



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 Michael Sands

8 January 2015

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Members present for all or part of the proceedings:

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

Witnesses:

Mr Michael Sands Department for Social Development

The Chairperson (Mr Maskey): Could I then formally welcome Michael Sands to the Committee this morning? You've already heard, Michael, that the Committee has taken a decision in regard to legal advice, and you're attending here on a voluntary basis. You've opted to take your evidence under an affirmation this morning, so, on that basis, I ask the Clerk to bring you round a copy of the affirmation. I would advise you, obviously, and remind you that you do know your legal rights in terms of if you wish not to answer a particular question, and that's entirely a matter for yourself to do that.

Mr Michael Sands (Department for Social Development): I, Michael Sands, do solemnly, sincerely and truly declare and affirm that the evidence I shall give shall be truthful and honest and that I will give the Committee all such information and assistance as I can to enable it to discharge its responsibilities.

The Chairperson (Mr Maskey): OK. Thank you. OK, members, so we are now open. Michael, do you want to give any opening statement or anything this morning to the Committee?

Mr Sands: No, Chair; my original submission, which I made to the Committee on my two previous appearances on this issue.

The Chairperson (Mr Maskey): OK. So, members?

Mr Brady: Thanks, Michael. Councillor Palmer, previously in evidence, told the Committee that you had relayed a conversation to her that you had with Mr Brimstone about the 1 July phone call. If I can quote from that, she told us:

"Mr Brimstone came to me personally. He told me the very next day that he had phoned you and instructed you to go to the board to ask for an extension of the contracts and stand against the board."

In a previous evidence session, you denied that you had said this to Councillor Palmer, so there's obviously a conflict. I would just ask you to explain that, if possible.

Mr Sands: My recollection of this casual conversation, as I continue to refer to it, is that, in relation to the comments which Mrs Palmer made, I did not say those words. If you look at actually what she said:

"Mr Brimstone came to me personally",

I think it was teased out at the previous meeting that I do not have the sort of relationship with Mr Brimstone where he would come and tell me anything personally. So, there is no fact really to — there is no reason why I would say that because it is not in his nature and not in his psyche to do that.

Mr Brady: Well, you know, I mean, I don't think you have to have a personal relationship with somebody to have a conversation with them about presumably what would be considered a work-related issue. So, you're saying really that there is a conflict there and that was not said.

Mr Sands: Well, there are two recollections of a particular event on a specific date which is now three and a half years ago. My recollection is, as I have said, I did not say those things.

Mr Brady: OK. Thank you.

Mr Allister: Mr Sands, you remember the discussion on a previous occasion about the issue of the sending of the email of 5 July. You told us that Mr Brimstone came to your room.

Mr Sands: Yes.

Mr Allister: I think you said that a number of times — that he came to your room — and you painted the scene of it being 7.30 in the morning and that sort of thing. Mr Brimstone, when he gave evidence to us, appears to dispute that. I say "appears" because Mr Brimstone's evidence has been equivocal on a number of occasions. There seems to be dispute about that. How sure are you that he came to your room that morning?

Mr Sands: I am very sure.

Mr Allister: Have you a mental picture of him physically standing there in your room?

Mr Sands: Yes.

Mr Allister: Your room — just help us with the geography — is it in the same complex as Mr Brimstone's room, for example?

Mr Sands: It is in the same building, but Mr Brimstone would work on the fifth floor. I work on the second floor.

Mr Allister: Right. Mr Brimstone suggested to us he wouldn't have even been in the office by 7.30, but you're quite clear that he came to your office that morning.

Mr Sands: Yes.

Mr Allister: And gave you the instruction to send this email in the terms that you sent it.

Mr Sands: Well, I think there's been some discussion already about whether it was an instruction, but he did ask me certainly to send the email.

Mr Allister: He asked you to. He was initiating the sending of that email.

Mr Sands: Yes.

Mr Allister: And you have no doubt about that.

Mr Sands: None.

Mr Allister: In respect of that email, subsequently, in evidence, there was the issue raised about the search for that email, and you were very assertive that no one would need to go looking for that email because it was on the system. In fact, this Committee now knows, Mr Sands, it wasn't on the system at that time. Are you aware of that?

Mr Sands: Yes.

Mr Allister: So, how then were you able to assert to us that it was on the system when it wasn't?

Mr Sands: May I give a chronology of events, as far as I am concerned, Chairman? The email issued from me, as you are aware, at 7.40 that morning on 5 July. It was copied to Stewart Cuddy, the chief executive of the Housing Executive, and to Jim Wilkinson. It was acknowledged at 10.00 that morning by the Housing Executive and copied again to the head of the legal department and head of procurement. It then was discussed the following — sorry, that morning in the Housing Executive board, and each of the board members and senior staff attending got copies of the actual minute. That was on 5 July.

On 7 July, the Minister wrote to the chairman of the Housing Executive accepting that, in fact, the Red Sky contract had to be terminated. There was nothing really further as far as that email was concerned until the 'Spotlight' programme in July '13, followed then by the commencement of this inquiry in September '13 and the papers which were presented as requested under FOI. Now, I have no input as far as the collation of papers is concerned.

Mr Allister: For FOI.

Mr Sands: For FOI requests. I throw my hands up immediately and say I should have actually asked someone to put that email on TRIM. It was one email which, for everyone else, was available — sorry, had copies of, as far as the executive etc was concerned. Whenever —

Mr Allister: Sorry, can I just stop you there? Are you accepting it was your responsibility to put it on TRIM?

Mr Sands: To ask someone to put it on TRIM for me, yes.

Mr Allister: To see to it that it was put on.

Mr Sands: That it was recorded on TRIM, yes.

Mr Allister: And have you any explanation as to why that didn't happen?

