



Report by the Assembly Commissioner for Standards
on a complaint made by
Dr Paschal McKeown against Timothy Gaston MLA

Assembly-Confidential

Summary

This is a report on my investigation into a complaint from Dr Paschal McKeown from Age NI against Mr Timothy Gaston MLA. Dr McKeown alleges that when she and her colleague Dr Kelle Turtle attended the meeting of the Committee for The Executive Office on 25 September 2024 to share Age NI's knowledge and expertise with the Committee in relation to its Inquiry into Gaps in Equality Legislation for Older People, Mr Timothy Gaston MLA inappropriately questioned the professional conduct of Dr Turtle in breach of Rule 15 of the MLA Code of Conduct. Dr McKeown alleges that Mr Gaston's inappropriate questioning has the potential to cause reputational damage to Age NI and has had an impact on Dr Turtle's well-being. Dr McKeown further alleges that the comments made by Mr Gaston distracted and diverted the Committee away from the matter that Dr Turtle and others were invited to speak about and interfered with the performance of the Committee in carrying out its function during this meeting in breach of Rule 13 the Code.

My investigation included a review of the video of the meeting and previous Committee meetings, interviews with Mr Gaston MLA, Dr Turtle, Paula Bradshaw MLA and a review of all evidence received. On Rule 13, I do not believe Mr Gaston, in asking the questions to Dr Turtle as he did, improperly interfered with the performance by the Assembly of its functions in breach of Rule 13. In relation to Rule 15, in terms of substance I consider that it was not unreasonable for Mr Gaston to read the views Dr Turtle published on her X account, and to seek to put them to her, even if not the convention or norm within the Committee to do so. It was equally not unreasonable for Dr Turtle to refuse to answer as she thought the question to be inappropriate. I would describe the way in which Mr Gaston put the questions to Dr Turtle as something that resembled a cross-examination of her personally held views on transgender and gender diverse issues. As Dr Turtle was there in her professional capacity, such a cross-examination was, in my view, excessive. A breach of Rule 15 requires all elements of "unreasonable and excessive personal attack" to be met; it is a very high threshold and one which, on balance, I do not believe has been established.

I remain unconvinced by the argument relating to an imbalance of power in favour of Mr Gaston which could be imported into a breach of Rule 15. And while I am sincerely empathetic to the impact this has had on Dr Turtle's well-being, the focus of my analysis must be the documentary and video evidence of what Mr Gaston said and did.

I am satisfied, based on my analysis of the facts and evidence, that on the balance of probabilities, Mr Gaston's conduct did not breach Rule 13 or Rule 15 of the Code of Conduct.

Complaint

1. I received a complaint from Dr Paschal McKeown from Age NI on 22 October 2024. The complaint alleges that when Dr McKeown and her colleague Dr Kelle Turtle attended the meeting of the Committee for the Executive Office (“the Committee”) on 25 September 2024 to share Age NI’s knowledge and expertise with the Committee in relation to its Inquiry into Gaps in Equality Legislation for Older People, Mr Timothy Gaston MLA inappropriately questioned the professional conduct of Dr Turtle in breach of Rule 15 of the MLA Code of Conduct¹ (“the Code”). Dr McKeown alleges that Mr Gaston’s inappropriate questioning has the potential to cause reputational damage to Age NI and has had an impact on Dr Turtle’s well-being. Dr McKeown further alleges that the comments made by Mr Gaston distracted and diverted the Committee away from the matter that Dr Turtle and others were invited to speak about and interfered with the performance of the Committee in carrying out its function during this meeting in breach of Rule 13 the Code.

2. Rules of the Code as alleged:

Rule 13. You shall not act in any way which improperly interferes, or is intended or is likely to improperly interfere, with the performance by the Assembly of its functions, or the performance by a Member, officer or staff of the Assembly of their duties.

Rule 15. You shall not subject anyone to unreasonable and excessive personal attack.

Investigation

3. I commenced my investigation on 5 November 2024.
4. During my investigation, I carried out the following:

- Interviewed Dr Kellie Turtle²
- Interviewed Mr Timothy Gaston³
- Interviewed Ms Paula Bradshaw⁴
- Requested and received documentary evidence from the Clerk to the Committee
- Reviewed the Committee meetings of 25 September 2024⁵, 18 September 2024⁶, 11 September 2024⁷
- Reviewed the Hansard of the Committee meeting of 25 September 2024⁸
- Reviewed media coverage
- Took legal advice

¹ <https://www.niassembly.gov.uk/your-mlas/code-of-conduct/the-code-of-conduct-and-the-guide-to-the-rules-as-amended-on-23-march-2021/>

² Document 1

³ Document 2

⁴ Document 3

⁵ <https://niassembly.tv/committee-for-the-executive-office-meeting-wednesday-25-september-2024/>

⁶ <https://niassembly.tv/committee-for-the-executive-office-meeting-wednesday-18-september-2024/>

⁷ <https://niassembly.tv/committee-for-the-executive-office-meeting-wednesday-11-september-2024/>

⁸ <http://data.niassembly.gov.uk/HansardXml/committee-33788.pdf>

All documents I have relied on in reaching my conclusion are at Annex A

Evidence

The Committee meeting of 25 September 2024

5. Age NI attended the Committee on 25 September (“the meeting”) to provide their expertise as witnesses in relation to the Committee Inquiry into Gaps in Equality Legislation-Older People. Age NI representatives present included Dr Paschal McKeown, Charity Director and Dr Kellie Turtle, Head of Policy and Engagement. Also present to provide evidence was Evelyn Hoy, Chief Executive, Commissioner for Older People for Northern Ireland (COPNI) and Conor Tinnelly from COPNI.

6. The exchange that took place which forms the basis of this complaint is as follows⁹:

Mr Gaston: I have a final point for Age NI. If an elderly person in a care home insisted that they be given a bed bath by someone of the same biological sex, would that be viewed as transphobic by Age NI?

Ms Ní Chuilín: Jesus Christ.

Dr McKeown: We cannot comment on an individual case without knowing what the circumstances are. We are not in a position to comment on that.

Mr Gaston: Kellie, as head of policy for Age NI, is your Twitter account in conflict with Age NI?

Dr Turtle: My personal social media has absolutely nothing to do with my professional role.

Mr Gaston: Even though you are listed as head of policy for Age NI?

Dr Turtle: It does not say that.

Mr Gaston: I just find —.

Dr Turtle: It does not say that on my personal Twitter. I find this line of questioning quite inappropriate.

Ms Hoy: So do I.

Ms Ní Chuilín: So do I. He is consistent.

Mr Gaston: I will let you reflect on what you have on your Twitter account. I find that it does not comply with what Age NI is trying to do.

Ms Ní Chuilín: Chair, that is ridiculous. Seriously, it is ridiculous.

The Chairperson (Ms Bradshaw): I know.

Ms McLaughlin: It is stupid.

The Chairperson (Ms Bradshaw): Are you content for us to move on?

Dr Turtle: Very much so.

The Chairperson (Ms Bradshaw): Apologies if any offence was caused.

7. A further exchange took place towards at the end of the meeting¹⁰:

The Chairperson (Ms Bradshaw): Thank you, Emma.

⁹ <http://data.niassembly.gov.uk/HansardXml/committee-33788.pdf> pg. 9

¹⁰ <http://data.niassembly.gov.uk/HansardXml/committee-33788.pdf> pg. 14

I will give the last word to you, Kellie, because that was quite a personalised line of questioning. Is there anything that you would like to say in response, now that you have had a couple of minutes to reflect?

Dr Turtle: No.

The Chairperson (Ms Bradshaw): No. Are you OK?

Dr Turtle: I am fine, yes. It was quite unusual.

The Chairperson (Ms Bradshaw): Yes. Thank you very much. Thank you all.
Go ahead, quickly.

Mr Kingston: Before the panel leaves, I would just like to say that I thought that the comment by the member was very inappropriate. I am not interested in what it related to; it did not relate to our agenda. I want to apologise that it happened in a Committee of which I am a member. I think that the member responsible should apologise, and I hope that he will take that action. When people come to present evidence, it is not relating to their personal lives in any way. It is in their professional capacity. I would not want the panel to leave without that being said.

The Chairperson (Ms Bradshaw): Thank you.

Dr McKeown: We really appreciate that. Thank you.

Mr Gaston: If I could make a comment —.

The Chairperson (Ms Bradshaw): Yes, please. Go ahead. Thank you.

Mr Gaston: Certainly, from what I said earlier on, I do not believe that I have any need to withdraw. From looking down through the Twitter account references *[Interruption.]*

Mr Kingston: It is not relevant, Chair

The Chairperson (Ms Bradshaw): Look, OK. I am going to draw a line.

Mr Gaston: Some of the accusations that have been *[Inaudible]* political *[Interruption.]*

The Chairperson (Ms Bradshaw): Thank you very much.

Mr Kingston: That is not relevant. It is about knowing appropriate behaviour as an elected representative.

Dr McKeown: *[Inaudible.]*

Ms Ní Chuilín: No, it's not. Put a complaint in.

The Chairperson (Ms Bradshaw): We will be in touch. We may come back when we have our recommendations in draft form. Thank you.

8. The recording of the meeting and Hansard show that several Members of the Committee found Mr Gaston's questioning inappropriate; Paula Bradshaw MLA (Chair) and Brian Kingston MLA both apologised to Dr Turtle for the questioning by Mr Gaston.

Mr Timothy Gaston MLA

9. Mr Gaston is the single TUV representative among the 90 members of the Assembly.
10. The TUV manifesto¹¹ states the following about their stance on gender related issues:

¹¹ <https://tuv.org.uk/wp-content/uploads/2024/06/Proof2.pdf>

“The attack on gender identity is the latest target of agitators determined to rip apart the fabric of society. TUV will actively oppose such, including this so called “progressive agenda in our schools.”

“TUV’s moral compass means we remain resolute in opposing terrorists in government, amnesty for terrorists, destruction of the unborn and the dilution of marriage and gender identity as determined at birth. Ireland, TUV recognises that in recent years identity has been challenged at a more basic and fundamental level. It might not be in tune with the woke spirit of the age, but TUV believes that gender is determined at birth.”

“TUV does not accept that “gender-neutral” changing areas should become the norm or that biological males should be permitted to access women’s only spaces.”

“TUV does not accept that biological males should compete in female sports events.”

“TUV believes that we should not be afraid to use the words “women” and “girls” when framing legislation.”

11. Mr Gaston stated at interview that he asked Dr Turtle the question because the Committee was looking at gaps in equality legislation for older people and that it was a follow-on from the Equality Commission session a few weeks prior.

Yes. If you look in the context of what the Committee has been investigating, which is gaps in equality legislation, and back on 11 September the Equality Commission had been before the committee and had openly discussed the issue of transgender rights and the conflict that's created in relation to women's rights. So on the basis of that evidence session my office was contacted regarding concerns about protecting female-only spaces, and in the context of that it was drawn to my attention regarding Ms Turtle's Twitter and the role she had with Age NI. On her Twitter account or... Well, it's now X. She lists herself as 'policy and engagement, older people' on the account. So that was the reason. When Kellie came to the Committee I thought it was an opportune moment to ask for some of her views in her role as Age NI advocate.

As I explained in my first answer, the committee is looking at gaps in the equality legislation. We had Ms McGaughey at the committee on 11 September from the Equality Commission, so it was a natural follow-on to some of the issues that were highlighted within that committee. There's evidence sessions most weeks, and I felt that both of these topics aligned, were a natural follow-on from 11 September.

12. Mr Gaston said he did not feel his questioning was inappropriate and did not believe an apology was required.

My job was to ask questions of witnesses. It's up to the witness whether they choose to answer. Dr Turtle didn't choose to answer, so I felt I was within my right, as I've already pointed out, from what we were considering as a committee and, referring back once again to 11 September when Ms McGahey was there, I thought it was within the right, keeping with the topics that we were considering. Even since this we've had the Commissioner for Older People, Eddie Lynch, has been at committee and we've been asking similar questions on this topic with himself and exploring that.

