

Committee on Standards and Privileges

Report on an investigation into the conduct of Mr Jimmy Spratt MLA

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

Ordered by The Committee on Standards and Privileges to be printed on 2 July 2014

Committee Powers and Membership

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

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

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

Table of Contents

Report	1
Appendix 1	
Report by the Assembly Commissioner for Standards	7
Appendix 2	
Minutes of Proceedings of the Committee relating to the Report	47

Report

Introduction

1. The Committee on Standards and Privileges has considered a report from the Assembly Commissioner for Standards on his investigation into the conduct of Mr Jimmy Spratt MLA. The Commissioner's report is appended to this report.
2. The investigation was not prompted by a complaint but was initiated by the Commissioner on 13 February 2014 after he decided that there was a prima facie case that Mr Spratt had breached the Code of Conduct.
3. The incident under consideration was the subject of earlier reports by the Commissioner and Committee (Committee report NIA 155/11-15 refers). On 26 June 2013 Mr Spratt attended a meeting of the Committee for the Office of the First and deputy First Minister at which the proposed Peace building and Conflict Resolution Centre at the Maze Long Kesh site was discussed. When Mrs Brenda Hale MLA said that while canvassing she had met with 'no local opposition' to the Maze or the buildings within it, Mr Spratt interjected, *sotto voce*, "except the nutters". The Chairperson of the Committee, Mr Mike Nesbitt MLA, overheard the remark and later challenged Mr Spratt, saying "some of your interventions, such as calling the people who are against the peace-building centre at the Maze 'nutters' have not been helpful". Mr Spratt repudiated this charge and accused Mr Nesbitt of 'spinning'. The next evening Mr Spratt took a call from a local journalist, Mr Sam McBride of the Newsletter, about the remark. Mr McBride used the conversation as the basis for an article on the incident, and provided a quotation appearing to show that Mr Spratt had denied during the call having used the words 'except the nutters'.
4. On 1 and 9 July 2013 Mr Robin Swann MLA submitted a complaint in which he alleged that Mr Spratt by his comments, his language towards Mr Nesbitt and his denials, had breached the honesty, promoting good relations, respect and good working relationships principles contained within the Code of Conduct.
5. The Commissioner accepted this complaint as admissible and commenced an investigation. As far as the honesty principle was concerned, the Commissioner considered that the main question at issue was whether Mr Spratt had intended to disown either the 'except the nutters' remark itself or a malicious interpretation of it, as he claimed. The Commissioner, having interviewed the various parties and studied the evidence, decided it was the latter. In the Commissioner's view, Mr Spratt's subsequent utterances in committee amounted to an implicit acknowledgment of the remark ("I certainly was not calling anybody in this room, nor, indeed, people who have opposition to the Maze, nutters"). It was therefore highly unlikely that in a later phone conversation Mr Spratt would have denied what he had already publicly conceded. The Commissioner suggested that the poor quality of the line might have been sufficient to explain the inconsistency between the recollections of the two men. The Committee accepted this reasoning and, on 15 January 2014, found that Mr Spratt was not in breach of the Code in relation to any of the allegations that had been made.
6. The matter appeared to be closed. But in February 2014 Mr McBride published another article in which he claimed to have in his possession a recording of his conversation with Mr Spratt on 26 June 2013, and that this recording corroborated Mr McBride's version of events, namely that Mr Spratt had denied using the words 'except the nutters'. A copy of the recording was provided to the Commissioner, who then initiated his own investigation to determine whether Mr Spratt had breached his obligations under the Code of Conduct to act honestly; to co-operate with the Commissioner; and to co-operate with the Committee on Standards and Privileges.

The Commissioner's investigation and findings of fact

7. The particular matters that the Commissioner considered as part of this investigation were:
 - Mr Spratt's alleged denial during the telephone conversation with Mr McBride that he had used the words 'except the nutters' at the OFMdFM Committee meeting on 26 June 2013;
 - Mr Spratt's statement (to the Commissioner at interview on 21 October 2013) that Mr McBride's allegation that Mr Spratt had denied using the word nutters at that committee meeting was 'lies'; and
 - Mr Spratt's statement of 8 January 2014 to this Committee that "at no time did I deny use of the words 'except the nutters'".
8. As part of his investigation the Commissioner interviewed under oath both Mr Spratt and Mr McBride. During the interview with Mr McBride the Commissioner listened to an unedited recording of the disputed conversation. The recording is included within this report and contains the following exchange:

Mr McBride: "...I've just listened to the audio that has gone up on the website there, and it does appear to be quite clear that you did say 'except the nutters' during the -