Mr Sands: That is why I am trying to set out that chronology of events and the way things were moving rather quickly. So, two days after I sent that, the letter had been sent from the Minister to the chairman saying, really, "end of story", because the contract was being terminated. There was nothing further in that until July of '13. So, two years later, when the 'Spotlight' programme then commenced, papers again were provided as far as the Committee is concerned, but, again, I do not actually collate those papers and they were not copied to me to see just what was available. I had the conversation with Jenny Palmer then in September of '13, and I went off ill on 1 January, this time last year. I was due then before the Committee as well and I was ill, not returning until June.

When the papers were being prepared for me for my first session at this particular Committee, a copy of the email was in that. I did not know that, in fact, I had forgotten that I had asked or should have asked to have that email put on to TRIM, but it was on TRIM when the papers were presented to me and moved forward. It was only until I saw the letter to the Committee from Susan McCarty setting out that there had been extensive research, I think was the terminology used, to try and find that. I wasn't in the office; I was off ill at that particular time.

Mr Allister: So, when you told this Committee previously that Mr Brimstone would have no reason to be in a flap looking for this email because it was on the system, in fact, it wasn't on the system. You assumed it was.

Mr Sands: I had assumed it was, but it was also on the Housing Executive system. They would have —

Mr Allister: Yes, but Mr Brimstone wouldn't have access to that.

Mr Sands: No, he would have to ask for it.

Mr Allister: Indeed, Mr Brimstone tells us he personally doesn't have access to the TRIM system. He would have to ask someone else to look for it. Is that right?

Mr Sands: Yes, I have repeatedly said that.

Mr Allister: But it does rather cast in a wholly different light your dismissal of the suggestion that he would be in a flap looking for this email because your answer was, "Why would he? It would be on the system".

Mr Sands: I don't think I said it in that particular way or gesticulated in the way you have suggested.

Mr Allister: Perhaps not.

Mr Sands: I simply said that I didn't say that.

Mr Allister: It wasn't on the system and, therefore, if he was looking for it, he wouldn't be able to find it.

Mr Sands: If he was looking for it.

Mr Allister: If he was looking for it.

Mr Sands: I was aware of the email, of course, because I had sent it and because of the circumstances under which it had been sent. So, I was fully aware it was sent.

Mr Allister: Yes, but, to you, it was only one of many emails you would send.

Mr Sands: It was, but this was a particular one, with, as you say at the start, I remember Stephen standing at my door.

Mr Allister: Just remind us why it was a particular email.

Mr Sands: Because Stephen Brimstone came down to ask me to send it.

Mr Allister: That plus the content of it.

Mr Sands: We discussed, yes, what it should say.

Mr Allister: Were you ever asked by anyone about that email?

Mr Sands: I don't believe so, because, I mean, it went on 5 July after 7 July, when the Minister's letter was really "End of story". We had moved on with our lives to deal with the other important issues as far as I was concerned.

Mr Allister: And you are quite clear to us, during the FOI search, you had nothing to do with that. You had no —

Mr Sands: No.

Mr Allister: We have been told in that letter that you referred to that a hard copy print of the email was recovered some time after February 2014. You have pointed out that's a time when you were off.

Mr Sands: That is correct.

Mr Allister: So, you don't know where that hard copy came from.

Mr Sands: I was off. That said, it was around 11 April. I was on long-term sick leave from 1 January 2014 until mid-June 2014.

Mr Allister: But somebody had obviously printed off the email in hard copy.

Mr Sands: I assume so, if they said they found a hard copy, yes. I wasn't there.

Mr Allister: You haven't picked up anywhere how and where that was found.

Mr Sands: No.

Mr Allister: You have no knowledge. You haven't asked.

Mr Sands: No.

Mr Allister: See, in circumstances where the email wasn't available, as you believed it was and contended it was, I want to suggest to you that gives a lot more credence to Mrs Palmer's evidence that Mr Brimstone was — I think the words were these — "going mad looking for it". The circumstances prevailed where he could be going mad looking for it, because it couldn't be found. Isn't that right?

Mr Sands: Well, as you rightly say, it wasn't on our system, but it was available in the Housing Executive —

Mr Allister: Yes, but that wasn't available to him.

Mr Sands: — *[Inaudible.]* under FOI. Sorry?

Mr Allister: That wasn't available to Mr Brimstone.

Mr Sands: If he had asked properly, I would have —. Had I been there, I would've told him where it was.

Mr Allister: Yes, but, just so as we're clear, we're trying to evaluate this assertion that Mr Brimstone was going mad looking for an email.

Mr Sands: Yes.

Mr Allister: We know now, contrary to the impression created by your earlier evidence, that, factually, no matter how much he'd looked for it, he wouldn't have found it on the system.

Mr Sands: Not on the system, but, had he asked me, I could've easily produced a copy.

Mr Allister: How could you have produced a copy?

Mr Sands: Well, it was an email which I had sent —. Well, sorry, when I said "a copy", I could've recollected that I sent it.

Mr Allister: No, no, you couldn't have produced a copy —

Mr Sands: Well, I could —

Mr Allister: — because, we are told, after three months, they drop off the end of the table.

Mr Sands: That's right. Sorry.

Mr Allister: So, you couldn't have produced a copy.

Mr Sands: I could've told him that it went.

Mr Allister: Yes, you could've told him, but he was looking for a copy, apparently.

Mr Sands: Yes, apparently.

Mr Allister: Yes. So, you couldn't have produced a copy.

Mr Sands: No.

Mr Allister: No. And the circumstances of him looking for a copy are now confirmed by the fact it wasn't in the system. He couldn't find it. If someone was looking it, you couldn't find it, because it wasn't in the system. Isn't that fair?

Mr Sands: Well, a copy was found eventually, but, as you say —

Mr Allister: But not in the system. This mystery copy, in hard form, was eventually found months later, but, at the point when, it is alleged by Mrs Palmer, you told her that Mr Brimstone was "going mad looking for it", it wasn't there to be found. Isn't that right?

Mr Sands: Well, I did not say that he was going mad looking for it.

Mr Allister: OK, but if he was looking for it —

Mr Sands: That's hypothetical.