13. Prior to interview, I provided Mr Gaston with a copy of Dr Turtle's impact statement. When asked his view on that impact statement, Mr Gaston stated:

It's concerning for how I carry out my role going forward. We've had a number of people come into committee making wild accusations about the Housing Executive being institutionally racist, and how can I turn around and question such going forward without a detailed analysis of how that person will respond to it? I feel this is going to try and neuter a committee member from asking questions, and it's going to leave committee members in an impossible position, regardless of whether it's from the Housing Executive to the police to Age NI, to whoever that comes in. I can't determine how somebody will react to it. I can determine what questions I ask. From reviewing Hansard this morning, again, before I came here, I do not see what I've asked that sparked this reaction.

14. When asked why he thought other Committee members were clearly taken aback by his questioning, with some apologising to Dr Turtle, Mr Gaston said:

We've seen in recent weeks where the committee has a disdain for myself that's been played out quite publicly, and I believe that it was more personal against me rather than the line of questioning.

I don't think anything within my line of questioning merited an apology by the chair.

Dr Kellie Turtle

15. Dr Turtle is the Head of Policy and Engagement for Age NI. She is the secretary to the Northern Ireland Assembly All-Party Group ('APG') on Ageing and Older People and is described as Head of Policy and Engagement in the 'contact details' section of the part of the Assembly website dedicated to that APG.¹²
16. Dr Turtle has a social media account on the X platform with c.5,500 followers and regularly publishes and republishes tweets on this site. Her current 'bio' on that site reads: *'Policy & engagement older people. Equality & rights. Health & social care. Faith & abortion. Opinions expressed in personal not professional capacity. she/her.'*
17. Dr Turtle's X account is public; anyone can access the platform directly or through a search engine. It appears that Dr Turtle is or was active on X and posts and re-posts Age NI -related tweets as well as feminist, pro-choice and pro-transgender activism material.
18. Prior to Dr Turtle's interview, she submitted an impact statement.¹³ In it, she stated that during the meeting she felt fearful that Mr Gaston was going to try to humiliate her by reading her personal X posts in Committee and that she was thrown into a panic as she had not foreseen that her personal online posts would have been brought into the proceedings.

¹² <https://aims.niassembly.gov.uk/mlas/apgdetails.aspx?&cid=1360>

¹³ Document 4

19. Following on from the meeting, Dr Turtle said she experienced considerable stress and anxiety and felt powerless to correct the perception Mr Gaston had created.

Mr Gaston's remarks threw me into a degree of emotional turmoil as I felt exposed and fearful that he was going to attempt to humiliate me in that setting.

As the Chair returned to the issue later in the meeting and Mr Gaston again appeared to be preparing to read out material from my social media account I was bracing myself for some kind of humiliation that I felt I, and my fellow witnesses were powerless to prevent. I was grateful that other Committee Members stepped in to curtail him.

It frustrated me that rather than challenge my personal views in the arena they had been expressed where I could have properly defended myself, Mr Gaston had chosen to attack me in an arena where he held considerably more power and privilege than I did. I couldn't see any examples of other witnesses having been treated this way in the course of carrying out their job and I felt very singled out and like I had been unfairly targeted.

His remarks and his deliberate use of his privilege as a member of the Assembly to cast doubt on my character and my professional integrity have caused me a great deal of distress and frustration.

20. At interview, Dr Turtle further explained why she believed Mr Gaston's questioning was inappropriate:

Along with everyone else, I could see a pattern emerging in Mr. Gaston's questions to different witnesses, mainly officials, but also some other charities and commissions, equality commissions and things like that. He takes the opportunity to ask questions about trans people and is quite particularly interested in issues relating to trans women, in particular, and their inclusion in public policy that impacts women, their inclusion in services that are for women. He has asked a number of other witnesses the same question in different versions, relating to lots of different policies. You could say he finds a way to get it into everything, whether it's the End Violence Against Women and Girls Strategy; there have been lots of different ones.

I understand there are people out there who don't like my views on trans rights and trans equality for their own reasons. I can see that Mr. Gaston has been speaking on behalf of those people in his role as a public representative, which he is perfectly entitled to do. I never thought for a minute that he would use that platform to, I suppose, go after me as an individual, when I was there to do something completely unrelated, and also something that was in a professional capacity.

That fear that he would have humiliated me in front of my professional peers, my manager in a job that I've not been in that long, the Commissioner's office, and all of these MLAs that it is my job to try and build relationships with. It was just this moment of dread.

Then, as I processed it afterwards, what settled on me was this real sense of, he's put this insinuation out there, that there is something that I should be ashamed of. I have no avenue to defend myself.

21. When Dr Turtle was asked why she believes this was “an unreasonable, excessive, personal attack” (Rule 15 as alleged in the complaint), she said:

I think it was unreasonable because of the context and the expectations that you have going into a situation, where you're there to do your job. I think the unreasonableness of it was evident in the reactions of everybody else in the room, and all of the other people who've contacted me in the weeks since it happened: other elected representatives from across all political parties who've sent me messages.

For me, that comes down to my understanding of the power imbalance. If you just take the straight words that he said, they're not particularly excessive. He didn't call me any horrendous name or stand up and shout at me. He didn't do any of those things that might normally, in an ordinary context, be seen as excessive. You're in a situation of an extremely pronounced power imbalance. Not just culturally, in terms of who these people are, and what my job is in relation to them, and how hard I have to work to build relationships with them to be able to do my job. Actually, in law, there is this power imbalance, where he's so protected. It's the context of the power imbalance, for me, that makes it excessive... If he had challenged me in a public meeting about trans rights, and he'd stood up, I wouldn't have had any of those reactions to it. If he'd disagreed with me in a thread on Twitter: he's entitled to his views. It was taking that approach to try and come after me in my professional role, in a platform where he held all of the power. It felt premeditated. That also adds to the excessiveness of it, for me, because he had to plan that. So, to go to those lengths to decide to take this opportunity to attack someone who, in another context, you see as some sort of political enemy, or enemy to this cause that you're pushing. Yes, that was excessive to me. I think that's why it had the impact that it did.

22. Dr Turtle stated at interview that issues relating to trans people was not a matter under consideration at the 25 September meeting of the Committee.

I wouldn't accept that at all, because I've never done anything in my role pertaining to trans people. It's not something that we deal with as a policy issue. Some older people are trans. If an older trans person came to one of our services, we would welcome them and provide services to them in a non-discriminatory way. That's what charities do. It's not something that we've worked on. So I don't see how it could be framed as something to do with my work.

There is something that I know, because I've been involved in the public discourse around trans rights and equality in Northern Ireland and the UK, that there is a concerted effort being made by some of the campaigners against trans equality, to try and create a new cultural norm, that speaking up for trans rights is some sort of controversial or offensive view to hold, and that people who hold that view shouldn't be allowed to do certain jobs, or they're in organisations trying to turn them 'woke'. There's this very deliberate effort to do that. So, for me, I can't prove this, obviously, but I see Mr. Gaston's actions towards me as being part of that spectrum of the anti-trans, anti-woke movement: this attempt to attack individuals in their workplaces and in their professional roles.

23. The Chair of the Committee, Paula Bradshaw MLA said she believes Mr Gaston's questioning at that meeting was inappropriate:

Since he joined the committee at the start of September, we were just expecting, every witness that came before us, there would be some horrendous angle that he was going to take forward to spark controversy and be offensive.

I think that he struggles to differentiate between who you, you know, how hard you can be in your scrutiny work, whether it's the Minister, departmental officials, or external people, as in this case, who are there to help us with our committee inquiry. they weren't there for scrutiny, they were there to impart their own experience and knowledge for our inquiry. So, that's why it was doubly inappropriate, in my opinion.

24. When asked whether she believed the question by Mr Gaston to Dr Turtle was relevant to the Inquiry, she said “no” and that she believes he regularly attends with questions that are pursuant to his own political agenda rather than the Committee agenda:

He came with those pre-prepared questions to ask her that were just unnecessary, certainly given the context of the inquiry.

... but the questions should be within the barriers of the department. That's really how you should be doing your questioning. This was a personal attack on her. She's well-known, she's stood as a Green candidate, so I didn't know whether this was partly a personal attack on her own political views as well, because obviously the Green Party would be very much champions for LGBT rights etc. That's where I felt a lot of this was straying into, as she's well-known as being a Green Party activist. Yes, so they'd gone so far away from the barriers of us as a committee in terms of what we are really looking for.

I just think that every week he comes and tries to find a way, whether it's transgenderism, whether it's against the Catholic Church, whether it's against... You know, there's always an agenda with his questioning, and in that case it was clear what his agenda was.

..it's always with his own political agenda that is there just to try and get the media to pick it up. I think that really goes against the convention of committees where we're meant to leave our political baggage at the door. We're meant to work collegiately.

25. Ms Bradshaw said she apologised to Dr Turtle at the meeting because she could tell Dr Turtle had been “deeply uncomfortable”. She was apologising, as Chair, for what Dr Turtle experienced while she was at the Committee supporting its Inquiry.

26. Members receive information on Committee protocols and practice which includes the conduct expected in Committee Meetings:

1. Provide an apology in advance when Member is aware that they will not be able to attend a meeting.
2. Arrive in time for the start of the meeting.
3. Remain in a meeting once an evidence session or briefing has commenced.
4. Ensure mobile phones are on silent mode and keep them as far away from the microphones as possible to avoid interference with the audio system.
5. Use tablet devices discreetly and in a way which does not interfere with proceedings and be aware of the cameras when using the tablet device.
6. Be aware of general noise levels and refrain from conducting private conversations with other members during evidence sessions.

7. Treat witnesses, members of the public, staff and other members with respect and courtesy.
8. Respect the authority of the Chairperson.
9. Respect Committee decisions and maintain confidentiality when dealing with matters in closed session.

Findings of Fact

27. I found the following facts established to the required standards of proof:

1. The matter under consideration at the Committee on 25 September 2024 was the Inquiry into Gaps in Equality Legislation for Older People which is concerned with the rights of older people, but also with equality legislation protecting a range of persons with particular characteristics including age, sex, gender reassignment and sexual orientation.
 2. Mr Gaston was engaged in political speech at the meeting which is afforded “enhanced protection” as defined by the Strasbourg jurisprudence.
 3. Mr Gaston asked Dr Turtle a question in relation her social media posts which Dr Turtle chose not to answer. Mr Gaston further requested she reflect on her posts and how they align to “what Age NI is trying to do”.
 4. Several Members of the Committee voiced their disapproval at the questions Mr Gaston asked Dr Turtle.
 5. The Chair of the Committee, Paula Bradshaw MLA, apologised to Dr Turtle for any offense caused by Mr Gaston’s questioning as did Mr Kingston MLA.
 6. Dr Turtle’s attendance before the Committee has caused her anxiety, frustration and emotional distress which has had an impact on her well-being.
 7. Dr Turtle’s posts on X are public and she regularly publishes and republishes tweets on this site.
28. In accordance with paragraph 7.14 of the General Procedures Direction, Mr Gaston was afforded an opportunity to challenge any of the above findings before I finalised my report. He did not challenge any of my findings of fact.

Analysis and Reasoning

Rule 13

29. The Committee is a scrutiny committee. It is Mr Gaston’s role, as a member of that Committee, to ask questions of witnesses that appear before it. Irrespective of whether Mr Gaston’s questions are believed to be relevant or not, and/or any negative impact those questions may have on witnesses or prospective witness attendance, I do not believe in the

context of this complaint that it can be said that Mr Gaston has improperly interfered with the performance by the Assembly of its functions in breach of Rule 13.

Rule 15

30. In line with the case law^{14,15,16}, prior to any consideration of freedom of expression and protected political speech under Article 10 of the European Convention on Human Rights, I must first consider whether Mr Gaston's conduct was in breach of Rule 15 of the Code as alleged.
31. Rule 15 prohibits MLAs from subjecting anyone to an 'unreasonable and excessive personal attack'. In considering whether the conduct of Mr Gaston amounted to a breach of Rule 15, I must be satisfied that asking Dr Turtle questions about her personal views as posted on her X account was an "attack" that was "personal" and "unreasonable" and "excessive".
32. The Concise Oxford English Dictionary (11th Ed) defines to "attack" as "to criticise or oppose fiercely and publicly". Something "excessive" is "more than is necessary, normal or desirable". Something "unreasonable" is "beyond the limits of acceptability".

Was this a personal attack?