Mr Spratt: No, absolutely not, Sam.
9. Having undertaken his investigation the Commissioner has gone on to make 18 findings of facts. These are set out in paragraph 15 of his report and include the following:
 - Mr Spratt believed, prior to taking the call, that Mr McBride had been 'spinning' a story to the effect that that he (Mr Spratt) had, during the Committee meeting, called 'the people who are against the peace building centre at the Maze nutters'.
 - During the call Mr Spratt incorrectly but honestly believed that he was being asked by Mr McBride whether he had said this.
10. The Commissioner is clear that Mr McBride genuinely believed that Mr Spratt had denied using the words 'except the nutters' at the OFMdFM committee meeting. However, the Commissioner is also satisfied that Mr Spratt believed, incorrectly, that he was being asked whether he had used words to the effect that all those who were opposed to the building of the Peace building and Conflict Resolution Centre at the Maze were nutters. In coming to this view the Commissioner has taken into account the following points:
 - (i) Mr Spratt had already, in the Commissioner's view, implicitly acknowledged the remark publicly in committee.
 - (ii) Mr Spratt did not hold Mr McBride in high regard.
 - (iii) Mr Spratt believed that Mr McBride was trying to misrepresent him.
 - (iv) Mr Spratt was ill.
 - (v) The quality of the line was poor.
11. According to the Commissioner's reading of events, previously affirmed by this Committee, Mr Spratt had not denied saying 'except the nutters' at the committee meeting. Mr Spratt felt aggrieved by how his remark had been interpreted on social media, and he considered Mr McBride one of those responsible for this misinterpretation. When Mr McBride challenged him, Mr Spratt mistakenly assumed that he was being asked to admit, not only the remark itself, but that he had intended it as it had been understood by others, including Mr Nesbitt.
12. The Commissioner's reasoning on these points is set out at paragraphs 17 to 20 of his report. Having considered all of these points the Commissioner is not satisfied that Mr Spratt had been dishonest during his telephone conversation with Mr McBride.

13. The Commissioner has also said that, as it was a genuine and entirely understandable mistake for Mr McBride to report that Mr Spratt had denied the using the word 'nutter', it follows that it was inappropriate and incorrect for Mr Spratt to describe Mr McBride's allegation against him as 'lies'. However, as the Commissioner is satisfied that Mr Spratt was referring, at the relevant time, to a false allegation that he believed others had made, Mr Spratt did not therefore attempt in any way to mislead the Commissioner or provide him with false information. The Commissioner's reasoning for this conclusion is set out in paragraph 21.
14. Likewise, the Commissioner is also satisfied that Mr Spratt did not mislead the Committee. His reasoning for this is set out in paragraph 22.

The Committee's considerations

15. In line with the usual procedure, Mr Spratt was provided with a copy of the Commissioner's report. Mr Spratt was informed that he may provide the Committee on Standards and Privileges with his comments in respect of any matter raised within the report. He was also advised that he may choose to appear before the Committee to make his comments in person and to respond to any questions that members of the Committee may have. Mr Spratt neither chose to appear before the Committee nor to provide it with any additional comments.
16. The Committee on Standards and Privileges considered the Commissioner's report at its meeting on Wednesday 25th June 2014. The Commissioner attended, discussed his findings and answered members' questions. Having done so the Committee then reached its own conclusions on the matters investigated.
17. The Committee accepts that after Mr McBride told Mr Spratt that the audio recording appeared to be quite clear that he did say 'except the nutters' Mr Spratt responded by saying "No, absolutely not, Sam". Therefore it was entirely understandable that Mr McBride should report that Mr Spratt had denied saying these words. The Commissioner says that it was inappropriate and incorrect for Mr Spratt to describe Mr McBride's allegation against him as 'lies'. The Committee agrees.
18. However, the Committee also believes that Mr Spratt and Mr McBride were clearly talking at cross purposes on a number of occasions throughout the telephone conversation. Given this, and Mr Spratt's implicit admission during the committee meeting that he had used the words 'nutters', the Committee is not satisfied that he was being dishonest when he responded as he did to Mr McBride. The Committee accepts the Commissioner's judgement that Mr Spratt genuinely but incorrectly believed that he was responding to a false allegation.
19. It follows that as Mr Spratt honestly believed that he had denied a particular interpretation of his words, rather than the remark itself, his subsequent statements to the Commissioner and the Committee that he had never denied using these words were not dishonest.
20. It would be a very serious matter if a Member was found to have deliberately misled either the Committee or the Commissioner. However, having considered all of the Commissioner's findings, the Committee has agreed that Mr Spratt has neither done this, nor breached the Code of Conduct through any of his other actions that were considered during the investigation.