Mr Allister: — in September —

The Chairperson (Mr Maskey): Sorry, Mr Sands has already said that he wasn't asked and he didn't have that conversation. I appreciate the line. You are probing the questions around the email, and that's very appropriate, but there are two things that I want to just remind you. I want to move on to other members and then come back to you for other questions later on. Obviously, you will wish to do that. You also can't expect Mr Sands to speculate as to what may have been or may not have been in the mind of another person.

Mr Allister: OK. I will come back.

The Chairperson (Mr Maskey): OK, fair enough. Sammy.

Mr Wilson: There are two conversations that are recorded here that Mrs Palmer argues allegedly took place. Can I just ask you first of all, Michael, how well do you know Mrs Palmer?

Mr Sands: I know her simply in a business format, attending the housing regeneration committee.

Mr Wilson: And, you know, what kind of or in what kind of circumstances would you have conversations with her? Would it be —

Mr Sands: Very few, really. It's business as far as the agenda which we're discussing on a particular day and then, as happened with this particular occasion, I may not necessarily have had lunch with her — it would've been other members I would've had lunch with — but it would've been just casual conversation about really probably the agenda and other efforts.

Mr Wilson: The kind of person you would kind of share gossip with.

Mr Sands: No. Absolutely not.

Mr Wilson: The two conversations that Mrs Palmer claims you had with her would be very gossipy conversations, would they not?

Mr Sands: Yes, it could be judged that particular way.

Mr Wilson: Like, "Wait till I tell you" —

Mr Sands: No.

Mr Wilson: — "He was going mad. He told me about the conversation he had with you over the telephone". Are those the kinds of conversations you would have with Mrs Palmer? I mean, do you know her that well —

Mr Sands: No.

Mr Wilson: — to have those kinds of —

Mr Sands: No, I certainly do not know her so well that I could have a conversation like that with her. It would be very much business-related and business-orientated. It would not be, as has been suggested before, "Wait till I tell you", "Wait till you hear this", "Did you know this?".

Mr Wilson: So, you didn't have the relationship with Stephen Brimstone where he would come in and say, "Wait till I tell you the row I had with yer woman yesterday".

Mr Sands: No, as, again, was drawn out at the Committee session which I attended on the last occasion. Again, Stephen is the Minister's adviser. Everything is strictly sort of business as far as he is concerned. I explained, in the last situation, I know nothing about his social life. We know nothing; we're not — I wouldn't regard us as friends. We are business colleagues, and I certainly do not have a relationship where he would come down to tell me anything personal.

Mr Wilson: So, he's unlikely to have had a gossipy conversation with you, and you're unlikely to have had a gossipy conversation with Mrs Palmer, because that's not the relationship you had with either of the two of them.

Mr Sands: That would be correct.

Mr Wilson: Yet Mrs Palmer has come — has indicated that you were almost like bosom buddies sitting having this kind of gossipy conversation over a cup of tea.

Mr Sands: I don't think so.

Mr Allister: When was that indicated?

Mr Wilson: Well —

The Chairperson (Mr Maskey): I mean, I think people should just be mindful of maintaining —

Mr Wilson: Mrs Palmer, over lunch —

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

Mr Wilson: Mrs Palmer claimed —

The Chairperson (Mr Maskey): Let me make the point. It is important that we try to retain as much professionalism here as we possibly can do. That also applies to how we characterise evidence or witnesses or conversations or any such thing.

Mr Wilson: Well, the point that I'm making is that, allegedly, over lunch or whatever, a conversation was had where Mr Sands talked about Stephen Brimstone coming personally to him and telling him about a conversation he had with another party member. Now, I think that that could be defined in any circumstances as a kind of a gossipy conversation. I'm trying to draw out from Mr Sands whether or not that's the kind of relationship he had with Stephen Brimstone and whether it's the kind of relationship he had with Jenny Palmer. And you're saying, Mr Sands, that with neither of the two of them you've got that kind of casual acquaintance where you would sit and talk about things that had happened that were not directly related to what was on the agenda or whatever.

Mr Sands: No, I wouldn't.

Mr Wilson: OK. So, as far as you're concerned, Mrs Palmer's contention that she had this conversation with you is totally untrue.

Mr Sands: I can't say it's untrue, Chair. I mean, it's recollection of an event which happened now three and a half, approaching four, years ago. Memory's a reconstruction of events at any one particular time. It is similar to any sort of court case. I mean, if there are two witnesses to a particular incident, there are two sides of every story, so two different people can see things that actually happened and recollect things that happened at a particular time.

Mr Wilson: So, you're not denying you had a conversation with her on that day —

Mr Sands: Absolutely not.

Mr Wilson: — but what you are saying is that, first of all, you wouldn't have been aware that Mr Brimstone had had a conversation with her on 1 July, nor would you have recounted, even if you had known, you'd have been, it's not the kind of thing you would've recounted to her as another member of the board.

Just on the second issue as to "going mad", again that's a kind of a gossipy conversation: "Yer man was in this morning. He was going daft about something". Whether or not, as Mr Allister has pointed out to you, Stephen Brimstone could have easily found the letter or not, do you recollect him coming in asking about the letter?

Mr Sands: No.

Mr Wilson: Or the email, sorry.

Mr Sands: No.

Mr Wilson: Right. So, you wouldn't have been in any position then — again — to even make an assessment as to whether or not he was going mad looking for the thing or not looking for it.

Mr Sands: That is correct.

Mr Wilson: He never came and asked you.

Mr Sands: No.

Mr Wilson: So, it would have been impossible for you to relate his state of mind or anything else about this email, since he never approached you.

Mr Sands: He didn't ask me.

Mr Wilson: Even if he had — but you are quite clear in your recollection that he never came to talk to you about this email.

Mr Sands: Absolutely.

Mr Wilson: Right, but, even if he had, would you have had — again — that kind of conversation with Mrs Palmer where you would have felt at ease saying about him coming in and being in an agitated state or whatever? I mean, is that the kind of — again, I am just trying to establish — is that the kind of relationship that you had with her?