33. Mr Gaston questioned Dr Turtle about material she had published on her X account related to her personal views on transgender and gender diverse issues. He asked: "Kellie, as head of policy for Age NI, is your Twitter account in conflict with Age NI?" This line of questioning provoked in Dr Turtle the feeling of being personally attacked, as Dr Turtle was not appearing at the Committee to discuss her personal views on any matter, nonetheless on an emotive issue which she was aware she and Mr Gaston strongly opposing views. Rather, she was there to provide evidence to the Committee in her professional capacity as the Policy and Engagement Manager for Age NI.
34. It appears from the reaction of the Committee and Age NI witnesses that Mr Gaston's questioning went against the norm/convention when he referred to Dr Turtle's personal views that were publicly available on her social media posts. From listening and watching Mr Gaston's questions, one might think that Dr Turtle was under investigation by Mr Gaston rather than being there to provide her professional knowledge and expertise to the Committee in relation to gaps in equality legislation for older people.
35. After Dr Turtle declined to engage with Mr Gaston's initial question, stating that she thought his question inappropriate, he then stated "I will let you reflect on what you have on your Twitter account. I find that it does not comply with what Age NI is trying to do". Dr Turtle was immediately fearful and did not respond to Mr Gaston's suggestion that she reflect on her social media posts. In essence, Mr Gaston's statement was left unchallenged and open to interpretation. Dr Turtle felt he had implied that there was something she should be

¹⁴ Calver, R (On the Application Of) v The Adjudication Panel for Wales [2012] EWHC 1172 (Admin)

¹⁵ Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504

¹⁶ Re Bunting [2019] NIQB 36

“ashamed of”¹⁷ in her social media posts. Listening and watching the exchange, one might think Dr Turtle was being chastised by Mr Gaston for her personal views.

36. There is no doubt that Dr Turtle felt she was personally attacked by Mr Gaston. However, I am not convinced the questions Mr Gaston posed amounted to an attack defined as fiercely criticising or opposing.

Were Mr Gaston’s questions excessive?

37. Mr Gaston appeared to me to be cross-examining Dr Turtle’s personally held views. Dr Turtle was not present at the Committee to be interrogated about her personal views on transgender and gender diverse issues and how or whether her views were “compliant” with her employer’s mission.
38. In the context of Age NI’s attendance at the Committee, I believe the fact that Mr Gaston chose to interrogate Dr Turtle about her personal views, and whilst doing so, imply that her views were not compatible with “what Age Ni was trying to do” was unwarranted; it was not necessary, normal or desirable in the context of the meeting. It is my view that it was excessive.

Were Mr Gaston’s questions unreasonable?

39. Having read the transcript and reviewed the video of the exchanges at the meeting, Mr Gaston’s voice remains consistently calm and non-aggressive. The manner of the exchange itself, in my view and in Dr Turtle’s own view¹⁸, was not beyond the limits of acceptability.
40. I am not convinced that it is unreasonable for a committee to consider prior publications of a witness, even a witness who is there voluntarily, as an employee of a charity to assist the committee with their knowledge and expertise. Whether or not it conformed with the convention or norms within the Committee, I do not consider it unreasonable for Mr Gaston to have read the views of Dr Turtle published on X, and to seek to put them to her. Equally, I do not consider it unreasonable for Dr Turtle to refuse to answer.
41. Age NI made no reference to transgender issues within their written submission to the Committee. However, it is evident from previous meetings on the Committee inquiry that transgender issues were discussed by Mr Gaston with the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission; both organisations referred to sexual orientation and gender reassignment in their written submissions to the Committee. Of the relevant elements of equality legislation to be considered during the inquiry, it could readily be anticipated that the most politically controversial elements would relate to sexual orientation and gender reassignment.
42. Given the TUV’s opposition to any evolution in laws governing sexual identity, these were likely to be matters on which Mr Gaston was particularly focussed on in his questions to witnesses to the inquiry. It is also worth noting that although only one member of the TUV has

¹⁷ Document 2

¹⁸ *ibid*

ever been returned at an election as a member of the Assembly (which may signify that the majority of voters do not share the TUV's views), there is no doubt that Mr Gaston's political views are supported by some electors in Northern Ireland, who expect these views to be espoused by him in proceedings of the legislature.

43. It may be, as suggested by witnesses to this investigation, that Mr Gaston believes comment on controversial matters such as gender identity are likely to raise his media profile and generate media coverage for his party (as indeed occurred in this case). But this is nonetheless political speech: it is a well-known and usual part of politics that politicians often seek to generate 'soundbites'. Likewise, as a usual part of politics, committee witnesses (and other politicians) may be an unwitting part of that process.
44. I do not believe Mr Gaston's conduct has met the threshold required to be in breach of Rule 15 of the Code. It is my view that it was excessive but not unreasonable or an attack on Dr Turtle to have asked the questions; Rule 15 does not preclude questions that are irrelevant, foolish, discourteous or inappropriate. As a 2015 review of the Code by the Committee on Standards and Privileges makes clear, *'members should not feel inhibited from subjecting witnesses to challenging questioning... It would be entirely wrong if the [Code] required members to modify their behaviour in committee in a way that undermined the democratic process'*.¹⁹

Article 10

45. Given that I have not found the conduct of Mr Gaston to have breached Rule 15 of the Code, it is not necessary to consider Article 10. However, even had I found Mr Gaston's question to be an "unreasonable and excessive personal attack" on Dr Turtle, the case law is clear that political speech is afforded enhanced protection which includes the right to say that which could be considered dangerous, disturbing, irresponsible or shocking. If the Code restricted the ability of members of the Assembly to ask a question about gender identity in the context of a committee inquiry into equality legislation, it would represent an obvious interference with political expression.

Power Imbalance

46. Both Dr Turtle and Dr McKeown essentially argue that the alleged power imbalance between a member and a witness can convert questions which are (in the view of the witness) irrelevant or discourteous into an unreasonable and excessive personal attack. I do not believe this is a sustainable argument. Dr Turtle attended the Committee voluntarily and was questioned by Mr Gaston. She declined to answer his question and was supported in her decision not to answer by other members of the Committee. Further, Dr Turtle was given the opportunity by the Chair to conclude the Committee meeting. I do not believe this points to an imbalance of power.

¹⁹ Committee on Standards and Privileges Review of the Code of Conduct and Guide to the Rules Relating to the Conduct of Members paragraph 101

Impact on Dr Turtle

47. The impact statement submitted by Dr Turtle and the testimony obtained during her interview outlines the impact her attendance at the Committee has had on her. There is no doubt it has caused her frustration and emotional distress, to which I am sincerely empathetic. However, emotional distress is a foreseeable consequence of robust political expression. The impact on a witness of questions asked, whether thought to be relevant or not, cannot be known to the Member who asks those questions: it is entirely subjective.
48. To use the Code to prohibit questions which might cause emotional distress or reputational damage would be an unjustifiable limitation on political speech. The focus of my analysis must be the documentary and video evidence of what Mr Gaston said and did at the time. I have considered carefully the issues of power imbalance, emotional distress, stress and anxiety raised by and on behalf of Dr Turtle after the event. However, to analyse compliance with the Code by reference only to the reaction of a witness to challenging questions would be unworkable and would necessarily flow backwards into preventing protected political expression.

Observations

49. For as long as I have been the NI Assembly Commissioner for Standards, I have advised members that although they have right to say things that might shock, offend or disturb, they should exercise these freedoms in a measured and proportionate way. As such, I expect members to recognise the power of their public platform, and to act with decorum and restraint.
50. As the case law makes clear, political speech is afforded enhanced protection. “Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, nonrational and aggressive that would not be tolerated outside this context is tolerated”.²⁰
51. That protection extends to anyone engaging in speech of a political nature; it is widely construed. It follows that witnesses appearing within a committee setting (and therefore engaging in speech in a political context), are afforded enhanced protection. Witnesses and members alike, in the context of a committee meeting, can say things that shock, offend and disturb, although as I have noted I expect members to be responsible in the exercise of these freedoms.
52. At present, I am not convinced that the broad scope of political speech is sufficiently understood by witnesses, nor am I convinced that witnesses fully understand that their publicly published information (social media, news, etc), including published personal views, might legitimately be questioned by members. I take the view that witnesses should be fully informed of the extent of the right to freedom of expression protected by Article 10 of the Convention prior to agreeing to appear before a committee.

²⁰ Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504 9 (Admin)

Recommendations

53. Fairness requires that witnesses are fully aware of what they are agreeing to when attending committee. As such, I suggest that freedom of expression considerations and protections should be made clear in information sent to witnesses prior to their appearance at any committee.
54. It should be made explicitly clear to witnesses, prior to their agreement to appear before committee, that any of their published views (including personal views expressed in public fora) may have been read by members of the Committee and may be the subject of questions by the committee.

Conclusion

55. I am satisfied based on my analysis of the facts and evidence that on the balance of probabilities, Mr Gaston's conduct did not breach Rule 13 or Rule 15 of the Code of Conduct.

Melissa McCullough
NI Assembly Commissioner for Standards
19 January 2024

Annex A

Document	Description
1	Complaint
2	Interview transcript Dr Kellie Turtle
3	Interview transcript Mr Timothy Gaston MLA
4	Interview transcript Ms Paula Bradshaw MLA
5	Impact Statement from Dr Kellie Turtle

Document 1: Complaint

Complainant: Dr Paschal McKeown
Date of complaint: 22 October 2024 [via online submission]
Complaint against: Mr Timothy Gaston MLA
Code of Conduct: MLA

Complaint:

I, along with my colleague, Dr Kellie Turtle, attended the meeting of the Committee for the Executive Office which was held on 25 September 2024. We attended the meeting at 3.02pm to brief and respond to questions regarding the Committee Inquiry into Gaps in Equality Legislation - Older People. The issue of rights has been identified by older people as a key priority and we were delighted to attend the Committee meeting to share Age NI's knowledge and expertise on the matter. I wish to complain about a question asked by Mr Timothy Gaston, MLA, which concerned the personal X (formerly Twitter) account of Dr Turtle (video recording 1:43:32 - 1:44:00). I believe this was an unreasonable and excessive personal attack on a witness who was present at the Committee meeting, as an employee, to share Age NI's knowledge and expertise. Mr Gaston, MLA, questioned the professional integrity of an Age NI employee by asking 'is your Twitter account in conflict with Age NI'. Mr Gaston, MLA, went on to state 'I find that it does not comply with what Age NI is trying to do'. I believe that the behaviour of Mr Gaston, MLA, constitutes an unreasonable and excessive personal attack due to the power imbalance that exists between an MLA and a witness in this context. It is my belief that Mr Gaston, MLA, inappropriately questioned the professional conduct of Dr Turtle. I believe, too, that the statement made by Mr Gaston, MLA, has the potential to cause reputational damage for Age NI as an organisation. It has also had an impact on Dr Turtle's personal wellbeing, having been exposed to commentary and debate about the incident in the mainstream media and on social media. Furthermore, I am concerned that this question could have the potential to interfere with the ability of the Assembly to carry out its functions, by creating a climate of uncertainty, whereby witnesses are unsure if they will be exposed to a personal attack. When an employee of a charity, such as Dr Turtle, takes time to provide a Committee with expert advice or evidence, they do so in their professional capacity and should have assurance that members will engage with them within the boundaries of their professional role on the basis of the knowledge and expertise held by the organisation they represent. Witnesses are provided with guidance that states they should be prepared to answer questions not covered in their written briefing. The effective functioning of Assembly Committees relies, I believe, on an expectation that such additional questions will be relevant to the item(s) being discussed and not used inappropriately by members. On this occasion, I believe, the comments made by Mr Gaston, MLA, distracted and diverted the Committee away from the matter which Dr Turtle and I were invited to speak about and interfered with the performance of the Committee in carrying out its function during this meeting. In addition, it was disappointing and unhelpful that media coverage of the evidence session in the days that followed focused not on the work of the Committee and the import

Rules:

Rule 13. You shall not act in any way which improperly interferes, or is intended or is likely to improperly interfere, with the performance by the Assembly of its functions, or the performance by a Member, officer or staff of the Assembly of their duties.

Rule 15. You shall not subject anyone to unreasonable and excessive personal attack.

Document 2: Interview transcript Dr Kellie Turtle

Commissioner Interview with Dr Kellie Turtle

202400027

21 NOVEMBER 2024

HR - PAIRED DEPTH - 47

MINS

[Other comments:]

This interview is being tape recorded. I'm Melissa McCullough, Commissioner for Standards. The date is 21st November 2024. The time is 11:05. I'm interviewing Dr Kellie Turtle. Are you happy to be referred to as Dr Turtle or Kellie?

