Of course, this was a meeting that you had been advised by your officials not to hold. Is that right?

Mr McCausland: That is incorrect. I do not have the legal advice in that regard, but the implication of the core of what I was told was that it was — sorry, if I can just pause for a moment to look through my papers —

The Chairperson (Mr Maskey): Go ahead.

Mr McCausland: This was the meeting on 27 June. I cannot find it here, but the gist of what I was told was that I was free to meet whomever I wanted to meet. Ministers can meet whomever they want. Sorry, it is in paragraph 2. Following on from Robin Newton's request on 17 May for a meeting with me, it was arranged that that would take place on 27 June. Departmental officials provided me with a briefing in advance of the meeting, and that has been copied to the Committee. Senior housing officials also attended the meeting. I should add that the Housing Executive was aware of the meeting before, during and after. A view was also sought from the Departmental Solicitor's Office and, while

the legal advice has not been provided to the Committee, members will be aware that I advised the Assembly that I was advised that Ministers may meet such persons as they chose.

Mr Allister: Your officials had drafted a response to the MLA's request declining the meeting. The chronology that we have shows that your special adviser overrode that with your authority.

Mr McCausland: It is important that I have ownership of letters that go out in my name. Officials advise, and the Minister looks at the advice or the draft and considers it.

The initial draft said that it was essentially a matter for the Housing Executive and that it would not be beneficial — I think that those were the words used. I was conscious of the extensive public interest in the issue and the concern in the East Belfast constituency. By and large, I tried to accommodate people, and the final version suggests that if the Member still wanted a meeting that I would be willing to meet.

Mr Allister: The constant theme of the advice was that those were contractual matters between the Housing Executive and the administrator.

Mr McCausland: That is correct.

Mr Allister: Was that meeting and others not you seeking to meddle in those contractual arrangements and to abort the termination of the contract and to extend it by six months? Was that not you meddling in contractual matters?

The Chairperson (Mr Maskey): Jim, we had a session this morning. I remind members to be mindful of their language and not to use pejorative terms and so on.

Mr Allister: I am not sure what the pejorative term was. Was it "meddle"?

The Chairperson (Mr Maskey): Yes.

Mr Allister: Well, was that not you trying to have an influence on contractual matters between the Housing Executive and the administrator, even at a meeting from which the administrator was excluded?

Mr McCausland: I do not know whether it is appropriate to use the word "excluded". I arrived —

Mr Allister: He was not present.

Mr McCausland: Yes. That is a more accurate account.

Mr Allister: By determination, he was not present.

Mr McCausland: If you would let me finish without interrupting. Chairman —

The Chairperson (Mr Maskey): Go ahead. You have the Floor.

Mr McCausland: The terminology that I would use is that it is right and proper that the Minister should take an interest in those matters. They are matters of public interest and matters on which I might well have had to answer questions in the Assembly. Questions had already been asked about that contract during the previous Minister's time. The media, and people generally, were asking about it. I think that it is a good thing to listen to people and hear their views.

I understand that Peter Cooke has given advice to the Committee. It says that he had given the Minister examples of irregularities about the performance and that he felt that the company was being victimised. In the course of that meeting, he also provided information about the point that he raised before the Committee, which was the coding system for jobs. Various examples, some more ghoulish than others, have been given of workmen arriving to do a piece of work for which there was no code. When they were told that the job involved a big tree, they put in for two trees, and if there was a car in the garden as well as a lot of rubble, they put in for two gardens, a big garden or whatever else. There were peculiarities and weaknesses in the way the work that was undertaken was reported. In that

way, as well as others, the management of contracts was flawed. It was flawed because of the hands-off approach by the Housing Executive and the weaknesses in the coding system.

Peter Cooke made that point, and I was interested to hear that from him. At that time, I was not made aware of that detail of information by anyone else, although I heard it subsequently from other contractors.