Mr Sands: No. That wouldn't have been — I wouldn't have had that palsy-walsy type conversation.

Mr Wilson: So, Mr Brimstone never asked you about the email and, even if he had asked you about the email, you are not in a position or you are not in the kind of relationship — you don't have the kind of relationship with Mrs Palmer where you would have recounted his state of mind.

Mr Sands: No.

Mr Wilson: But, the two pieces of conversation that Mrs Palmer has recounted to the Committee, would you accept, are only the kinds of conversations that you would have had with somebody you were fairly at ease with, fairly familiar with and would have been gossiping with on a fairly regular basis?

Mr Sands: I did not gossip with her on a regular basis, and it wouldn't have been the type of conversation that I would have had.

Mr Dickson: Can we just — thank you for coming along this morning. Just to get a broader understanding of the nature of the business relationships which you and Mr Brimstone have as civil servant to special adviser — how often would you have had a conversation or a business conversation with Mr Brimstone? Is that daily, weekly, monthly or —

Mr Sands: At that time it literally could have been daily.

Mr Dickson: It could have been daily.

Mr Sands: Certainly, several times, though not necessarily daily, because he would have been up here in Parliament Buildings on Mondays and Tuesdays.

Mr Dickson: In your building, would he have been a regular visitor into your office, or would you have been more likely to go to his office?

Mr Sands: We would get summoned to the fifth floor.

Mr Dickson: Sorry?

Mr Sands: We would get summoned to the fifth floor.

Mr Dickson: You would get summoned to the fifth floor. So, had he ever been in your office before?

Mr Sands: As I said previously, it was only two occasions — there still have only been two occasions — when Mr Brimstone was in my office. One was on the morning of 5 July, and the second time was several days after I returned from sick leave, when he came down out of courtesy to see how I was.

Mr Dickson: Is your office easy to find? I mean, would anybody with a knowledge of the building —

Mr Sands: Well, my name's on the door.

Mr Dickson: Your name's on the door, OK. So you are not hard to find.

Mr Sands: No.

Mr Dickson: That's fine. In relation to the number of times that you might have met Mrs Palmer and the circumstances in which you might have met her — this is at committee meetings and board meetings of the Housing Executive.

Mr Sands: Not the board meeting. None of the civil servants attend the Housing Executive board meeting.

Mr Dickson: You just attend the —

Mr Sands: It's a subcommittee of the Housing Council.

Mr Dickson: How many occasions would that have been?

Mr Sands: I probably would have been five or six times or more possibly.

Mr Dickson: So you are saying —

Mr Sands: It's a monthly meeting, which I would have attended.

Mr Dickson: So you think it's only on five or six occasions that you've met Mrs Palmer.

Mr Sands: You are asking me to be specific in relation to numbers.

Mr Dickson: I am basing it on — the only time you ever met Mrs Palmer was at those subcommittee meetings.

Mr Sands: Yes.

Mr Dickson: So, I am just trying to get an estimate of the number of times that those meetings have occurred when both of you would have been present.

Mr Sands: Yes. Occasionally I would have had to give a presentation to the Housing Council and she may have been there, she may not.

Mr Dickson: But at the Housing Executive — so, how many people would have been at those meetings?

Mr Sands: There could be nine or 10 councillors.

Mr Dickson: At the subcommittee meetings?

Mr Sands: Plus Housing Executive officials plus myself.

Mr Dickson: OK. You were telling us about the FOI search work that was going on. You are not involved in that, but did you not have to hand your email or your password to them in order for them to scrutinise your computer?

Mr Sands: No, the — well, as far as the computer is concerned —

Mr Dickson: How would they have access to your email other than that?

Mr Sands: Well, they have access certainly to my diary. My PA has access to all my emails, so they could have asked her. As far as the —

Mr Dickson: But you were never directly asked for your password, were you?

Mr Sands: No, because, again, as is set out in Susan McCarty's letter, every civil servant's inbox is wiped clean every 90 days.

Mr Dickson: No, I understand that, but, if somebody was searching for documentation in relation to freedom of information and it wasn't you doing it yourself — if somebody came to you and said, "Look, could you check and see if you had written to x, y and z?", you would go into your system and you'd say, "It's there, here it is" or, "It's past 30 days, it's gone". You did not do any of that, so you must have released your password to someone to do that for you.

Mr Sands: No, I don't see where you are coming from that I would have released my password to someone. My computer wasn't searched.

Mr Dickson: But your password — your computer is password-protected.

Mr Sands: Yes.

Mr Dickson: OK. So, how can anyone have access to your email if they can't have your password?

Mr Sands: Well, my PA has access. I am not sure where you are coming from with this one because —

Mr Dickson: I am just trying to understand. If you didn't give your email —. If you didn't search for freedom of information answers yourself, somebody else must have searched for them.

Mr Sands: Well, there is a difference between emails and searching for information as far as FOI is concerned. The FOI information is all contained on TRIM containers, which are all logged in under specific numbers, and the director's office certainly would have access to all of that. As I said, I should have actually asked someone to record that particular email on the TRIM system and because of the —

Mr Dickson: Is it your personal and is it every personal and individual decision of a civil servant to have something recorded on the TRIM system?

Mr Sands: Yes.

Mr Dickson: There are guidelines around that, presumably.

Mr Sands: Yes, there are departmental guidelines around it.

Mr Dickson: So, would you acknowledge in this case you, by omission or error, didn't follow them?

Mr Sands: Yes, in that I forgot to ask someone to actually record the email on the system.

Mr Dickson: Who would you normally ask to do that for you?

Mr Sands: It would either be my PA or the director's office.

Mr Dickson: But you don't do it yourself.

Mr Sands: No.

Mr Dickson: But a hard copy did appear.

Mr Sands: Apparently so.

Mr Dickson: Have you any idea how or where?

Mr Sands: No, this occurred while I was off on sick leave.

Mr Dickson: OK. Well that's, in a sense, why I was asking did somebody interrogate your PC in your absence and print a copy off.

Mr Sands: Well, no one asked me for my password, certainly while I was on sick leave, so I would say no.