R1: Kellie.

In attendance is Dr Paschal McKeown, who is also the complainant, but here to be a support for Kellie. I'm going to ask you to formally take the oath. This can be on the Bible or a witness affirmation. It's entirely up to you. They're the same meaning.

R1: I'll do the affirmation.

Please could you speak that out?

R1: I do solemnly, sincerely, and truly declare and affirm that the evidence I shall give shall be the truth, the whole truth nothing but the truth.

To remind everyone, this is a confidential interview and nothing spoken of in this interview should be discussed with anyone. Additionally, the transcript of this interview may be appended to the investigation report, if I rely on it for making any decisions or recommendations. You'll receive a copy of the transcript for your approval within the coming days. Just to summarise, the matters that I'm investigating relate to the complaint that Dr McKeown submitted on 22nd October. It's in relation to your attendance on 25th at the Committee of the Executive Office, and the treatment by Mr. Gaston MLA during that committee meeting. Are there any questions before I begin with my questions?

R1: No.

Just for the record, what is your role at Age NI?

R1: I'm the head of policy and engagement.

How long have you held that position?

R1: Since January of this year.

That's as long as you've been with Age NI?

R1: Yes.

Your reason for attending the committee on 25th September: can you just tell us about that?

R1: Yes. The Committee for the Executive Office had been undertaking an inquiry into gaps in equality law in Northern Ireland. We had submitted written evidence to that consultation, which I had drafted in consultation with our older people's groups. Following the submission of the written evidence, the clerk had written to me to invite us to come and give oral evidence as part of the committee hearings. There was a focus on older people at that particular session. We'd been invited to go, alongside the Commissioner for Older People. We talked specifically about the fact that there is no age discrimination law in Northern Ireland, to protect people against discrimination in goods, facilities and services provision.

That was the main remit of that meeting?

R1: Yes.

The exchange on that day that led to this complaint was in reference to Mr. Gaston's question, where he referred to your personal Twitter account. I know that we can all watch it and see it, but take me through. I want to know what the context was from your view.

R1: I think the context is probably quite important in understanding it. The context probably goes back outside of this meeting, to previous meetings, as well. I watch a lot of committee meetings as part of my job. Along with everyone else, I could see a pattern emerging in Mr. Gaston's questions to different witnesses, mainly officials, but also some other charities and commissions, equality commissions and things like that. He takes the opportunity to ask questions about trans people, and is quite particularly interested in issues relating to trans women, in particular, and their inclusion in public policy that impacts women, their inclusion in services that are for women. He has asked a number of other witnesses the same question in different versions, relating to lots of different policies. You could say he finds a way to get it into everything, whether it's the End Violence Against Women and Girls Strategy; there have been lots of different ones. When he first addressed us, myself and Paschal with the question, the first question he asked was about trans women. Well, he didn't specify trans women: trans people in the provision of care to older people, and asked if an older person didn't want to be...

[Unclear word 0:04:58.9].

R1: Yes. Paschal answered that question. Then, he moved on to the question where he specifically mentioned my name and started this line of questioning about, 'Do you think that what's on your Twitter account is in line with,' I think he said, 'What Age NI is trying to do,' or something. The language was a bit unclear, but it seemed like he was saying that

there was something on my personal social media account that was not in line with Age NI's values. There were some inaccuracies in what he said, because he said, 'It states on your Twitter account that you work for Age NI,' which it doesn't, and never has done. The first thing that came to my mind today, as my head was racing, was just to correct that inaccuracy. That felt like the only thing. In that moment, where I felt quite disempowered, I thought, well, at least I can say, 'No, that's not correct.' I think, for me, because I am aware of the public discourse around trans people and I have participated in that as a private citizen who cares about the trans people in my life, and my family and my friendship groups.

I suppose, when he started to question me in that way, it did have a context for me. I understand there are people out there who don't like my views on trans rights and trans equality for their own reasons. I can see that Mr. Gaston has been speaking on behalf of those people in his role as a public representative, which he is perfectly entitled to do. I never thought for a minute that he would use that platform to, I suppose, go after me as an individual, when I was there to do something completely unrelated, and also something that was in a professional capacity. There are lots of other members in that committee who I wouldn't share the same political views as. We wouldn't share the same views on lots of social issues, but we're all there to do a job. Everybody else in that room was professional enough to be able to recognise that, in my view. I was really shocked. I knew that there had been this pattern of asking about trans people. When he asked us about it, I was glad Paschal was answering the question, because it's a tricky one, obviously.

I was sitting at that point thinking, gosh. I was kicking myself that I hadn't predicted he might ask something about trans people, because I had seen him do it to lots of other witnesses. I thought, well, that's that bit. He's got it out of his system and we'll move on. I really was so taken aback and shocked. It just threw me into a bit of emotional turmoil and panic of, 'Where is he going with this?' In the midst of the flurry of different people speaking up, and all those reactions that everyone in the room was having, I was just trying to steady myself. Looking back at the video of myself, I looked very calm and I delivered my response about, 'I find this inappropriate' very calmly. I absolutely did not feel calm. I felt like you could hear the shake in my voice, but it doesn't come across on the video.

No, it does not come across that way.

R1: I did notice, when I was watching the video back, how I spun on my chair like this, for quite a while afterwards. That was me just trying to process all that emotion, probably, out of my system. The biggest thing for me, because he was clearly on his phone looking. You could tell that he was scrolling. I just thought, he's going to try and read something out. I was caught in this moment of knowing that I don't have anything on there: I've done nothing wrong, but he could still find ways to humiliate me. To say things that everybody else in the room might not have any problem with, but it's public. It's televised. He's speaking to another audience of people who I don't know, who don't know me. That fear that he would have humiliated me in front of my professional peers, my manager in a job that I've not been in that long, the Commissioner's office, and all of these MLAs that it is my job to try and build relationships with. It was just this moment of dread.

Then, when it passed and it was shut down, I tried to settle myself. It was reopened then towards the end of the session, for good reason and for supportive reasons. I appreciated that. He was going to take that opportunity, if he could, clearly to try and read something. Again, that just threw me into that panic. It was quite the emotional roller coaster of shock and fear, and the adrenaline in my system, and anger, but nowhere that you could go with that. Then, as I processed it afterwards, what settled on me was this real sense of, he's put this insinuation out there, that there is something that I should be ashamed of. I have no avenue to defend myself. I was just chatting to Paschal yesterday about the fact that I've kind of left Twitter in the last week, as many thousands of people have, and would delete my account, other than the fact that this is ongoing. I feel like, I don't want it to look like I have something to hide. People who have seen this in the newspaper or whatever, if they want to go on my Twitter, and see that I've done nothing wrong.

Thank you for sharing that. I can see that you're visibly upset now; I can see this. People need, I think, sometimes, to put themselves into the person's shoes who is sitting there. Clearly, that wasn't being done. I'm not sure that Mr. Gaston understands that you were going through such a range of high-energy emotions at that point, which is important for him to understand. Take me through: I know that, in the complaint that we have here, that complaint, it mentions a few things: that it was an unreasonable and excessive personal attack. I just want to focus on that. In your view, was it unreasonable?

R1: I think it was unreasonable because of the context and the expectations that you have going into a situation, where you're there to do your job. I think the unreasonableness of it was evident in the reactions of everybody else in the room, and all of the other people who've contacted me in the weeks since it happened: other elected representatives from across all political parties who've sent me messages.

I'd like to hear about that, definitely. You can see that they feel it was unreasonable.

R1: Yes, and many colleagues who do similar work to me in different charities. In my personal statement that I wrote, I tried to capture the weirdness of that, because I find it very intrusive and it makes me feel very vulnerable and exposed. Every time somebody comes up to me at a meeting or a workshop and says, 'That was terrible, what happened to you.' I don't want to be having those conversations with people. I just want to be able to do my job. I hate that that's been brought into my...

Life.

R1: Yes. At the same time, I feel like a lot of my colleagues in other organisations are seeing what happened to me and thinking, God, that could happen to me. They all recognise the impact that would have on them and their ability to do their job. They all see the unreasonableness of it. I know it's not a case of majority rules here, but I do think the way other people have reacted to it has helped me understand that unreasonableness.

The excessive nature fits in with the unreasonable, correct? Excessive in that...?

R1: For me, that comes down to my understanding of the power imbalance. If you just take the straight words that he said, they're not particularly excessive. He didn't call me any horrendous name, or stand up and shout at me. He didn't do any of those things that might normally, in an ordinary context, be seen as excessive. You're in a situation of an extremely pronounced power imbalance. Not just culturally, in terms of who these people are, and what my job is in relation to them, and how hard I have to work to build relationships with them to be able to do my job. Actually, in law, there is this power imbalance, where he's so protected. It's the context of the power imbalance, for me, that makes it excessive. If he had challenged me in a public meeting about trans rights, and he'd stood up, I wouldn't have had any of those reactions to it. If he'd disagreed with me in a thread on Twitter: he's entitled to his views. It was taking that approach to try and come after me in my professional role, in a platform where he held all of the power.

It felt premeditated. That also adds to the excessiveness of it, for me, because he had to plan that. So, to go to those lengths to decide to take this opportunity to attack someone who, in another context, you see as some sort of political enemy, or enemy to this cause that you're pushing. Yes, that was excessive to me. I think that's why it had the impact that it did.

I understand what you're saying. 'A personal attack' is what you would describe it as?

R1: Yes. I'm sure there is a way that he could have framed it to make it sound like it was about our organisation or my role in the organisation. I wouldn't accept that at all, because I've never done anything in my role pertaining to trans people. It's not something that we deal with as a policy issue. Some older people are trans. If an older trans person came to one of our services, we would welcome them and provide services to them in a non-discriminatory way. That's what charities do. It's not something that we've worked on. So I don't see how it could be framed as something to do with my work. To me, it was about my personal views, that he just doesn't agree with. There is something that I know, because I've been involved in the public discourse around trans rights and equality in Northern Ireland and the UK, that there is a concerted effort being made by some of the campaigners against trans equality, to try and create a new cultural norm, that speaking up for trans rights is some sort of controversial or offensive view to hold, and that people who hold that view shouldn't be allowed to do certain jobs, or they're in organisations trying to turn them 'woke'. There's this very deliberate effort to do that. So, for me, I can't prove this, obviously, but I see Mr. Gaston's actions towards me as being part of that spectrum of the anti-trans, anti-woke movement: this attempt to attack individuals in their workplaces and in their professional roles.

I want to just confirm on record that, and Paschal, please chime in here: even though the topic of the day was gaps in equality for older people in the legislation, never, at any point in time, was the gap anything to do with the legislation relating to trans old people?

R1: No.

R2: No, it wasn't, and nor was Mr. Gaston's question an equality question. Neither the question that I also didn't answer, because as I sat there thinking, what on earth is an answer? In fact, I didn't hear it as a trans question; I wasn't that sensitive. I just heard, it's not unusual for older people, and maybe others, to ask for single-sex service delivery, so I heard it like that. I also know, sometimes, it's just not possible. If you turn up to [?EV 0:19:42.0], you get seen by who you're seen by. I do know, hearing older people, that, not everybody will express a view: 'If it's intimate care, I want to be cared by somebody of the same sex.' That's how I heard his question. I wasn't as sensitive because I don't operate, if you like, in that kind of equality word. To me, it was irrelevant, and taking us away from - in that sense, to me, it was excessive. In that sense, it was very personal. It wasn't about what we were there to do. It was taking it away from the time that was due to older people around equality legislation. The question wasn't within that context.

Not at all, okay. So that was never on the agenda?

R1: No, it wasn't relevant.

To you, it was out of the blue.

R2: 'Why are we spending our time talking about these issues?', because it wasn't about equality legislation. Nor had we made any reference to it in our response.

R1: Yes.

R2: So there was nothing, no reason, to focus in on a particular area.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The other thing I wanted to ask was about, in this complaint, you mentioned that it's had an impact on your personal well-being, based on being exposed to commentary and debate in the mainstream media and on social media. Also, you mentioned earlier in this discussion about how you've received a lot of feedback, positive, from other political members of society. Also, you now have to go to meetings where people are coming up and bringing it up. I just wanted to focus a little bit on the well-being bit, because it's part of the complaint and it's important for me to understand that just a little bit more, if that's okay.