Mr Allister: It moved far beyond gathering information. It moved to a point at which a Minister was seeking to have the relevant body, the Housing Executive, extend a contract by six months. Surely that was a Minister seeking to bring influence on a contractual matter.

Mr McCausland: It was expressing a concern — a legitimate concern that was subsequently demonstrated to be a very sound concern that there were issues with contractors more widely, and I have referred previously to the issues with the contracts undertaken by Leeway Maintain.

I wanted an assurance that there was no danger of contracts being taken away from company A and given to company B without some assurance that the same issues would not arise there.

In that context, I held a meeting with the Chair of the Committee on 6 July — I do not know on which page in members' folder there is a record of that meeting or if it is in the folder. The board of the Housing Executive met on 5 July and took its decision. I wrote to the chair of the Housing Executive on that point, but I also met the Chair of the Committee on 6 July. There is a section in the paper that was prepared and drafted for me on that day that I would like to refer to. It summarises pretty clearly the issues that were in my mind. It states:

"When I took up office, I was fully briefed by my officials on the issues that arose from the governance audit and gateway review of the Housing Executive that was carried out last year by my predecessor. This highlighted clearly that there were issues in relation to the existent response maintenance contracts."

It continued:

"The recommendations from the gateway review in relation to procurement and contract management are now being implemented."

That was at that point in 2011 and it was:

"to ensure that the Housing Executive enters into a new contract management regime."

The document continued:

"The date for the completion and implementation of the new contract management regime was to be October/November this year when new contracts and contractors would be in place."

That is useful in setting the context. There was a concern about the wider picture.

At that time, I was also briefed on the situation with Red Sky and was broadly content with the actions that had been taken by the Housing Executive. I confirmed that in a letter to Naomi Long: it was not just one party that had raised the issue of Red Sky with me. She had technically raised it with my predecessor, Alex Attwood, but, because of the election, the response was made during my period in office. I wrote back to her on 25 May 2011.

It may also be useful to refer to the letter that was sent to her. In it, I stated that I shared her concerns about the impact on Red Sky employees, about the knock-on effect on the wider economy, the investigation process and so on. She made those points clear in her letter, which the Committee probably has.

My officials were also assured by the Housing Executive that ongoing regulation and inspections had not identified similar concerns with other contractors, other than in one area, which was subject to further detailed investigation. That was not the outcome of the ASM Horwath forensic audit, which looked into things in more detail. However, having received more information from the Housing Executive about the Red Sky issues and other investigations ongoing in the Housing Executive into contractors and Housing Executive personnel, I became increasingly concerned that issues similar to

those in Red Sky that led to the termination of its contract might have existed with other response maintenance contractors. In light of that, and to ensure that those issues were not endemic across contractors, I instigated a forensic investigation similar to the one carried out on Red Sky. That was initiated by me and not by the Housing Executive, and it looked into other contracts, particularly those adjacent contractors to which the Housing Executive intended to assign the Red Sky contracts.

I wrote to the Housing Executive on 1 July and asked that, rather than assigning the two adjacent contractors with whom similar problems may exist, they would take that forward through an open procurement competition. I attached three conditions to that request: that response maintenance services to tenants must not be affected; that the administrator should state that he could continue to service the contract — it subsequently turned out that that was not possible — and that it was implicit that the open procurement exercise was to be carried out within a reasonable timescale. My primary concern throughout had been a focus on having new contract arrangements in place and good contracts that would underpin the best possible services to be provided to tenants. I received a response from the Housing Executive that focused on its response, should I issue some direction on that matter. Once it became clear that the administrator could not continue beyond a short period of time, all that became irrelevant and the thing moved ahead. It is important to put on record those points about how other politicians, outside my party, had expressed concerns about the impact of the contract being reassigned. They had concerns which [*Inaudible.*] and it was also highlighting the fact that I wanted to have that forensic investigation carried out as quickly as possible but, at all times, ensuring that the response maintenance service to tenants must not be affected. That was drawn up by officials, not by me.