Mr Dickson: OK. Thank you.

Mr Sands: Just to finish, I mean, there was ready access as far as TRIM was concerned through the director's office. They have all that.

Mr Dickson: But it wasn't on it.

The Chairperson (Mr Maskey): Could I ask just a couple of points, Michael, just before we move on to other members? Jim Allister is up next. You have described the engagement with Stephen as he, essentially, came to your office, which is only one of two occasions, at 7.30 in the morning, and he — I think you used this term — directed you to issue an email.

Mr Sands: No, I said — I wouldn't — directives have been referred to several times. I wouldn't have said that. He asked me to send an email.

The Chairperson (Mr Maskey): So, I mean, would you have sent the email if he hadn't asked you?

Mr Sands: No.

The Chairperson (Mr Maskey): OK.

Mr Sands: I was quite specific as far as the email was concerned, stating that this was a change which was going to be made to the Minister's letter of 4 July, so that the request was coming from the Minister's political adviser, and that's why I qualified the email by saying "Minister's SpAd".

The Chairperson (Mr Maskey): I am trying to sort of get the environment of all this in my head right because you have actually, in a way, presented your evidence on the basis that it was most unusual that Stephen Brimstone went to your office in the first place because he had only been there ever twice. So, he was there at 7.30 in the morning, so that was a very unusual occurrence. You're now saying he asked you — there was a word characterised earlier on as directing — you to send the email. So, you sent the email, which you wouldn't have sent had you not been asked by Mr Brimstone to do that.

Mr Sands: That's correct.

The Chairperson (Mr Maskey): But this is all in a backdrop against which senior officials were advising the Minister not to proceed on the basis on which they had been proceeding.

Mr Sands: Yes.

The Chairperson (Mr Maskey): You were aware, when you sent that email, that that was certainly a contentious issue.

Mr Sands: Well, the Minister's letter had already issued to the Housing Executive asking for an extension of six months. When Stephen came to me on 5 July, then, he was asking that I send an email asking if the chairman of the Housing Executive could ask the administrator if that period could be reduced to four months. So, it was seen as being helpful — rather than six months.

The Chairperson (Mr Maskey): Would you not accept that it was certainly contentious in the context where senior advisers, at meetings that you were attending, had advised the Minister not to go down the road which they were going down, that this was a contractual matter and should not be interfered with in any way?

Mr Sands: But the letter, again, had already issued —

The Chairperson (Mr Maskey): I am aware of that. You are aware of all that, so —

Mr Sands: It had already issued —

The Chairperson (Mr Maskey): What I am trying to say is you issued the email at the request of Mr Brimstone in the full knowledge that that was certainly an issue of contention, because if the Minister had been advised very firmly not to be proceeding on that basis —

Mr Sands: Yes, but I repeat again: he was changing the Minister's letter. That was what he was doing.

The Chairperson (Mr Maskey): Yes, but even changing the letter on a contentious issue; that's the basis. So, can you tell me if you had any conversation with Stephen Brimstone at all about that engagement that morning — after that morning?

Mr Sands: After that morning, no.

The Chairperson (Mr Maskey): None whatever?

Mr Sands: No.

The Chairperson (Mr Maskey): None. No discussion.

Mr Sands: No.

The Chairperson (Mr Maskey): OK. Fair enough. Could you characterise your conversation that you had with Jenny Palmer, because obviously there are very strongly conflicting reflections of that conversation? Obviously, different people can be at the same meeting and can maybe sometimes pick up some things and maybe don't pick up something else, but there are quite graphic descriptions of the conversation and there are strong conflicts, which is why people here are giving evidence under oath or affirmation as required by the Committee. Can you characterise — I know Sammy was exploring earlier on with you, and I take the point that we're trying to tease out what was just like a kind of casual conversation with the type of person you would know very well — but can you characterise the type of conversation that you had and the issues that you discussed with Jenny Palmer?

Mr Sands: Again, from memory, from a discussion which happened quite a while ago, it was a casual conversation over or after lunch, really about what had happened over the summer, and then, as I explained at my previous appearance here, Jenny raised the issue of the 'Spotlight' programme and it moved on from there. But it was really a casual conversation; it was no more than that.

The Chairperson (Mr Maskey): But, I mean, I think that is the first time you've indicated that the 'Spotlight' programme was discussed in your conversation.

Mr Sands: No, I said in the previous evidence session that in fact she raised it.

The Chairperson (Mr Maskey): OK. So, therefore, there is nothing in the way of the comments that Mrs Palmer has made in her evidence and will do so, I presume, later on this morning. What you're saying is that nothing that Mrs Palmer has outlined in her evidence in terms of the nature of that conversation took place.

Mr Sands: Correct.

The Chairperson (Mr Maskey): OK. Thank you for that. Gregory and then Jim.

Mr Campbell: Just the issue you'd raised there, Chairman, to Mr Sands about the email and how it came to be sent, where there was the use of the word "directing", and Mr Sands is indicating that it wasn't a case of him being directed. Who suggested that he was directed?

The Chairperson (Mr Maskey): It was in a conversation earlier on this morning, so we'll check Hansard for the actual — who made the comment. It was in a conversation earlier on —

Mr Campbell: But Mr Sands is saying that he didn't — he wasn't directed, and he didn't use that language.

The Chairperson (Mr Maskey): Which is why I asked him the question to clarify.

Mr Campbell: But you had intimated that he did.

The Chairperson (Mr Maskey): I asked him to clarify did he say that.

Mr Campbell: And he hasn't.

The Chairperson (Mr Maskey): Well, he gave his answer.

Mr Campbell: So he wasn't directed.

The Chairperson (Mr Maskey): Well, he gave his answer.

Mr Campbell: Who suggested that he was?

The Chairperson (Mr Maskey): Well, the witness is at the other end of the table, Mr Campbell, I remind you.