R1: Where do you start with that? I think, in these situations, people don't understand the toll that it takes. First of all, working in policy at all is a hard job. It's for people who have decided they're okay with putting themselves out there, and being in situations where you're exposing yourself; you're making yourself vulnerable; you're trying to win people over. It's that kind of a role where you have to really put yourself on the line for your organisation, at times, to try and advocate. You're advocating for people who are marginalised, people whose rights need to be protected. So there's a lot of emotion involved in this work to begin with, as a base level. When this happened to me, I think it just caused me so much anxiety. It was off the back of, as I said in my personal statement, this really brilliant event we'd had the day before; months and months of work for me. As an organisation, we were on a high, because you put on one of those events where you're trying to get as many members there as possible, ministers there. It was the middle of the programme for government consultation. Everything fell into place and we were just buzzing after that, but I was exhausted. I was feeling quite vulnerable.

I had personally emailed every single member of the Assembly in the days running up to it, saying, 'We'd love you to come and have lunch with older people.' I got lots of personal responses. I was more visible and exposed than I'd been yet in this job, and I was shattered. I had to go and do the committee the next day. I wrote the speech that morning. I remember us showing up to the coffee shop downstairs and going, 'This is the first draft and it's going to have to be the one!' Then, when the incident happened with Mr. Gaston, it was the adrenaline through my whole body and the anxiety, the absolute terror, to be honest, that this was going to turn into a situation that would have repercussions for me in my job. That took a long time to work out of my system. It was really compounded by the fear and the frustration with this suggestion of wrongdoing. That was the bit, in the days afterwards, that I really struggled to cope with. That was what kept me awake. I couldn't sleep that night, because it was just this sense of - because I believe in doing the right thing so much, and that's what's got me into the work that I do.

The feeling that there might be people who think I've done something wrong when I haven't: that wouldn't let go of me. If it had happened in any other circumstance, I'd have had options for how to deal with that, and how to hold him accountable for that. I didn't know what to do. The social media commentary: I wasn't tagged in those posts. I didn't have to read them. I get that, but I couldn't not, because they were discussing me. To sit and see the absolute field day that people had with it. I can't remember how many people called me 'vile', but that was the most commonly used word: 'She's vile.' I have no idea who these people are. How do they have this opinion of me? Some of it may be pre-existing: they already didn't like me because of personal views I've expressed publicly in the past. It just seemed like such a catalyst for people to gather around to post screenshots of me in different situations. One guy in particular, who just kept going on about calling me a [?moon hiler 0:31:07.7]. Someone called me a pervert.

There is this group which assumes that anybody who supports trans people must have some sort of sexual deviance as their motivation. All of this is going on in the 48 hours that followed it. I'm just scrolling and going through comment threads, trying not to miss anything. You want to look away, but at the same time, you can't. Whenever Brian Kingston

reposted it, I really appreciated his support. I have spoken to him personally and said, 'That was really appreciated.' Unfortunately, just because of his audience on social media, it did expose the video clip to a whole new group of people. The next day, there was another influx, then, of discussion and comments. I think, as well, you do think about your children. I've heard people say this in the past and I've never really understood it until this happened. When you see people talking about you like that, the first thing you think about is, you put yourself in the shoes of your children reading that about you. It really it's very, very upsetting.

That was the intense period, in the immediate aftermath. Really, from then, it's just been that drip-drip effect. I'm still quite worried. Even entering into this process and knowing that he'll have a chance to have his right of reply or defend himself. I just find myself, 'What's he going to bring up in the course of this? Has he got some folder of screenshots of me saying terrible things?' I don't know. You doubt yourself so much.

Can I just interject here? I don't mean to cut you off, but what he is answering to is this complaint. This complaint is about a question which has clearly caused you harm. Other people may also agree that it wasn't on the agenda. Any evidence relating to anything else that's personal to you, is not evidence that makes it any better, if you get what I'm saying. I should say, also, because I can see your worry about that, I haven't seen anything like that. I would be questioning what the weight of that would be, in any terms, in relation to this complaint. I would temper that worry anyway, because it is about this meeting, about what he asked you at this meeting. The complaint is against him and what he said. My job is to investigate MLAs where they might have done something wrong and in breach of their code. It is very narrow: be assured of that.

R2: I think it's also that the fear remains. It may not be in this complaint context. It could be at another time, another space, those kinds of things. The other thing I would say, because I previously would have carried out the role that Kellie is carrying out for Age NI. You put so much effort, and rightly so, into trying to persuade the committee of your point. That takes, what would you call it, mental, physical, emotional resources that you bring, because you know you only have your ten minutes or whatever. First of all, it's usually quite a formal process. They ask; you respond. It's not a conversation. It's not a roundtable discussion. That context, I think, is very important, in terms of, when can you speak? What do you speak about? It's quite prescribed. Maybe that's just cultural, and maybe that's just me, but I think it's quite prescribed, if you like, in terms of formal process. You're already highly charged, in terms of going into it.

One of the things: it's an added thing to have it videoed and also transmitted. You want to go in and do the best you can to get the best for whatever case you're trying to make. That's difficult enough without also sitting there - in the old days, it used to be just Hansard. You would look at those, very embarrassingly, and go, 'I shouldn't have said it that way.' These records outlast your input. I just want to stress how important those moments are to make your case, and persuade people of the rightness of the case that you're trying to - you're always trying to give the best answer that you can give at that time.

Paschal, your complaint here mentions also, and I can talk about that to you, and Kellie as well, about how it would interfere with the ability of the Assembly to carry out its functions by creating a climate of uncertainty, whereby witnesses are unsure if they'll be exposed to a personal attack. I was interested to hear your view of that, for the record.

R2: From my point of view, I put a lot of effort into what kinds of questions, and so on and so forth. So, to have a question that doesn't seem relevant to the topic under conversation, to me, that means the next time I would go before a committee, you're thinking outside what you've come along to say. You're distracting time, your resources, your mental and physical effort, in a place that it shouldn't be. To me, it was a distraction at the time. We were there, we had that length of time, that space, to talk about what is really a priority issue for older people and for Age NI. So it was a distraction: not relevant. It took us away from our business and what we were there to do. To me, the committee was not able to do its business, which was the scrutiny, further questions, on what we had submitted in our evidence.

R1: I think for me, it's knowing that, as a policy worker, we'll always have to be there in those spaces. That's our job. We've talked about this as an organisation: that's your role. You have a remit to do that.

R2: It's your responsibility. You have a duty, as far as I'd be concerned. People get involved in the voluntary sector because, usually, there's a passion for change. We're lucky to be able to do the job. There's a duty and responsibility on organisations to act in that way.

R1: Advocating for equality and rights for older people is one of our charitable objects; that's what we do. On a personal level, I know, the next time we have to come to the committee with something which, there are multiple things that we need to bring to them, I'm going to be very fearful about something being said. I think, in the bigger picture, if you look at the policy world across lots of organisations, it has a chilling effect on us as policy workers: will certain people be silenced, if you have expressed something in your personal life that someone's going to pick up on and choose to attack you with or over? There's definitely a bit of a fear there for a lot of people. It interferes with the committee's ability to do its job, because then you're not getting the best of people. You're not getting people going in there in good faith; the committee is acting in good faith; everybody is acting in good faith. It's very hard to try and put into words. It'll go one of two ways: it's unlikely people will stop doing their jobs, but what may happen is that people will be silenced in the private arena. I think that's probably the purpose of it.

R2: In some sense, the reason I was there was nearly an accident. That's because I've worked longer with Age NI, and worked longer on these issues, in case there was a historic reason there behind it. I might not have been there, so that discussion as an organisation. There's always a discussion: who do we field? Who's the right expert in this? My job was to be supportive from a content point of view. Not supportive as in, if someone is being attacked in this way. Whether or not you would go in, it might be a much more senior level that you would field. Whether part of the preparation beforehand is now, 'If you're asked

this question, this is how you answer.' What you want to do is go along and be as open as possible. It's not a conversation, but you want it to be an open discussion, where you are giving MLAs as much information that really helps them understand why this is important. What are the key things that you want to talk about? Rather than, basically, being in a courtroom. Which is, 'Only answer this question.'

I wasn't happy that I said 'no comment' on one, but it was to do with, if I had more information, I would have given it. You give all the questions you're asked serious consideration, because you want people to understand, from your perspective. To me, as a manager, I feel like I would be certainly saying to myself, 'Well, who do we field?' Some of that consideration has to be for the questions that aren't relevant. Who are we given that, not just responsibility, but who are we asking to bear that, when they go into that unseen place? I'm not describing it very well, but what I'm saying is, you don't know what's going to happen. Who is it right, as an organisation, to ask somebody to go in and bear that responsibility?

R1: It feels like it has the potential to change the tone of what committees do. I've been in this world long enough now: you don't go to a committee to be cross-examined, Assembly. Surely that is not what they're meant to do. Yes, I understand: it's all in the guidance, but to be personally cross-examined. I think it's similar: there was another session a couple of weeks before ours with representatives from BAME communities. I know some of the witnesses who were involved in that. It was brought up during the discussion; it's all there on the public record. When they raised issues like institutional racism, which is a very real concept that needs to be understood and analysed. Again, from the same member, this sense that his role was to push back and say, 'I don't think that exists.' The Chair at that time tried to manage that by saying, 'You're not here to disagree with these witnesses' perception of things. You're here to take evidence from them and question them, so that we can hold the executive office to account, not the charities that are sitting in front of you.'

I suppose that's the bit where I feel like, what happened with us is a really clear example of, if this isn't brought under control, the whole tone of what happens in those committees is going to change. That worries me for the process of what we do here at the Assembly, and how we engage.

Thank you both for that. I think you've answered every question that I would have wanted to understand better. I should ask, is there anything you want to add that you haven't already been asked and you'd like to put on the record? You're free to do so.

R1: This was something that's just been in my head: I just wanted to make it clear that, prior to this, I've never had any engagement with Mr. Gaston before. The only time I've ever communicated with him was...

[Interruption 0:44:53.3 - 0:45:16.1]

R1: I wanted to put it on record, just in case it's useful at any point, that I've never had any interaction with Mr. Gaston prior to this. The only communication I've ever had with him

directly would have been the week before our Long Gallery event, when I sent him that personalised email that I sent to every member, inviting them to come and have lunch with some of our older people's groups. He didn't reply to that. He did come to our event.

He did or he didn't attend?

R1: He did, yes, the day before. He'd gotten his photo taken with Paschal and our logo. I was mindful you might have had questions about, 'Had I ever argued with him on Twitter?' I've never interacted with him, whether in the real world or the social media world, or anything. It's quite out of the blue.

That's important to add that. Thank you for bringing that up.

R2: I suppose the only thing I'd like to add is that, as an organisation, if a complaint is made to us, we take it seriously, but it's not something that we do. We're not in the business of making complaints, but because of the effect it had on a staff member. Also, I think there was a danger that it was bringing Age NI into disrepute. The allegation was that we had employed, and did employ, a person who did not have the same values. So, there's an organisational element, as well. As well as the other things, in terms of, the committee is too precious a place for people not to take seriously, and not to focus on the issue that we were there to discuss.

I'm going to close the interview. It's now 11:53.

[END OF TRANSCRIPT]

Document 3: Interview transcript Timothy Gaston MLA

Commissioner interview with Timothy Gaston MLA

25 NOVEMBER 2024

[Other comments: Two audios combined in one transcript]

Okay. I'm Melissa McCullough, Commissioner for Standards. The date's 25 November 2024. The time is 10:45 a.m. I'm interviewing Mr Timothy Gaston, MLA. With him is MP Mr Jim Allister. Are you happy to be referred to as Mr Gaston, or do you prefer Timothy for the tape?

R1: Timothy will do.

Okay, Timothy. I wish to remind you that your representative is not permitted to answer any questions on your behalf. He is here only as an observer. However, should you need to consult with him I can pause the interview and allow for that. If I can formally ask you to take the oath? Either you take it with the bible, the top one, or just a witness affirmation. They're to the same effect, so whichever you prefer.

R1: Yes, top one.

Okay. Can you put your hand on the bible and just read that out?

R1: I swear by almighty God that the evidence I shall give shall be the truth, the whole truth, and nothing but the truth.