Northern Ireland
Assembly

Appendix 1

Report by the Assembly Commissioner for Standards

Report by the Northern Ireland Assembly Commissioner for Standards of his investigation into the conduct of Jimmy Spratt MLA

Contents

Background	7
Most Relevant Provisions of Code of Conduct	8
The Investigation	8
Facts Established	8
Reasoned Decision	10
Conclusion	11
Annexes	
A – Documents	12
B – Most Relevant Provisions of Code of Conduct	13

Background

1. On 15 January 2014 the Committee on Standards and Privileges agreed its report on a complaint by Robin Swann MLA against Jimmy Spratt MLA.¹ The report of my investigation into that complaint is at Appendix 1 of the Committee's Report.
2. One allegation in that complaint was that Mr Spratt had been dishonest when he had allegedly denied, during a telephone conversation with Mr Sam McBride, the Political Correspondent of the Newsletter, that he (Mr Spratt) had used the words '*except the nutters*'.
3. Following a full investigation I found that the allegation of dishonesty had not been established. At its meeting on 15 January 2014 the Committee accepted that conclusion.²
4. In early February 2014 a report appeared in the Newsletter stating that an audio recording of the telephone conversation between Mr McBride and Mr Spratt showed that Mr Spratt had denied using the words '*except the nutters*'.
5. Having obtained and listened to a copy of that recording³ I decided, in view of the serious nature of the allegation against Mr Spratt and having regard to the media attention the matter had received, that a Commissioner's investigation was necessary to establish the truth.
6. My letter initiating the Commissioner's investigation⁴ together with the other material I have used in the course of my investigation are at Annex A.

1 Document 1 In the interests of economy only a link to the Committee's report on a complaint against Jimmy Spratt MLA is provided

2 Document 1 page 3

3 Documents 3 & 4

4 Document 2

Most Relevant Provisions of Code of Conduct

7. The provisions of the Code most relevant to this investigation are at Annex B

The Investigation

8. On 13 February 2014 I wrote to Mr Spratt⁵ advising him that in view of the new evidence that had become available I had decided to commence a Commissioner's investigation into whether he had breached his duties under the Code of Conduct –
- to act honestly;
 - to co-operate with me as the Commissioner for Standards;
 - to co-operate with the Committee on Standards and Privileges.
9. I advised him that the particular matters that I would be considering were as follows –
- His alleged denial during the telephone conversation with Mr McBride of having used the words '*except the nutters*' at the OFMdFM Committee meeting on 26 June 2013;
 - His statement, when interviewed by me on 21 October 2013, that Mr McBride's allegation that he (Mr Spratt) had denied using the word '*nutter*' at that Committee meeting was '*lies*';
 - His statement, in his submission to the Committee on Standards and Privileges dated 8 January 2014, that '*in fact at no time did I deny use of the words 'except the nutters'.*'
10. The potential breaches of the duty to co-operate with the Commissioner and with the Committee related solely to the matters specified in paragraph 9 above. The duty to co-operate requires that statements made are not dishonest or intentionally misleading. There was no question of any other failure to co-operate by Mr Spratt.
11. On 25 February 2014 solicitors acting for Mr Spratt wrote to me asserting that there was no prima facie evidence to justify the institution of a Commissioner Investigation and that I should not continue with it. I did not agree and advised the solicitors that my investigation would continue.
12. On 7 March 2014 I interviewed Mr Spratt under oath.⁶ On 10 March 2014 I interviewed Mr McBride under oath.⁷ Both witnesses were afforded an opportunity to suggest revisions to the transcripts of their interview. Mr Spratt accepted that his transcript was accurate. I accepted very minor revisions proposed by Mr McBride.
13. On 25 April 2014, after considering all the available evidence, I wrote to Mr Spratt's solicitors enclosing a copy of the facts I had found established as a result of my investigation.
14. On 27 May 2014 the solicitors confirmed that their client did not seek to challenge any of my findings. Their response was delayed due to their client's ill health. Thereafter I finalised my report.

Facts Established

15. I find the following facts established –
1. At the OFMdFM Committee meeting on 26 June 2013 Mr Spratt made the comment '*except the nutters*' soto voce as an '*aside*' directed principally at Mrs Hale MLA who was seated next to him and speaking at the time.⁸