Mr Campbell: I know he is, but you, Mr Chairman, were saying to Sammy Wilson about the need to be accurate in dealing with witnesses. Now, I'm alluding to what you've just asked the witness about directing, and he said he wasn't directed, so you obviously had thought that someone had said he was. Who was it who suggested that Mr Sands had been directed —

The Chairperson (Mr Maskey): There was a conversation earlier on between Jim Allister and Michael Sands —

Mr Campbell: So was it Mr Allister suggested that he was directed then?

The Chairperson (Mr Maskey): If you check Hansard —

Mr Allister: I certainly put that to him, yes. That's the import. If somebody at 7.30 in the morning turns up in a room and asks for an email to be sent in these terms, he's directing it be sent.

Mr Campbell: And the witness has indicated that he wasn't directed.

Mr Allister: I understand the witness's answer.

The Chairperson (Mr Maskey): The witness has given his answer.

Mr Allister: What is the issue?

Mr Campbell: Well, the point here is, Chairman, that a member of the Committee attempted to suggest to the witness that he was directed. The witness said he wasn't. Now the Chair has repeated the inaccurate assumption that he was directed —

Mr Allister: Is that the best you can do?

The Chairperson (Mr Maskey): Sorry, Jim —

Mr Campbell: Mr Allister needs to learn that he's not at the Bar.

The Chairperson (Mr Maskey): Just hold on a wee second —

Mr Campbell: He needs to learn that.

The Chairperson (Mr Maskey): This is not a Bar or a bar room, so let's behave professionally. The witness is here to answer questions; he is doing his best to answer questions. Members are asking questions. Where I have felt that they have strayed, I've reminded them of that. We've been doing OK so far; nobody's complaining about it. So, you have the floor to question the witness. If you want to reflect on any comments that any member has made, you'll always have the opportunity to do that afterwards. So, the floor is yours to ask any further questions if you so wish.

Mr Campbell: Well, I mean, I've made the point, Chairman. You, quite rightly, as the Chair, have to try and keep and maintain order, and we, as members, when we think the Chair has stepped out of line, should ensure that the Chair maintains the same order, and I've just done it.

The Chairperson (Mr Maskey): OK. Jim.

Mr Allister: You said to Mr Wilson, under affirmation, that you didn't know about the conversation between Mr Brimstone and Mrs Palmer on 1 July. Do you remember saying that?

Mr Sands: Yes.

Mr Allister: Do you want to reflect on that answer?

Mr Sands: Well, the phone call, I believe, happened on 1 July, and I have stated already to this Committee that we did not — none of the civil servants became aware of that until the following week, when —

Mr Allister: I know, but, if I understood Mr Wilson's question correctly — I stand to be corrected — that was in the context of your discussions with Mrs Palmer in September 2013. You were saying that, in September 2013, you didn't know about the conversation of 1 July.

Mr Sands: No, sorry. In September 2013, I would've known about it. I certainly did not know about it on 1 July, when the phone call was made. I did not know about it till the following week.

Mr Allister: Just remind us now how you say you became aware of that conversation.

Mr Sands: I think we covered this again in the last evidence session. I believe that Will Haire, at a meeting — again, going back three and a half years — Will Haire at a meeting the following week told those who were at the meeting. As I said at the last session, I can't remember who was at that particular meeting, because it was one meeting which was whenever, and Will told us that he'd been contacted by Brian Rowntree.

Mr Allister: Did he come to tell you that?

Mr Sands: I think we covered this the last time as well. I said no. It happened at a meeting as far as I can recollect, but it was three and a half years ago.

Mr Allister: Are you saying three and a half years ago things could've been said by various people that you've forgotten?

Mr Sands: No, I'm not saying that; I'm saying that information came from Will Haire at a meeting is my recollection of how that information was given to us.

Mr Allister: In terms of the email, do you accept that you asked Mrs Palmer about the email in September 2013?

Mr Sands: Yes. I set that out; it's in my evidence.

Mr Allister: So she is right that you asked her about an email — that particular email — in September 2011?

Mr Sands: September 2013?

Mr Allister: Sorry, 2013. Apologies.

Mr Sands: Yes, again, as I said, during the casual conversation, the issue —. She raised the issue of the email — sorry, of the 'Spotlight' programme and referred to an email which had been sent to the chair. I was simply trying to get clarity from her as to whether it was another email or the email which I had sent on that morning of 5 July. She said it was my email, so I knew it was it. There's only the one.

Mr Allister: Yes, and we had this evidence from you that you wanted to test which email she was talking about.

Mr Sands: Sorry, I was trying to get clarity in relation to whether the email that she had mentioned was the email which I had —

Mr Allister: So, you asked her about was this the email that you had in your mind of Mr Brimstone's having you send of 1 July?

Mr Sands: No. I asked her if, in fact, she was aware of an email which had been sent from the Department; I did not say that I was the sender. She then said that it was my email which, in fact, she was referring to.

Mr Allister: You see, if I recall her evidence correctly, she says that you initiated the discussion about the email because you were the man interested in knowledge of where this email might be —

Mr Sands: That is not my recollection of events.

Mr Allister: — because you knew it wasn't on the system and couldn't be found, and you were asking her because you knew that it had come up whether she knew about it. Isn't that the scenario?

Mr Sands: No. I did not know that it wasn't on the system; I had assumed that it was on the system.

Mr Allister: You had had no occasion to look for it before that.

Mr Sands: No, none whatsoever.

Mr Allister: Still on that email, when you were last here, I said to you:

"You would not remember offhand all the emails that you sent two years ago?"

And you said:

"No, it was only when that was shown to me and someone said, 'Here is a record of it'."

Who showed it to you?

Mr Sands: I can't honestly remember, Mr Allister.

Mr Allister: Well, do you remember someone showing it to you?

Mr Sands: No.

Mr Allister: Well, what did you mean when you told us on 6 November — that's the date — that

"it was only when that was shown to me and someone said, 'Here is a record of it' "

that you remembered about the email?

Mr Sands: No, I didn't say I had not remembered about the email. It was in the information in the pack which was given to me in preparation for my attendance here at the Committee.