Mr Allister: It is quite clear that, by your letter of 1 July, in respect of a contractual matter between the Housing Executive and the administrators of Red Sky, you were seeking to have the Housing Executive extend the termination of that contract by six months. Is that not right?

Mr McCausland: The six-month period was to enable the forensic audit to be carried out.

Mr Allister: No. According to your letter, the contract would be for a period —

Mr McCausland: Which page are we on?

Mr Allister: Page 121.

Mr Allister: It states:

"This contract would be for a period of six months or until the new contract procedures can be put in place."

Mr McCausland: Sorry, just bear with me. There are two points. I mentioned one of them: the need to have the forensic audit carried out and completed — and there was a period of time for that — or until the new contract procedures can be put in place. There seemed to be some sort of lack of speed on the part of the executive in getting to new contracts. It was about to award new contracts but seemed to be taking an inordinately long time about it. The timetable for that kept slipping. So, it was important to put in there:

"or until the new contract procedures could be put in place".

It might have been possible that it could be quicker than six months, or it might take longer; we do not know.

Mr Allister: Is it not quite clear, from what you said at the 27 June meeting, that part of your thinking was that those six months would give the new company time to "progress matters"? Was it not your thinking that they might be able, in procurement, to take over the contracts that Red Sky had held? Is that not what you meant by progressing matters?

Mr McCausland: Mr Allister was not there —

The Chairperson (Mr Maskey): Just finish that question and then we will move on to other matters.

Mr McCausland: — and he is not a mind reader.

Mr Allister: That is your answer.

The Chairperson (Mr Maskey): Can you answer the substance of the question?

Mr McCausland: I have already stated that, as regards that particular line in that note, I cannot really comment on the precise significance of it.

The Chairperson (Mr Maskey): OK. Fair enough.

Hansard might record that, in the earlier part of your evidence, in answer to Mr Allister, I think you said that you were not advised not to attend the meeting which subsequently happened on 27 June; and then you referred to the legal advice that you got from the DSO, which said that a Minister may meet a person whom he chooses — or words to that effect. In the briefing from the Department, on pages 74 and 75, the recommendation on page 75 is that you should decline the invitation to meet Mr Douglas and so on.

Mr McCausland: The reason given there is the one stated. The key word there is "recommendation".

The Chairperson (Mr Maskey): The point I am making is that you were recommended by the Department not to attend the meeting and then, further to that, on pages 92 and 93 there is a briefing for the meeting, which you went ahead with. Paragraphs 4 and 5 are quite relevant in that they refer to these matters about the contract and then you are advised:

"to be cautious in relation to any discussions around these issues. Termination of the contract is a matter between the Housing Executive and Red Sky and the appointment of the Administrator by Red Sky has now placed matters relating to the future of the company, including any potential sale, in the hands of the Administrator."

I draw that your attention because that —

Mr McCausland: The reason given for the recommendation is there on page 76, but it is purely a recommendation.

The Chairperson (Mr Maskey): Part of the clear and consistent advice, I would suggest, from all of the other evidence is that you were being advised, as Minister, not to accede to that request.

Mr McCausland: For the reason given there: it would not be beneficial. That was the key thing in the letter. The initial draft of the letter was that it would not be beneficial. My view was that it was beneficial for me to hear whatever information I could glean on this because it was proving difficult to get information. If you can get some, that is a good thing. It is better to be informed than not.

The Chairperson (Mr Maskey): But it was against the advice of the Department. That is the point that is being established.

Mr McCausland: Let us be clear precisely what the advice was. The advice was that it would be almost nugatory or pointless because this was a matter for the Housing Executive. However, I wanted to make sure that I was well informed and had as much information as possible. As we are already aware, information with regard to Leeway Maintain was mentioned at one stage. Yet, when the report was put to the board of the Housing Executive, it was not mentioned. It is important to get as much information as possible. I am sure that members would agree that it is right to be informed.