That's great, thank you. Okay. This is a confidential interview, and nothing spoken of in the interview should be discussed with anyone. Additionally, this transcript may be appended to the investigation report if I rely on it to reach any recommendations. The matters that I'm investigating relate to the complaint submitted by Dr Paschal McKeown of Age NI in relation to the 25 September meeting of the Committee of the Executive Office. You've received a copy of the complaint, and I've also sent you a copy of her impact statement received. Before I begin any questions, are there any questions you have?

R1: No.

Okay. So can I just get to the... The main point is the question you asked which seems to have caused concern for Dr Turtle, which led to Dr McKeown's complaint. Can I ask why you would ask that question? What reason you asked that question.

R1: Yes. If you look in the context of what the committee has been investigating, which is gaps in equality legislation, and back on 11 September the Equality Commission had been before the committee and had openly discussed the issue of transgender rights and the conflict that's created in relation to women's rights. So on the basis of that evidence session my office was contacted regarding concerns about protecting female-only spaces, and in the context of that it was drawn to my attention regarding Ms Turtle's Twitter and the role she had with Age NI. On her Twitter account or... Well, it's now X. She lists herself as 'policy and engagement, older people' on the account. So that was the reason. When Kellie came to the committee I thought it was an opportune moment to ask for some of her views in her role as Age NI advocate.

So when you first look at her Twitter account, her X account, when was that? The week before? Day before? When did you actually...

R1: Probably a number of days before the committee.

Now, the question you asked is relevant, in your view, to what was on the agenda, and basically the complainant and Dr Turtle say it was not relevant. Can you just explain more about why it was relevant, and that it was a matter under consideration?

R1: Yes. As I explained in my first answer, the committee is looking at gaps in the equality legislation. We had Ms [McGahey 0:03:39.5] at the committee on 11 September from the Equality Commission, so it was a natural follow-on to some of the issues that were highlighted within that committee. There's evidence sessions most weeks, and I felt that both of these topics aligned, were a natural follow-on from 11 September.

Of course, when you asked the question there was the middle and then the end where it was [?accompanied 0:04:08.2]. You asked that question and she did not answer that question, correct?

R1: Which she has every right to do.

Yes, and you have every right to ask the question?

R1: If the witness doesn't feel that the question is fitting or does not want to answer, they can't be compelled to answer.

Yes. Okay, thank you for that. Now, at the meeting I noticed that there was a number of people on the committee, including the chair and one other MLA I could tell, asked that you should apologise. Tell me why you don't think you need to apologise for asking this question.

R1: My job was to ask questions of witnesses. It's up to the witness whether they choose to answer. Dr Turtle didn't choose to answer, so I felt I was within my right, as I've already pointed out, from what we were considering as a committee and, referring back once again to 11 September when Ms McGahey was there, I thought it was within the right, keeping

with the topics that we were considering. Even since this we've had the Commissioner for Older People, Eddie Lynch, has been at committee and we've been asking similar questions on this topic with himself and exploring that.

Okay. Now, Dr McKeown, the complainant, and Dr Kellie Turtle maintain that this was not a matter under consideration. They're clear on that, they say, but you're clear that it was a matter under consideration.

R1: I certainly felt it was.

Okay. Now, the impact statement I forwarded to you from Dr Kellie Turtle, can I just ask you what your view of this impact statement was when you read it?

R1: I suppose my initial thoughts were that the complainant is Dr Paschal McKeown, whereas this witness statement is from Dr Turtle. I found it strange that if this had affected Dr Turtle in the way that she has laid out in this statement, that indeed she would have been the one that would have contacted herself to raise the complaint. I find a lot of it... I don't understand how it relates to this investigation regarding anything that Mr Kingston put on Twitter is outside of my control. Anything that people say on Twitter is outside of my control, and she did mention that I hadn't engaged in any comment online, which was quite correct. What happened in committee, I think, has been taken out of context, has potentially been exaggerated, and I feel that this doesn't reflect the brief exchange where Dr Turtle has a problem with my line of questioning, and indeed there was a number of questions that I asked on the day that she engaged with me on. Mrs [?Hoey 0:07:20.2], or Ms Hoey, engaged with me on, and others that there was no problem with. It's this one single question at the end which Dr Turtle didn't answer, and I'm at a loss as to how this has all stemmed from asking a simple question. She chose her rights not to respond and I left it at that.

So tell me this. We watched... You've watched it over. I've watched it a couple of times. Why were other members so upset by the question, do you think?

R1: We've seen in recent weeks where the committee has a disdain for myself that's been played out quite publicly, and I believe that it was more personal against me rather than the line of questioning.

Okay. Now, there's one thing I wanted to bring you, just to confirm. I know you had joined the committee once Mr Allister had been elected as an MP. Did you have a protocol of the Conduct and Courtesy Committee meetings where it says... Did you get a copy of these in your pack when you joined?

R1: I don't remember seeing it.

Okay. So number seven says, 'You treat witnesses, members of the public, staff, and other members with respect and courtesy.' Did you think that you were disrespecting any of the witnesses?

R1: No. I don't think, in any of my time on the committee, I have disrespected the chair or any other committee member, and indeed if you watch the videos my tone remains the same, even if it's in a hostile environment with other members of the committee or via the chair. I try to be respectful at all times and keep the same tone.

Okay, thanks. Now, there's a point in the proceedings, I think it's towards the end, where the chair apologises to the witness, to Dr Turtle. Why is she apologising?

R1: That's a matter for the chair.

Okay. Why do you think she's apologising?

R1: From reviewing *Hansard*, I think this has been taken out of context, whipped up by hysteria within the committee itself, and the chair has apologised off her own bat. I don't think anything within my line of questioning merited an apology by the chair.

Okay, and I assume that means you still don't believe, even having obviously now this impact statement which... I didn't request an impact statement, I will say, but it doesn't change your view on whether any apology should be forthcoming from you.

R1: I don't believe my line of questioning merits an apology. I do... When I read this, when it came through last week, I am at a loss as to why my line of questioning has received this response from the witness. The witness had the opportunity to respond if she wanted. She chose not to respond, which she is within her rights, but I'm at a loss as to how a simple question which could have been a yes or no answer has morphed into something that... It does cause me concern that this is in front of me, yes.

Concern?

R1: It's concerning for how I carry out my role going forward. We've had a number of people come into committee making wild accusations about the Housing Executive being institutionally racist, and how can I turn around and question such going forward without a detailed analysis of how that person will respond to it? I feel this is going to try and neuter a committee member from asking questions, and it's going to leave committee members in an impossible position, regardless of whether it's from the Housing Executive to the police to Age NI, to whoever that comes in. I can't determine how somebody will react to it. I can determine what questions I ask. From reviewing *Hansard* this morning, again, before I came here, I do not see what I've asked that sparked this reaction.

In her impact statement she does mention she felt embarrassed and uncomfortable, and that your remarks... I'm pulling out some things just to say that this is why she's written this, I guess, because she has felt that it insinuated wrongdoing on her part and that she was unable to defend herself from it - that she felt powerless to correct this perception that had been created by the question, so that, she feels, is the catalyst. So I guess I'm just wondering, is it possible... In fact, it's likely that you had no idea that this was going to be the impact on this witness.

R1: I quoted a tweet from X that Dr Turtle had made herself. If that had made her feel embarrassed, I can't help what she puts on her Twitter account. All I can do is consider the person coming before us giving us evidence, and somebody coming from Age NI, it's a public profile. I was looking to do a bit of research on who was bringing forward the evidence and how credible that could be compared... So what they're like in their personal life to what they're like in their professional life I think has... If you're an advocate for older people and saying things online that potentially is in conflict with that, that's a matter for the witness. That's a matter for Ms Turtle, what she puts on her social media. I can't control that, and I don't want to.

You believe that that's fair game, to look at her personal... Even though it said, 'Policy and engagement...'. It didn't say Age NI.

R1: Yes, I did say Age NI in *Hansard*, and when it was pointed out to me that that wasn't the case, and when I reviewed it, I did make the correction in the committee.

Okay. What I'm saying is that you don't think that there's any sort of... Like that's off limits just because it's her personal account. It's not Age NI. Do you think there's anything... That she should have not expected you to ask that question, that she should not have expected that you would go on her personal Twitter? What do you think about that? I mean, I'm sincerely asking, because I don't know what to think about that.

R1: Her tweet was... I'm trying to think of the right word.

Sorry for interrupting. Am I right in saying she's pro-trans rights? Is that the way I should put it here? She has one view. I'm not sure what your view is, but I know that's what she told me her view was.

R1: That was part of the reasoning for asking the question, as being an advocate for older people. This is what came from the correspondence with my office. An older person requesting a bed bath - would that be looked at by Age NI as transphobic? There's certainly comments on her Twitter account which would have made me believe that that was the case. So I believe gaps in equality legislation, going back to 11 September when we were talking, or we had openly talked about issues of transgender rights, that's what brings me back to the point where I felt that the two of them marked was a natural progression when we had somebody in front of us that was, as you've said, pro-trans, to ask her thoughts because she's obviously part of the policy team within Age NI.

Okay. I think that is all the questions I have at the moment. I mean, I literally wanted to get your view on what it was you said after you read the impact, what you felt about that impact, and you've explained that to me. I mean, this is a matter of... As I've explained to you already, it's a very high threshold for rule 15. When I interviewed Dr Turtle I explained that to her as well, so it's a very high bar, and that's because article 10 protects much of what politicians say and, you mentioned, in a committee what a

chilling effect it could have. So there's all those things that come into effect, so I just want to be very clear that there has been no determination on this whatsoever. I needed to get your view today on the questions I asked you. Is there anything I haven't covered that you'd like to add?

[Over speaking 0:16:46.6]

R2: The Commissioner has asked you several times about this question. I look at *Hansard* and see four questions. I'd like to know which question the Commissioner is referring to.

Sorry. The questions I'm referring to are the ones in the *Hansard* from the complaint on the 25th. I know you provided me with questions from... There were a few questions. They started in the middle of the transcript and went, and at the end it was brought up again. So it's the questions that were covered in your 25 September *Hansard*.

R1: Is that asking, 'Is your Twitter account conflict with Age NI...'

Values, yes. Are your values...

R2: Is this one...

R1: No, there doesn't seem to be any issue with that.

R2: Well, I think we should have clarity on that.

Can I see what you're... You know what it is? Our printers are down.

R2: This is the first question. Is that an issue, or is it this question?

It's the questions that you asked relating to... What seemed to be relating to transgender, which seems to be that they're saying it is not a remit of... It was not within the matters being considered. So it would start where you asked about...

R2: So it's multiple questions.

Well, it's... Yes.

R2: With respect, what was asked of Mr Gaston this morning was question, singular.

All right. Questions. So, 'Kellie, as Head of Policy for Age NI, is your Twitter account in conflict with Age NI?' So when she refers to how she felt, that it was saying she did something wrong, she's talking about when you asked her that - is her Twitter in conflict? Then you said...

R1: In the statement it says, 'I believe this was an unreasonable, incessant personal attack,' and that was by asking, 'Is your Twitter account in conflict with Age NI?'

Yes. 'Is your Twitter in conflict with Age NI?' as in, her... She's saying that, as if she had... It insinuated to her that something she had said on it was wrong based on being, I guess, a pro-trans activist type of... You know, that seems to be what is in conflict here. Not that it's in conflict, but that's what she's reading into this. I mean, your questions, it's not so much... The questions you're asking. a) Was it a matter under consideration? You say yes. They say no, right?

R1: Well, going back to 11 September, when you look at the context...

On the 25th, was it within it? That's the question. I know what you're saying. Context. We're leading on from the 11th. I get you. They're saying that on 25 September this was not a matter under consideration, and those questions all add to her complaint. It's almost the cumulative effect of the questions you asked. Now, in essence if her values were not aligned, I mean... She chose not to answer the question, correct?

R1: Yes, which she has a right to do so.

You chose to ask the question. If it's not in remit she can... Even if it is or not, she doesn't have to answer it. Correct?

R1: Correct.

There's nothing in... As far as I can tell... Thank you for that. As far as I can tell there's nothing in this that says... Where is it that says you're not allowed to ask certain questions? Where in the protocol? I haven't found that. I also found that the authority of the chairperson, it's a little bit different in other jurisdictions. Here the Commissioner has a say of if there's a complaint in a committee. Westminster does not. So my point being that she mentioned to you, you know... She apologised to Dr Turtle, and that was her using her authority as the chairperson. She must have felt that there was a need to apologise, my point being that this is what it is. What you're explaining to me is your side of what you asked, why you asked it, and your view on what the impact to Dr Turtle was, and that's all I really needed to know here because, as I said, rule 15 has a high bar. I do not believe rule 13 is engaged here. I have never thought it since I read it. I just do not think what you were asking was hindering the committee or frustrating a committee. You were asking a question, is what I saw. Okay?