Mr Allister: Sorry, have you got Hansard for 6 November?

Mr Sands: I believe so, yes.

Mr Allister: Would you turn to page 3?

Mr Sands: 6 November, sorry?

Mr Allister: Yes. Three questions up from the bottom of the page by me. Do you see that? I think you have it highlighted:

"That was an email amongst, I am sure, thousands of emails that you send over a year, and here we are, two years later, and that matter is being revisited. You would not remember offhand all the emails that you sent two years ago?"

You replied:

"No, it was only when that was shown to me and someone said, 'Here is a record of it'."

That is what you told us in evidence.

Mr Sands: Yes.

Mr Allister: So, you were referring to a specific occasion when someone showed it to you and said:

"Here is a record of it".

Mr Sands: It was part of the papers which were prepared for me for my first appearance at the Committee.

Mr Allister: Who was the someone?

Mr Sands: I can't honestly remember.

Mr Allister: But you obviously could remember on 6 November someone showing it to you, did you?

Mr Sands: Well, it would have been part of the pack, as I say, and the papers which were prepared for me to come to the Committee.

Mr Allister: Yes, but it did not say in the pack, "Someone showed it to me". This is very specific:

"it was only when that was shown to me and someone said, 'Here is a record of it'."

That is someone speaking to you, saying, "Michael, here is a record of it".

Mr Sands: I repeat again: it was part of the pack which was given to me for my —

Mr Allister: I don't understand this business of "it was part of the pack". Your evidence doesn't come out of a pack; your evidence comes out of your memory. Now, what is your memory of someone showing it to you?

Mr Sands: Sorry, let me just get this correct. My evidence is based on information which would be available; it is not entirely from memory.

Mr Allister: So, you are regurgitating to us, are you, stuff that you don't remember at all but someone has told you?

Mr Sands: I don't understand where you are coming from with that.

Mr Allister: If you read it in a pack, are you prepared to come to this Committee and say something because it is in the pack and dress it up and present it as if someone told you it?

Mr Sands: We're sort of going off on a line here.

The Chairperson (Mr Maskey): I just want to moderate this session. As I said earlier on, keep it on a purely professional basis. So, if you have a question to ask — I am putting this to any member; it is yourself, Jim, on the floor at the moment — if you have a question to ask, put the question and allow the member, the witness to have time to respond.

Mr Allister: Sure.

The Chairperson (Mr Maskey): OK.

Mr Allister: So, the question, Mr Sands, is this: when you told this Committee on 6 November — two months ago — that

"it was only when that was shown to me and someone said, 'Here is a record of it'."

who was it who said to you, "Here is a record of it"?

Mr Sands: I cannot honestly remember who said that to me.

Mr Allister: Do you remember an occasion when someone showed it to you?

Mr Sands: It was part of the information which was provided as far as —

Mr Allister: Do you remember an occasion when someone showed it to you?

Mr Sands: Not specifically. As I said, it was in the papers which were given to me.

Mr Wilson: Chairman, we have had this situation before, where Jim seeks to bully people, as though they were in court. It has been said — I think this is the fifth time the question has now been asked. The answer has been given, and the rule which you have adhered to, at least after we had the last row about this, is that, once a witness has given an answer, he should not or she should not be bullied into trying to give a different answer, which is what Jim is at at the moment.

The Chairperson (Mr Maskey): Well, first of all —

Mr Campbell: Again.

The Chairperson (Mr Maskey): First of all, the rules that I apply as the Chairperson I have applied since day 1 of this inquiry and, in fact, in all of my work as the Chair of this Committee. They are not dated to any discussion or any row as you might describe it, so don't flatter yourself on that basis. I apply the rules rigidly.

Mr Wilson: You have in recent times.

The Chairperson (Mr Maskey): I also make the point that there has to be a certain degree of probing of witnesses, clarifying of evidence, clarifying of responses. That is accepted. I will not allow bullying from anybody. I will not accept bullying from anybody. I will not take bullying from anybody around this table. As long as people are aware of that, then we will all get on quite well.

Mr Wilson: But, Chairman, you are well aware —

The Chairperson (Mr Maskey): I am well aware.

Mr Wilson: — this is an old barrister's trick where you seek to unsettle a witness by continually putting the same question. The essence of the issue is quite simple: whether it was shown to him by someone or whether it was in a pack of papers that were given to him by someone, Mr Sands became aware of this email. That is the essence of this.

The Chairperson (Mr Maskey): I think the essence —

Mr Wilson: To try and keep on this line of questioning is only designed to unsettle a witness. It is not to —

The Chairperson (Mr Maskey): Well, I mean, I think Mr Sands —

Mr Wilson: It is not to obtain any additional information.

The Chairperson (Mr Maskey): I think Mr Sands is in public service long enough. He is an experienced public official. He is not going to be under any abuse here as I am in the Chair — that will not happen — but he is obliged to answer questions —

Mr Wilson: He has answered the question five times.

The Chairperson (Mr Maskey): He is obliged to answer them under the legal rights that he has pertaining to himself as a witness coming here voluntarily. He knows that, he accepts that and that is what I have explained to him. So, Mr Sands will have the right to complain to me, as the Chair, if he feels he has been badly treated.

Mr Wilson: No, but I am complaining —

The Chairperson (Mr Maskey): I know you are, and that is fair enough.

Mr Wilson: I am complaining about the way in which Jim Allister is abusing this situation.

The Chairperson (Mr Maskey): I am listening to your complaint. I am also dealing with it on an ongoing basis, and I will continue to do that.

Stewart, do you want to come in on the same issue, because I do not want to be interrupting the flow of questions?

Mr Dickson: No, Chair, I want to come in on the real issue here, which is Mr Sands's words, and they are in quotation marks in Hansard. They are:

" 'Here is a record of it' "

Now, Mr Sands, can you tell the Committee was that at a pack briefing which you were having with other colleagues, or was it as part of a meeting where there was a search going on for this email and somebody eventually, at a session or a meeting or knocked the door of your office, said, "Michael, here is that email"? Your words were:

" 'Here is a record of it' "

You have got to paint and tell us the scene and tell us why you said those specific words.