The Chairperson (Mr Maskey): Yes, but I was just establishing the fact that your own permanent secretary, Will Haire, in his evidence, confirmed that you were advised to decline a meeting on the basis that these matters were ongoing contractual matters. I was just establishing that. You are not disputing that.

Mr McCausland: I do not have his testimony in front of me, but that is what it says on page 76, in the recommendation in the briefing paper that was provided to me on 27 May.

Mr Campbell: Surely the key point is what happened after it became clear that you were going to have the meeting having received the advice. Did the permanent secretary or any other senior official in your Department then say, "Minister, if you do this, in our view, x." Were you given a warning that this would be completely unacceptable in that you had a take a directive in order to do it? Were you given any advice of that nature?

Mr McCausland: No. Mr Campbell has hit the nail on the head there. That is exactly the point: there was no subsequent advice.

Mrs D Kelly: I am pleased to hear that there are some parts of which you have very clear recall and others of which you obviously do not.

Mr McCausland: I am sure that Mrs Kelly —

The Chairperson (Mr Maskey): Sorry, Mr McCausland. Dolores is asking a question.

Mrs D Kelly: It is just that I wanted some clarification. Mr McCausland, in his evidence today, said, referring to the Housing Executive management of the contracts, that they were not being well managed and that it is something that it will have to answer for. Yet, all that we have heard today and in earlier testimonies is that, when the Housing Executive was going to manage well a contract that was clearly failing, the Minister was clearly interfering in the conditions of that contract in seeking it to be extended. Can you see that that poses a number of concerns for me and others? It does not sit with your evidence in that there appears to have been concerted efforts on your part to retain, extend and allow time potentially not only for Red Sky to regain the contract but, if that were not possible, to re-emerge as a new company.

Mr McCausland: First, Mrs Kelly used the term "manage well". This was an attempt to address an issue that was the result of shortcomings and failures in the Housing Executive system, because it was not monitoring contracts properly. I am sure that Mrs Kelly would acknowledge that that is indeed the case. It was addressing issues that arose because of serious shortcomings. I think that those shortcomings are now generally acknowledged, and that is why there is a totally new regime with new contracts. The Egan contracts required a much more hands-on approach. The Housing Executive adopted a hands-off approach. Therefore, the Housing Executive was belatedly looking at what it could do in a situation that was, to a significant extent, of its own making. As I have said, my concern is also that there was at least one other company in which similar issues were identified. I was simply asking that there be an opportunity for that forensic audit to be completed so that, when contracts were handed across to somebody else, we were indeed sure and certain that the same issues would not arise again.

Mrs D Kelly: I was always taught very simply that two wrongs never make a right. I cannot see how one failing company would be protected whilst you seek to establish whether another company was guilty of the same. I think that we will agree to disagree on that point.

A further question goes back to the issue of the phone call to Mrs Palmer. Can I clarify whether or not I heard you say that, whilst you had no recollection of the content of the phone call, it is unlikely that the SpAd would have made such a call without your knowledge?

Mr McCausland: That is correct.

Mrs D Kelly: Then, may I ask what conversations, if any, you have had with your colleagues, Jeffrey Donaldson, who was representing Mrs Palmer at internal party meetings with your party leader, and whether your party leader expressed any concerns? In Mrs Palmer's evidence, she states that Mr Brimstone admitted that her interpretation was the correct interpretation of what was said, although Mr Brimstone has subsequently no recollection of the content of that conversation.

So, have you had conversations with your party leader and Jeffrey Donaldson in relation to that phone call? What concerns, if any, do you have about the "party first" phraseology that Mrs Palmer said was used? What do you think it meant in that context? Why do you believe that the apology that Mrs

Palmer was promised by your party leader has not yet materialised to her satisfaction based on what appears to be the internal investigation within your own party?

Mr McCausland: I had no role in the internal workings of the party with regard to this.

Mrs D Kelly: So, you have never had a conversation with Mr Robinson about it?

Mr McCausland: I did not say that.

Mrs D Kelly: I am asking you.