R1: Yes.

So it's really... That's all I have to say. Did I miss anything, John?

I2: The only thing I want to cover off with you, Timothy, is that... It's a matter of public record. It's on *Hansard* that the chair of the committee apologised to the witness. I'm confused as to whether you support that apology or not?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I2: Yes, but it's... Well, if you wanted to privately consult you should have done that outside.

No, I can turn this off. Go ahead, consult. Let me just turn that off and I can turn it back on, okay?

[End of ZM0002]

[Start of ZM0003]

Okay. This is a continuation. It's 11:08 a.m. Okay, sorry. So the question was?

I2: Yes. The question was, the chair of the committee apologised to the witness, and my simple question to you is, do you support that apology or not?

R1: I don't believe, from what I have asked, and it's quite... Well, that is covered by *Hansard*. As a scrutiny, we have a job of asking questions. It's up to the witness whether they respond or not, and taking the chair's apology, since I became a member of the committee the chair has tried at every opportunity to essentially remind me, 'This is week 1 of you being at committee, this is week 2 of you being at committee,' and has tried to put me down. Indeed, I believe has acted very unfairly to me throughout my time on committee, and I can provide numerous different times of evidence of that. I believe the committee, the chair, took the opportunity to just try and put her thumb on me once again.

I2: Okay. Well, on reflection, given the question that you asked to the witness, do you think you could have asked it in a more or less sensitive way?

R1: Asked in a less sensitive way?

I2: Well, less insensitive.

R1: Less insensitive. Well, let's look what I've asked. There's no issue in the complaint about the first question I've asked. Age NI employees are... What we have here in the complaint. 'Is your Twitter account in conflict with Age NI?' I'm not entirely sure how you could rephrase that. I'm not entirely sure what's offensive about that question. That seems

to be the question that the complainant... The body of the complainant has the problem with.

And the next one. 'Went on to state, "I find it does not comply with what Age NI is trying to do.'"

R1: Well, that's factual from some of the tweets that I was able to pick out, and I suppose this is where people have freedom of speech. Ms Turtle has the right to have her views. I trust that during this interview and during this investigation that you'll see that I have a right to my views, and that sometimes they can conflict.

I2: No, I accept that. I'm simply asking the question. The chair apologised. You clearly don't agree with that apology.

R1: Well, based on what happened in the room I don't understand with the questioning.

What I can't understand here...

R1: The witness has the choice to respond or not. The witness chose not to respond, which is fine. That's okay.

I suppose what I'm trying to get a little bit of a handle on here... It's that I don't know if... You may say it was all politicking, of the people getting upset in the committee, right? That could be. I don't know. It could also be, whether or not... I haven't interviewed the committee, but whether or not they were upset by the content of the question or that it was not of the matters under consideration, and why she apologised. There's a number of people in that context, which you may be right, could be political, but why it was that they felt the need, the chair, to apologise. There's something they felt integrally wrong about the question. Do you know what that was?

R1: I don't see what was wrong about the question. Whether the chair had more of an insight into Ms Turtle's mental well-being I'm not entirely sure, but I certainly didn't know Ms Turtle before that day.

I wondered, was it from her personal... I wondered, the feeling that it was inappropriate in some way, was that because it was from her personal Twitter? That's why I asked you the question earlier. Is there something about...

R1: Well, if I wanted my social media kept personal and private, I would act accordingly. You could go on today and be able to look at Dr Turtle's X profile, and when you put something into the public domain is there surely not an expectation that people will see it? If you didn't want somebody to see your tweets or something you put on social media, you would restrict it accordingly.

It wouldn't fall under disrespect to refer to that Twitter because it's public knowledge. It's publicly accessible, everything that's on there. Correct?

R1: Yes. If you were going for a job interview, a lot of employers now will look at your social media to see what your profile is. That's a way of life. People have entered into that public sphere with their social media. There has to be a realisation, once you put something online, that people will see it.

Maybe because she wasn't there... They were there to provide expert evidence as to the gaps in equality legislation for older people, right? Maybe also that feeling of discomfort about the question was because she wasn't there about trans rights. She was there to give expert advice and opinion on Age NI's view and what they had submitted. They said when they submitted the information to the committee none of it had anything about trans rights in it. I suppose that's another avenue that they feel it's quite shocking and surprising, I guess, that that would have been raised.

R1: There has been a number of times when people have been giving evidence where we have taken that evidence and applied it to other people coming in to ask them questions. When the accusations were made about the police being institutionally racist, the police came, and obviously they were best placed to talk to them about that issue. Gaps in the equality legislation is what we're considering. Equality Commission on 11 September openly talked about issues and gaps with transgender rights. You're not looking at an evidence session on its own. As a committee we're looking at an evidence session which is spanning a number of weeks and months.

So do you think, in that way of thinking, it might have been better for you to say, 'We spoke about this with...' Like setting it up so it was kind of linking in. They probably know it linked in because they would have seen that session, I'm sure. In fact, I know they did, because they mentioned it. They knew that there was this idea that you were interested in the trans issues that are going on, and so therefore that would tell me that maybe they should have been aware.

R1: Well then it maybe shouldn't have come as such a shock, if they were watching committee over a period of weeks, that that was the issues that we had been considering.

Maybe it shouldn't have come as a shock to everybody else either in the committee.

R1: There's a lot of things that have happened in that committee that seem to come as a shock to them. We have seen it been probably one of the most politically dysfunctional committees that has brought not just the committee's reputation into the public domain, but certainly Stormont's reputation. I wouldn't look at the Executive Office as a shining beacon of light.

I2: I have no further questions for you, Timothy.

Yes, and Timothy, I have no further questions, but I want to thank you and Mr Allister for coming along today, and I will be sending you a copy of the transcript for your approval, probably in about a week. It may be sooner.

R1: So what is the timeline, then, of...

Let me turn this off. I'm going to just end this. The interview is concluded. It's 11:16.

[END OF TRANSCRIPT]

Document 4: Interview transcript Paula Bradshaw MLA

Commissioner interview with Paula Bradshaw

202400027 P Bradshaw MLA

DECEMBER 2024

JR - DEPTH - 19 MINS

[Other comments:]

I'm Melissa McCullough, Commissioner for Standards. The date is the 17th of December 2024 and the time is 9:00. I'm interviewing Miss Paula Bradshaw, MLA. Are you happy to be referred to as Miss Bradshaw or do you prefer Paula, for the tape?

Paula's fine.

Okay, Paula. Also present is the second interviewer, John Devitt. He usually attends most of the meetings and most of the interviews. He may just ask questions at the end, if I've missed anything or if he wants to clarify anything. So I'm going to ask you to take the oath, which because we're on a virtual platform is going to be an affirmation, so I'll share the screen. If you could just read that aloud, please?

I do solemnly, sincerely and truly declare and affirm that the evidence I shall give shall be the truth, the whole truth and nothing but the truth.

Thank you. So if for any reasons our technology should fail us, we'll just wait for each other to connect back up please, and also just to remind you, this is a confidential interview and nothing spoken about should be discussed outside of this. The transcript, I will send you that. It could be after Christmas, but you can see it and approve it at that stage, and make any minor changes you need to make. So just to confirm, this is not a complaint against you. You are a witness, and the matters I'm investigating relate to the complaint submitted by Dr Paschal McKeown from Age NI against Mr Gaston, in relation to the 20th September meeting of the Committee of the Executive Office. In this meeting, Mr Gaston asked questions relating to Dr Turtle's post on her X account. So I have read and watched the 25th September proceedings, and I want to ask you, can you tell me if you thought the questioning by Mr Gaston was appropriate?

Gosh. It feels like it was sooner than that, but you know, I thought it was horrendous, but it was... Since he joined the committee at the start of September, we were just expecting, every witness that came before us, there would be some horrendous angle that he was going to take forward to spark controversy and be offensive. At that stage I was nearly, not 'numb' to it, but I was expecting that it was going to be like that.

Were there any pre-instructions that members had in relation to questions? Would this have been something, I say 'inappropriate', but would he have been told he can't ask this question?

So, he obviously joined the committee late, so we all, when we joined, when the assembly was opened we all received then all the code of conduct, good practice, etc. The clerk, when he joined the committee, the clerk and his team reached out to him, I think... Oh, by this stage it was at least twice - it could've been three times - to say, 'Would you like to come in, and we'll show you how committees work and operate?' and all that, because at one stage I said, 'Has he seen this?', and he said, 'No'. So then we came back - I can't remember which committee it was - but I had... Sorry, it was after, it was the Easter, sorry, Hallowe'en recess, and I said, 'Look, we just get everybody back in their packs, all the stuff again. So, not, but I think that was his own... It wasn't that the clerk and his team weren't trying to do their job, but they can't force somebody to come up and get instructions as to how the committees work.

I suppose the other aspect of it too, and I'm not trying to be fair to him at all, but I think that he struggles to differentiate between who you, you know, how hard you can be in your scrutiny work, whether it's the Minister, departmental officials, or external people, as in this case, who are there to help us with our committee inquiry. I think that was really... Not that you're going to be rude or offensive to the other people, but they weren't there for scrutiny, they were there to impart their own experience and knowledge for our inquiry. So, that's why it was doubly inappropriate, in my opinion.

It's the first question relating to the bed bath. I guess that would be one of the questions that was considered maybe not relevant. Was it relevant? I'm trying to get my head around... Is that a relevant question to have asked about the bed bath?

No, and this is the point, and I've been consistently criticised for trying to get him to keep coming back to the purpose of the inquiry. The week before I think we had the stakeholders in, and shut some of the questions down and then online and in the media and stuff, they were like, 'Oh you know, he has every right to ask these questions.' I think Brian Kingston said at one time, he said, 'Paula, you're damned if you do and you're damned if you don't.' So, if I'd said, 'No, it's totally inappropriate. Move on,' then the next thing, you stand up in the Chamber and the Speaker's saying to him, 'Actually, if I was the Chair I would have allowed you to ask those questions.' So, it was really very difficult because up until that point on the committee, we had been working very collegiately, and I'd never - as first-time committee Chair - I'd never actually had the experience of dealing with that sort of... Everybody else had been, maybe sometimes there was a slight sectarian slant either way, an alliance, but people have the right to a point of view.

I just think that every week he comes and tries to find a way, whether it's transgenderism, whether it's against the Catholic Church, whether it's against... You know, there's always an agenda with his questioning, and in that case it was clear what his agenda was.

I suppose that aligns to the TUV's manifesto too, which is about not, the whole trans issue There's a gender issue in their manifesto, isn't there?

Yes.

So, he then asks - I just want to clarify - he then asks two questions about whether there is conflict between Dr Turtle's social media and Age NI policy, neither of which Dr Turtle answers. Mr Gaston doesn't persist in questioning but he concludes with, 'I'll let you reflect on what you have on your Twitter account. I find that it does not comply with what Age NI is trying to do.' Again, did you consider these questions to be relevant?

No, and I suppose this is his modus operandi in that he will leave his questioning with something hanging in the air for anybody watching then to... He's just trying to spice up people's thoughts about it, and that's why so many times I keep getting into rows with him because I keep saying, 'No, I can't let that comment just stay.' It was clear that she just wanted to shut it down by this stage. I could read her body language; she was so deeply uncomfortable, and I know her as a very confident woman. I could see her body language and she just... You know that fight or flight? I could just see that in her. So, you might not have caught that on camera but I could just see that she was really, really uncomfortable with it. Again, fight or flight, didn't know whether to respond or whether to... I don't know. Anyway, that was probably part of the worst bit, just trying to leave that connotation hanging in the air.

In terms of this complaint, I'm sure you're aware of the code of conduct, and we're talking about Rule 15. So, Rule 15 is 'unreasonable excessive personal attack'. So, do you consider Mr Gaston's question to be unreasonable and excessive?