Mr Sands: It is the former, which you just described, which you just set out. It was part of the information which was provided to me. I have already explained that.

Mr Dickson: But a person said those words: "Here is the pack". They are in quotation marks.

Mr Allister: "Here is a record".

Mr Dickson: "Here is a record": who said that?

Mr Sands: I can't honestly remember.

Mr Dickson: But can you remember the context in which they were said?

The Chairperson (Mr Maskey): Sorry, Stewart, can I just, I mean, because I think that people here are talking about the essence. I need to move back to Jim because he actually had the floor there, and then I can bring yourself back, Stewart, in again if needs be. But the issue here is — I think what

people are trying to get at here is — did someone just — I mean somebody must have met you and presented you with a file and gone through that file with you.

Mr Sands: Not necessarily gone through the file with me. They would have presented the file of papers to me and said, "Here is the information which you require for your appearance in front of the Committee".

The Chairperson (Mr Maskey): And they drew your attention to an item that you dealt with a minute ago. Who was that person?

Mr Sands: It would have been someone from the director's office, I would say, who would actually collate that information.

The Chairperson (Mr Maskey): Could that be narrowed down? Is it as senior official? Is it a PA?

Mr Sands: I am reluctant about sort of naming persons, Chairman.

The Chairperson (Mr Maskey): Well, I don't know why, because we are asking a simple question, Michael, as to where you got the information from. Remember this — this goes to Sammy's point earlier on — see you are relying on evidence, which you are saying was given to yourself. So, I think that we are entitled to have an understanding of where did that come from, what level of the Department did that come from. Surely it would not be something that would be done by 100 people.

Mr Sands: That information, as I say, would've been prepared by the director's office. Now, Susan McCarty is the head of that director's office, so I would say it probably was Susan who came and presented me with that pack of information.

Mr Dickson: And did she specifically point out the email to you when she did that, because that's what you've told us in Hansard?

Mr Sands: She may have done. I can't honestly —

Mr Dickson: Can I quote?

"No, it was only when I saw what was shown to me and somebody" —

— who you are now suggesting may be Susan McCarty —

— "said, 'Here is a record of it'."

"It" being the email.

Mr Sands: Yes.

Mr Dickson: So, it wasn't, "Here's the pack. Have a look through all of that".

Mr Sands: You are sifting something out just in relation to the whole sort of —

Mr Dickson: Well, they're your words.

Mr Sands: Yes, but I did not describe the information in that all of the information came in preparation for a meeting here.

Mr Dickson: Yes, but you made reference to the email.

Mr Sands: It was in direct answer to a question from Mr Allister, I believe.

Mr Dickson: Yeah, but you told us it was pointed out to you.

Mr Sands: Yeah, but he was asking about the email.

Mr Dickson: Yes, and you told us that the email had been pointed out to you. Up until that point in time it couldn't be found or hadn't been found —

Mr Sands: Well, it was found.

Mr Dickson: — or you hadn't seen it since you'd typed it.

Mr Sands: Yep.

Mr Dickson: So, here is a very important moment. This is the first time you saw that email since you'd typed it, and you can't remember who handed it to you and the —

Mr Sands: I said it. Generally, it would have been the likes of Susan McCarty who would have presented it to me, but I cannot remember —

Mr Dickson: Was there a discussion at that point? Was this at a meeting? Was this at a preparation session? What was this at?

Mr Sands: It would've been probably a preparation session that she presented those papers to.

Mr Dickson: Ah, right, OK. So, there was a preparation session.

Mr Sands: I said it probably would have been a preparation session, yes.

Mr Dickson: But you'd remember if there was a preparation session. Who was preparing you?

Mr Sands: I believe it was Susan McCarty.

Mr Dickson: OK. Thank you very much, Chair.

Mr Allister: Just Susan McCarty?

Mr Sands: I believe so, Mr Allister. Yes.

Mr Campbell: Chairman, are we going to start now a witch-hunt of another member of staff —

The Chairperson (Mr Maskey): Members have a right to ask —

Mr Campbell: — as a result of the question-and-answer session we've had now?

The Chairperson (Mr Maskey): Members have a right to ask questions, as do you, including all the rest of the members, so go ahead.

Mr Allister: Could I ask you something else? You had lunch with the Housing Council's subcommittee in September, about the 19th maybe.

Mr Sands: In 2013?

Mr Allister: Yeah, 2013, and you were sitting beside Mrs Palmer. That's when you asked her about the email etc.

Mr Sands: Yes.

Mr Allister: Have there been other occasions when you've had lunch with that subcommittee?

Mr Sands: Generally every month of the committees that I attended, unless I had other pressing business back at the office and couldn't stay for lunch.

Mr Allister: So, you were a regular attendee at these, were you?

Mr Sands: As I explained earlier, I think I probably attended five or six of them.

Mr Allister: Just to place the September one, was that the first one?

Mr Sands: It was, yes, after the summer recess.

Mr Allister: Was that the first one you'd ever been at?

Mr Sands: No, no. It was the first one after the summer recess.

Mr Allister: Were you at one in October and one in November 2013?

Mr Sands: I probably was. I can't honestly remember.

Mr Allister: And did you have any further discussions about the 'Spotlight' programme with Mrs Palmer, for example, at any of those?

Mr Sands: No.

Mr Allister: Definitely not.

Mr Sands: Definitely not.

Mr Allister: Thank you.

The Chairperson (Mr Maskey): OK. No other members are indicating to ask any questions.

OK, any final comments to that, Michael, you want to make this morning?

Mr Sands: No.

The Chairperson (Mr Maskey): OK, thank you. So, you know the routine. Obviously, the Committee will be considering all of this evidence in the round and may or may not wish to speak to you again. Likewise, the door is open for yourself if you want to come back and make any additional remarks, comments or clarifications. OK, so thank you very much, Michael.