The Chairperson (Mr Maskey): Sorry, Nelson. When you strip it all back, there were a couple of questions in there. You know what they are.

Mr McCausland: I did answer the first one. I said that I had no role in those internal conversations. As regards who within my own political party I talked to or have not spoken to, that is all subsequent to this. I think it is outside the remit of the inquiry. Of course, I will have talked to individuals in the party. It would be bizarre if one did not. However, any conversations that were held are internal matters within a political party. I am not party to the internal workings of Sinn Féin. I am not party to the internal workings of the SDLP. I think that there the matter should rest.

The Chairperson (Mr Maskey): In fairness, I think that the questions are pertinent to the inquiry because they relate to a person's evidence and the naming of other individuals who were allegedly participating in discussions. You are saying that you have no knowledge of that.

Mrs D Kelly: I was not asking about the internal workings; I was asking about the telephone conversation. How did you interpret it? How did you interpret what was meant by "party first"? I was asking whether Jeffrey Donaldson and Peter Robinson ever had any conversations with you, as Minister, around that in the whole furore that followed the 'Spotlight' programme. In Jenny Palmer's evidence, she states that Mr Brimstone, at the internal party meeting, accepted her version of events. Therefore, do you have any concerns about the actions of your SpAd and whether he was acting with your full knowledge and blessing in what he said to Mrs Palmer and how he said it?

Mr McCausland: Mrs Kelly moved the goalposts slightly by saying "as Minister". As Minister in DSD, I had no conversations with members of the party about this. As an individual member of the party, I may well have talked to people, but that is a separate matter. That is internal to the party. As Minister, I did not. I was not approached in that context and there was no conversation in that context at all. I had no role whatsoever in any of the meetings that were held subsequently with Mrs Palmer. So, I could not comment on them.

Mrs D Kelly: So, you are now telling us that you are able to completely divorce the conversations you have had as Minister with those you have had as a member of the DUP and that you may have had conversations as a member of the DUP but not as a Minister.

The Chairperson (Mr Maskey): We need a bit of guidance. Are you seeking to ask the former Minister if he has any view on the alleged exchange between Mrs Palmer, Stephen Brimstone and other party colleagues?

Mrs D Kelly: That is one part.

The Chairperson (Mr Maskey): That is what I think you are trying to get at. You need to ask the question perhaps more directly.

Mr McCausland: All I can repeat again is that I was not there when the telephone conversation took place. I was not there when there were subsequent meetings with Mrs Palmer and, therefore, I have nothing to add.

Mrs D Kelly: I have to say, Chair, that I believe the answers to be unsatisfactory.

The Chairperson (Mr Maskey): OK. You posed a question and got answers. You can make your own mind up in due course.

Mr McCausland: It may not be the answer that Mrs Kelly wanted to suit her agenda but it is the truth.

Mrs D Kelly: Chair, I do not have an agenda other than seeking the truth.

The Chairperson (Mr Maskey): I will not allow that to go any further.

Mr McCausland: That is a surprise, Mrs Kelly.

The Chairperson (Mr Maskey): Sorry, Dolores and Nelson, we are moving on from that point. People can make their minds up in due course when they consider all the evidence in the round.

Mr Allister: In terms of the conversation, whatever was in it, between Mrs Palmer and Mr Brimstone, you have the advantage of the outcome of a fact-finding exercise by DFP. Is that correct?

Mr McCausland: A piece of work was undertaken. That is correct.

Mr Allister: When did you receive that piece of work?

Mr McCausland: I do not have the details of the dates with me.

Mr Allister: I am sure that you can help with whether it was last week or last year.

Mr McCausland: It was certainly not last week because, last week, I was not in the Department. It was at the time when I was in the Department but I could not recall an exact date.

Mr Allister: So, you cannot help us with when that exercise concluded. If the Committee had evidence that it seemed to have completed in or about the latter part of September 2013, would that gel at all with what you believe?