Well, I do think they were unreasonable. We were there - this was an inquiry into gaps in equality legislation - there was absolutely no reason why... In terms of Kellie and that whole panel, in terms of her contributions they were really, really important to us because age discrimination is probably one of the most behind. So, there was absolutely nothing in her contribution that should've instilled him to behave like that towards her. She didn't say anything; she was highly professional, they'd given us their submission, so there was nothing that would have provoked him to go out of his way to do that. He came with those pre-prepared questions to ask her that were just unnecessary, certainly given the context of the inquiry. We then had to change how we conducted the inquiry after that event, because it caused so much outrage that other groups were then starting to say, 'Look, we're not coming before...' It created a chill factor.

So, we then had to organise a stakeholders event on the 4th December, in the Long Gallery, and I have been an MLA for a long, long time and I would have expected that hall to be packed, and it was really... The response was very low. I just think that it caused damage outside just of that meeting, and of that individual, I think that it just put a chill factor into other people engaging with us as a committee.

Of course, Article 10 allows for all of this really, in freedom of expression, so it's hard to understand how to get around that chill factor occurring. If someone can ask questions that can shock, disturb, upset, that's the case law, and to prevent that happening, you're then [over speaking 0:10:34.0].

Yes, but the questions should be within the barriers of the department. That's really how you should be doing your questioning. This was a personal attack on her. She's well-known, she's stood as a Green candidate, so I didn't know whether this was partly a personal attack on her own political views as well, because obviously the Green Party would be very much champions for LGBT rights etc. That's where I felt a lot of this was straying into, as she's well-known as being a Green Party activist. Yes, so they'd gone so far away from the barriers of us as a committee in terms of what we are really looking for.

I know that you've seen some of the things before from me, some communications before, and I think that idea of your role - and you have the authority in that role - so how does that work in terms of the vires of the committee? If something is relevant, I mean I'm mindful of other committee meetings that I work as well, so how does that work exactly?

Well, this is the issue. It really has not been a problem up until now. Now, there's a difference between some of the committee members - not just on this committee but previous ones - who aren't necessarily across the detail, haven't read their papers, are unprepared, are asking questions and you're thinking, 'Oh my God, that's a communities issue.' So, there's a difference between not being either very good or very informed before you come to committee and asking questions, and you're thinking, 'Well if you'd read the papers that answer is on page three.' There's a difference between that and then coming intentionally with a list. Every week, he comes with a list of questions that he's... That's okay; he's prepared, but it's always with his own political agenda that is there just to try and get the media to pick it up. I think that really goes against the convention of committees where we're meant to leave our political baggage at the door. We're meant to work collegiately. Health was a prime example during the pandemic.

I just think again, maybe it was because he came in new but no, I think that you can allow people to stray a little bit but it's whenever it's gratuitously offensive then I think that it's time for the Chair to step in and that's when I've been criticised for doing that, but anyway... I'm not worried about the criticism, I'm just saying that sometimes you let it go a little bit in case, to allow them, but after a while you just have to step in and say, 'Look that's just not within our remit. Move on.'

Now, I'm almost coming to the end, you'll be happy to hear. At the end of the meeting, you offered Dr Turtle the opportunity to, and you said, 'Give the last word in the proceedings.'

Yes.

Can you just tell me why you chose to do that?

Well, just as I was saying there, I could see how deeply uncomfortable she was in that seat, and I can't remember how long, whether somebody else came in after or what, but there was a little bit of time. So as I say, I thought that she maybe will have gathered her thoughts by then and maybe composed herself, and just to give her the opportunity to verbalise on

that. You know where you walk away and say, 'I should've said that, or I should've said...' Right, and it wasn't necessarily to get a dig in at Mr Gaston, but it was almost just for her to be allowed to set the record straight, or just say, 'Look, my social media is separate from this'. I know her; she's a professional woman, so I don't think she was going to then shout a big row, but I just thought, as I say, you're sort of sitting there and it's bubbling inside and I just thought she should be given the opportunity to maybe respond.

Then I think - I can't give you the dates and I should be able to - but at some point I think Mr Kingston apologises on behalf of... No, he said that Mr Gaston should apologise, and I think at that stage you may have apologised, but at least I know for a fact you actually said Mr Gaston should apologise. I think on a couple of occasions, there was a meeting on down the way, maybe in October time, you say, you know, I think he challenges you and you mention it again because you say, 'You've been accused of misogyny, you've been called out for misogyny, you haven't apologised to Dr Turtle.' So, there's references made beyond the 25th, and I'm just wondering why you believe - for the record - why you believe he should apologise.

Okay, so just to go back to the start, Brian Kingston intervened just as I said, 'Okay, so I'm just going to close the meeting,' and then Brian stepped in and said, 'I disassociate...' - whatever his words were - and I said, 'I know...' I then thought that he might have himself reflected, given how Brian set it out so clearly as to why he should have apologised. Then he started to go over it and I went, 'Okay. We're done. We're done. Thank you ladies...' and then they went. The issue has been persistent foul play from Mr Gaston, whether it's in the newsletter... He's been leaking stuff consistently to The Nolan Show. Before we've even left the room, me and the clerk and [?went to out one-to-one 0:16:30.0] briefings, we'd be like, 'Oh, there, that's going straight to The Nolan Show' and he's just been consistently, persistent foul play at every meeting to get a headline and to get... Again, I just think it's not the purpose of the committee. You can play your politics out in the Chamber if you want, in debates, but at committee we're really there as a scrutiny role, and his behaviour has been just subpar on so many occasions.

Which would have been why you're saying that there should be an apology to Dr Turtle.

Yes. I genuinely wasn't aware whether somebody had put a complaint in, because sometimes other people were maybe thinking, because there's some times that behaviour's been so bad I felt, 'Gosh, I nearly feel like putting one in myself.' I wasn't aware when Brian said that; I was just really taking [?] for him and saying, 'Look, here's a number of ways in which your behaviour has just been inappropriate.' So, that was what it was. Again, I thought that with the fullness of time he'd probably had started to think, 'Actually, that isn't appropriate...' but, yes...

Is there anything I haven't asked you about that you might want to add, because I don't want to take [over speaking 0:17:45.5]?

No, no, that's fine. No, not really. As you say, the video itself, the footage speaks for itself. There's everything in that, and I purposely didn't go to Kellie, or anybody in Age NI and say, 'You should put in a complaint' or anything. Genuinely, I've had no role in this at all.

Okay. John, is there anything I've missed that you want to pick up on?

I2: No, I mean, you've clarified a lot of facts for us, Paula. I suppose to clarify further, the apology that you did give to the witness, Dr Turtle, was that on behalf of the committee or was that personal?

Well, I think it was as Chair of the committee, but I do know her - I would never socialise or anything with her - but I've known her for years, she's been about for years, so it was more just to say that, a wee bit like Brian, 'What he come up there was nothing to do with us, and I'm sorry that you experienced it while you were here supporting our committee inquiry.' I think it was really semi-professional but from the heart, if you know what I mean.

I2: Yes, that's fine. Thank you.

Paula, I'm going to just end this interview and call the time, but can you hold on the line a second, please?

Sure.

Okay, so the time is 10:19, and I'm going to stop the recording.

I2: 09:19.

Sorry, 09:19.

[END OF TRANSCRIPT]

Document 5: Dr Turtle submitted impact statement

Personal Impact Statement: Complaint Case ID - 202400027

Dr Kellie Turtle 20/11/24

The following narrative outlines the impact of Mr Gaston's remarks on me in the immediate aftermath and in the days and weeks following the incident.

I want to highlight the context of the incident by noting that the day before the Committee meeting I had been responsible for organising a stakeholder engagement event in Parliament Buildings on behalf of Age NI and the All Party Group on Ageing and Older People. This event had been the culmination of months of work for me and had gone extremely well. We had hosted almost 70 older people and other stakeholders and were delighted to have had 17 MLAs in attendance to engage in discussions, including Mr Gaston. We had also been able to secure input from the First and Deputy First Minister. Putting together an event like this and securing the participation of so many Members was my most intense engagement with the Assembly since coming into post at Age NI in January of this year. I was delighted with how well it went but also mindful of how much it had required me to be more visible with Members and as such there is a vulnerability involved in this kind of work. It was in the immediate aftermath of this rewarding, but tiring, work on behalf of older people that the incident with Mr Gaston took place. During the Committee evidence session as Mr Gaston began to address me personally, I felt extremely vulnerable. Giving oral evidence to an Assembly Committee is one of the most important platforms for influence that a policy professional can be lucky enough to have and so I was already in a situation where I felt under pressure to do my job well and make the most of this important opportunity. Mr Gaston's remarks threw me into a degree of emotional turmoil as I felt exposed and fearful that he was going to attempt to humiliate me in that setting. I was also mindful that the meeting was being broadcast and recorded and so I felt suddenly very aware that I had to react carefully. I was nervous and my mind went blank. I could feel the tension in the room as other Committee Members and my colleagues responded and although these responses were all supportive of me I felt embarrassed and uncomfortable. I was glad I was able to summon the clarity of mind to say that I found his remarks inappropriate and to firmly challenge the inaccuracy in what he had claimed was written on the bio of my X account, but I was absolutely shaking inside. As the chair returned to the issue later in the meeting and Mr Gaston again appeared to be preparing to read out material from my social media account I was bracing myself for some kind of humiliation that I felt I, and my fellow witnesses were powerless to prevent. I was grateful that other Committee Members stepped in to curtail him.

Exiting the meeting into Parliament Buildings I felt I had to appear composed, partly due to being in a public place and due to being with colleagues from the Commissioner's office whose opinions of me I was concerned about. My manager Dr McKeown checked in with me a number of times that afternoon and evening and I was able to debrief how I was

feeling with her. [REDACTED]

[REDACTED].

In the days following the Committee meeting I experienced considerable stress and anxiety. I was distracted both in my work and my personal life and had trouble sleeping. I had excellent support from my colleagues in Age NI but for the rest of that week I was feeling exhausted. The next day I attended a staff training event in the morning and I recall that I spent most of it feeling tired and physically shaken. After checking in with my manager I took the rest of that day off.

When reading the media reports of the incident and commentary on social media, I found myself becoming increasingly frustrated and anxious as Mr Gaston's remarks appeared to insinuate wrongdoing on my part that I was unable to defend myself from. As a result, people were comparing the incident to individuals who had faced prosecution for social media posts or lost their jobs. Comparisons were being made to people who had used social media to incite racial hatred or make sectarian remarks. I felt powerless to correct this perception that Mr Gaston had created. It frustrated me that rather than challenge my personal views in the arena they had been expressed where I could have properly defended myself, Mr Gaston had chosen to attack me in an arena where he held considerably more power and privilege than I did. I couldn't see any examples of other witnesses having been treated this way in the course of carrying out their job and I felt very singled out and like I had been unfairly targeted.

In the days that followed, a video clip of the incident was posted on X and shared multiple times. It generated a large number of comments, many supportive but many that were not. When the video was shared by Mr Brian Kingston MLA, whilst his support for me and Age NI was very welcome, the post brought the incident to the attention of a new audience on X, many of whom were keen to defend Mr Gaston and praise his actions. A number of commenters made assumptions that he must have had grounds for his remarks and some individuals used extremely derogatory language to describe me in their comments online such as 'nasty', 'pervert' and 'moon howler'. I was described as 'vile' in a number of comments. I found these personal attacks upsetting and I felt a mixture of anger and vulnerability. Although Mr Gaston did not appear to participate in any of the online commentary, I believed his actions were the catalyst that exposed me to these online attacks on my character and reputation.

I was also aware that the incident was being discussed by people I interact with during the course of my work and a large number of people messaged me or mentioned it to me in the days and weeks that followed. This is still ongoing – at a workshop I was speaking at just this week, someone came up to me after my presentation and noted their disgust at what had happened to me at the Committee. Whilst these colleagues and contacts are all offering support and affirming their view that it should not have happened, it has served to make me feel very vulnerable and exposed in my work with attention that I did not invite. This feeling of exposure has been exacerbated by the fact that Mr. Gaston has not apologised for his remarks which continues to maintain the unfounded suggestion of wrongdoing on my part. I do not feel comfortable being reminded of this incident over and over again, even when people are being supportive and well-meaning.

In conclusion, my professional role requires me to represent my organisation and older people at the NI Assembly, including by giving evidence at Committees. I will continue to carry out this role whenever I get the opportunity, but on a personal level, Mr. Gaston's behaviour has introduced an anxiety into that experience that I should not have to be feeling as I go about my job. His remarks and his deliberate use of his privilege as a member of the Assembly to cast doubt on my character and my professional integrity have caused me a great deal of distress and frustration.