Mr McCausland: I cannot comment because, as I say, I cannot recall. I would need to go back and enquire.

Mr Allister: You cannot recall that either.

Mr McCausland: I have already stated that I do not know the date on which it was given to me.

Mr Allister: Do you recall whether it reached factual conclusions?

Mr McCausland: The position regarding it is into the realm of a personnel matter.

Mr Allister: Quite distinct from personnel matters, did it reach conclusions of fact?

Mr McCausland: I am not going to comment on personnel matters because, as the member will be —

Mr Allister: What are you trying to hide about it?

The Chairperson (Mr Maskey): Sorry, Jim —

Mr Campbell: Come on, Chairman. Come on.

The Chairperson (Mr Maskey): Sorry, Gregory, let him finish.

Mr Campbell: This man thinks that he is back at the Bar Library.

Mr Allister: Just a wee second, Gregory. The sentence was not finished, and you are trying to challenge me.

Mr Campbell: I am not challenging you at all; I am making a factual statement about Mr Allister.

The Chairperson (Mr Maskey): I have already indicated to Jim. I am asking him to ask a question as opposed to making comments like that. Allow me to do my job.

Mr Allister: We know that, if the report followed its terms of reference, it was to make findings of fact and then a recommendation based upon those facts. Did the report, as furnished to you, make findings of fact?

Mr McCausland: I will not comment on what is a personnel matter. That would be totally inappropriate.

Mr Allister: Acting upon the recommendations might, on one construction, take it into the realms of personnel if, for example, it recommended some disciplinary action, but whether or not it reached findings of fact is itself a question of fact.

Mr McCausland: I am not going to comment on something that is part of a personnel matter.

Mr Allister: But you know the answer to my question.

Mr McCausland: I am not going comment on what —

Mr Campbell: Chairman, there is second-guessing here.

Mr Allister: So, you wish to withhold from the Committee the findings of fact that might help the Committee on the dispute between Councillor Palmer and Mr Brimstone about what was or was not said in that conversation.

Mr McCausland: I took legal advice from the Attorney General on the matter and acted on his advice. I am not going to comment now on what is a personnel matter. That would be inappropriate.

Mr Allister: How would it be inappropriate to tell us, as a Committee, probing these factual issues, whether that report reached conclusions on questions of fact? I am not asking what they are; I am asking whether it reached conclusions on questions of fact. How would that prejudice anything?

Mr McCausland: I have already answered the question.

The Chairperson (Mr Maskey): OK, Jim, I am making a ruling that Mr McCausland, as a Minister, refused to provide that as requested by the Committee, and that the matter is now subject to an engagement between the Committee and the current Minister. Mr McCausland, in his capacity as a witness this morning, has declined to give any further information and, on that basis, we will move on to the next question.

Mr Campbell: Mr McCausland, there are a couple of references here. I want to get into the whole issue of Red Sky and the rationale behind it. According to our notes, a letter was sent by the MP for East Belfast, Naomi Long, to you about Red Sky. The third paragraph states:

"I am concerned for the jobs of the 400-plus employees of the firm".

Then, Robin Newton wrote to you around the same time about the implications that the possible ending of the contract would have for the employees. You replied:

"However, like you I am concerned about the 400 plus employees of Red Sky".

So, there was a fairly clear line of thought among those in East Belfast to you, as Minister, about their concern about the jobs. I am not asking you to second-guess anybody else. I will leave others to do that. I am asking you to answer for yourself. That is the position of the public representatives in East Belfast about Red Sky. There has been a series of questions to you today and on previous occasions from members around this table about your approach to the Red Sky contract. People on the other side of the argument are very clear that their concern was to protect the jobs. Did anybody allude to you, because I have not heard it here in this questioning, at the time when you were Minister, subsequent to those letters, at the time of your meeting or at the time of the debate in private, by

letter, email or public press release as to why they think that there was some sort of association or inference between you and Red Sky?

Mr McCausland: Sorry, could you repeat the last point?

Mr Campbell: It appears to me that there is a line of questioning that appears to imply that there is some sort of connection that you have not elaborated upon yet. Nobody has actually said what that is. I have not heard one questioner say it. I am just wondering if you have heard it or whether anybody has written to you implying what that is.

Mr McCausland: Nobody has suggested to me that I have any connection with Red Sky, and it would be impossible for them to do so because I do not.

Mr Campbell: I was coming to that. So, nobody has then been man enough or woman enough to stand up and say, "What I am getting at here is", and then say it. Nobody. Is that right?

Mr McCausland: That is correct.

Mr Campbell: Thank you.

The Chairperson (Mr Maskey): I remind people that the Committee and the inquiry are not inquiring into Red Sky or any other contractor. We are dealing with the terms of reference for the inquiry. This inquiry has no remit to inquire into any company.

Mr Campbell: That is not what I was asking. The inference is fairly clear from the series of questions, but nobody went to Mr McCausland when he was Minister to make any claim or implication.

The Chairperson (Mr Maskey): You have made your point, and it is up to others to —

Mr Campbell: I have and nobody has denied it either.

Mrs D Kelly: They would not grace it.

The Chairperson (Mr Maskey): I am not sure whether that is a relevant point.

Mr Campbell: Maybe they will in the Chamber.

The Chairperson (Mr Maskey): Perhaps. That will be a matter for anybody who has that in their mind, but nobody that I am aware of has indicated that it is.

Mr F McCann: The issue of 400 jobs being lost in east Belfast is has been brought up. However, the Housing Executive maintenance end of the contract was only a small part of the overall business that Red Sky had. How many jobs were actually affected?

Mr McCausland: I do not know. I knew at the time as it was a point that was raised then, but I do not know today.

Mr Wilson: Regarding the meeting that the Housing Executive was not present at. They did not object to the meeting, or did they?

Mr McCausland: No, they were aware of it beforehand.

Mr Wilson: According to Mr Cuddy, not only were they aware of it, they were provided with briefing forms.

Mr McCausland: That is correct. I emphasise that they were aware of it before *[Inaudible.]* As you correctly stated, Mr Cuddy confirmed that they had provided information.

Mr Wilson: In his evidence to the Committee, he stated that, whilst they were concerned about it, they did a briefing for it.

You said that you were not aware of the previous Minister's involvement in this. Mr Cuddy informed us that the previous Minister wanted the Housing Executive to terminate the contract. That was before there was any evidence or report. On a number of occasions during his evidence, he talked about the previous Minister making representations about the termination of the contract. Were you ever made aware by your officials that there had already been discussion from the Department about the termination of the contract?

Mr McCausland: I was aware of the fact that he had an interest in the matter and had contributed to the discussions, but I do not have the details of those discussions. I was conscious that he was fully supportive of terminating the contract.

Mr Wilson: Are you aware of any letters, like the ones you received from Mr Rowntree or Mr Cuddy, on how appalling it was for a Minister to want to be involved in the internal workings of a live Housing Executive contract?

Mr McCausland: I would not have been given access to papers and correspondence for the previous Minister. That seems rather bizarre with freedom of information, but that is the protocol. He certainly had a strong view on the matter.

Mr Wilson: It seems to be a constant theme from the Housing Executive that Ministers should take no interest in its internal workings.

Mr McCausland: There was an ethos in the Housing Executive that grew over the years where that was very much the thinking and that was how it operated. It also became clear that in the Housing Executive there were tensions and deep divisions. That is illustrated by the point that Mr Campbell raised at the start regarding the chairman, Mr Brian Rowntree. That was a particular example, but more generally there was an attitude that the political process, politicians, public accountability and all of that should stay away. I think that challenge is a good thing, and I sought to challenge the Housing Executive by asking questions.

We are probably drawing to a close, so I will just make the observations. That is how I came to identify issues such as, when you have only 26 tower blocks in Northern Ireland, why there was no strategy for maintaining them. Why do you have 5,000 properties with no cavity wall insulation and nobody has done anything about it? That was buried as an issue. Why have you not put double glazing into your properties, and why do you not even know how many have it? In one of the first meetings with the chairman — I think that it was the first meeting — I put a picture on the desk of three or four houses in a row in my constituency with holes in the walls and the roof falling off, and he said that we would have to get those knocked down. I said that, before he knocked them down, he should make sure to take the tenant out of the second one, because a man was living in the middle of that. They do not like being challenged on that sort of thing.

Mr Wilson: The surprising thing was that, when Mr Cuddy gave his evidence and was asked about who all knew about the overcharging and whatnot in the Housing Executive, he said to me that that was before they commissioned the forensic accounts. He said that they were all there and that none of them, except presumably the chief executive and possibly the director of housing, would have known whether there were major issues. Do you think that the Housing Executive was embarrassed at the shambles and the way in which senior, well-paid officers were running it and that some of the fury that is now being directed at you by the Housing Executive was because you dared to expose that?

Mr McCausland: I think that you are very much right there. It is very much a diversionary tactic to get attention away from the exposure of all the issues. I mentioned tenants living with poor glazing and no cavity wall insulation, and a very vulnerable tenant living in the middle of dereliction with a hole in the wall of his house. There was almost an attempt to bury those and wipe them out of the story. A lot of this, I think, unfortunately, has become simply a way of doing that.

Mr Wilson: Somebody as senior as Mr Cuddy, who was then acting as the chief executive, said:

"I assumed that the contracts were being operated satisfactorily."

He was talking about 2010.

Mr McCausland: When you read that, what comes across — it was something that I had heard from others in the executive — is that there was a top tier that ran the show, and there were others further down who may not have been —

Mr Wilson: Do you find it surprising that members of the Committee almost seem to think that your interference as Minister to try to expose and deal with some of those things was behaviour that was untoward as Minister?

Mr McCausland: There was a boil there that needed to be lanced; it has been lanced, and we are in a better place because of it. The Housing Executive is in a much, much better place today. A lot of the things were covered up and concealed for decades — certainly for a decade. A lot of good work was done at the beginning, but an ethos developed that was not good. We are away from that now, and that has been because of the challenge. However, people do not like to be challenged in that way.

The Chairperson (Mr Maskey): I have one final point. On page 107, you have a briefing in the name of Heather Cousins. This is in respect of the meeting that you had with the Housing Executive to discuss the termination of the Red Sky contract. On page 110, in paragraph 7 at the top, you indicated that you might consider issuing a directive on the matter. Obviously, that has been referred to in other people's evidence. Can you give us some context for issuing such a directive and your consideration of it at the time?

Mr McCausland: Let me state categorically that, having been two years in DCAL and three years in DSD, I never once issue a ministerial direction in the whole of those five years. In fact, the issue had never even occurred, been talked about or thought about when I was in DCAL. I was just into DSD, and I was looking round to inquire what the options and the routes were and whether I could have a good understanding. So, it was just as much about finding out information about why the coding system did not work very well, why the contracts were not being properly managed, the relationships and so on. That was part of the picture. It was something that was mentioned, but it was not pursued.

The Chairperson (Mr Maskey): OK. Thank you for that. No other members have indicated that they wish to speak. Is there any final remark that you want to make this morning, Mr McCausland?

Mr McCausland: No. I am quite content. I am happy to come here. I just wish that some others, including the former chairman, might appear.

The Chairperson (Mr Maskey): OK. You understand, on the basis of the —

Mr Wilson: Maybe the BBC as well.

Mr McCausland: The BBC might come as well.

The Chairperson (Mr Maskey): OK, folks. Hold on a second. We are winding up the session. For the record, I want to make the point that the Committee may wish to return to you again. Obviously, you are entirely free to make contact again with the Committee if anything else comes to your mind that you believe is of relevance. Thank you very much for your evidence.

Mr McCausland: Thank you.