5 Document 2

6 Document 5

7 Document 6

8 Document 1 Appendix 1 paragraph 12

2. Later in the same meeting Mr Nesbitt MLA, who was chairing the meeting, asserted that Mr Spratt had called *'the people who are against the peace building centre at the Maze 'nutters'*.⁹
3. Mr Spratt did not make such a statement at the meeting.¹⁰
4. At the meeting he did not deny having used the phrase *'except the nutters'*: he impliedly accepted having used it.¹¹
5. On the evening of 27 June 2013 Mr Spratt was at La Mon Hotel when he took a call on his mobile phone from Mr McBride, the Political Correspondent of the News Letter.¹²
6. Mr Spratt was unable to hear clearly everything Mr McBride said.¹³
7. Mr McBride, without advising Mr Spratt of his intention, made an audio recording of the call.¹⁴
8. The call lasted for 74 seconds.¹⁵
9. That recording was not enhanced or edited prior to being made available to the Commissioner.¹⁶
10. The recording, with minor exceptions of short duration, is clear as to what Mr McBride said and what he heard Mr Spratt say.¹⁷
11. Mr Spratt believed, prior to taking that call, that Mr McBride had been 'spinning' a story to the effect that he (Mr Spratt) had, during the Committee meeting, used the words quoted in Finding 2 above. Mr Spratt believed further that after the Committee meeting Mr Nesbitt and a number of other politicians had 'spun' that version of events.¹⁸
12. Prior to taking the call Mr Spratt had been the subject of abuse on social media as a result of what it was alleged he had said at the Committee meeting. He believed that those who posted these abusive comments had relied, in part at least, on the spinning by Mr McBride and others that he believed had occurred.¹⁹
13. Mr Spratt was annoyed by the actions he believed had been taken by Mr McBride and others and by the criticism on social media.²⁰
14. Mr Spratt did not hold Mr McBride in high regard.²¹
15. At the time of taking the call and for some months previously Mr Spratt had been suffering from a serious medical condition for which he continues to receive treatment.²²

9	Document 1 Appendix 1 Document 2 page 23
10	Document 1 Appendix1 Document 2
11	Document 1 Appendix 1 Document 2
12	Document 5 page 4, Document 1 Appendix 1 Document 12 paragraph 37
13	Document 3, Document 5 pages 6, 8, 10 & 12
14	Document 3, Document 5 page 10, Document 6 page 7
15	Document 3
16	Document 6 page 4
17	Document 3
18	Document 5 page 8, 10, 11 13 &14
19	Document 5 pages 10 & 11
20	Document 5 page 11
21	Document 5 page 11
22	Document 5 page 14

16. During the call Mr Spratt incorrectly but honestly believed that he was being asked by Mr McBride whether he had, at the OFMdFM Committee meeting, said the words quoted in Finding 2 above.²³
17. When interviewed by the Commissioner on 21 October 2013 Mr Spratt described the assertion in Mr Swann's complaint that he (Mr Spratt) had, during his telephone conversation with Mr McBride, denied using the words '*except the nutters*' as '*lies*'. That statement was made in the context of the version of events that Mr Spratt believed Mr McBride and others had been '*spinning*'.²⁴
18. Mr Spratt's statement, in his letter to the Clerk to the Committee on Standards and Privileges dated 8 January 2014, that '*in fact at no time did I deny the use of the words "except the nutters" ' was made in the same context.*²⁵

Reasoned Decision

16. The issue is whether, by his actions on three distinct occasions, Mr Spratt breached the honesty principle set out in the Code of Conduct.

Alleged denial during telephone conversation with Mr McBride of having used the words 'except the nutters' at the OFMdFM Committee Meeting on 26 January 2013
17. In considering this matter I have had regard to the report of the Committee on Standards and Privileges (including the appendices) on the original complaint against Mr Spratt, the interviews on oath of both Mr Spratt and Mr McBride, the demeanor of these witnesses when giving their evidence and the recording of the telephone call in question.
18. I accept that as a result of what he heard of the telephone conversation, as recorded by him, Mr McBride genuinely believed that Mr Spratt had denied using the words '*except the nutters*' at the OFMdFM Committee meeting. However, I am not satisfied that when he said the words '*no, absolutely not, Sam*' Mr Spratt believed he was responding to the proposition that he had denied using the words '*except the nutters*' at that meeting. Rather I am satisfied that Mr Spratt believed, incorrectly, that he was being asked whether he had used words at the Committee meeting to the effect that all those who were opposed to the building of the Peace Building and Reconciliation Centre at the Maze were nutters. In reaching that view I noted that Hansard of the Committee meeting demonstrates that at no time did Mr Spratt deny having uttered the words '*except the nutters*'. That being so, I think it inconceivable that, only a short time later, he denied using the words when speaking to Mr McBride who had told him that the Hansard recording appeared to be clear that he had uttered those words. Mr Spratt's state of mind at the time of the telephone call and his view of Mr McBride may have predisposed him to misunderstanding the proposition that was put to him by Mr McBride and so responding to a proposition that was not, in fact, made. Mr McBride was not a journalist Mr Spratt held in high regard. He believed, rightly or wrongly, that Mr McBride, Mr Nesbitt and other politicians had been '*spinning*' a false version of what he had said at the Committee meeting. There is no doubt that someone had been '*spinning*' a false version of events and that as a consequence Mr Spratt had received criticism on the social media which had caused him annoyance. I also bore in mind that at the time of the call Mr Spratt was ill. I had regard also to the consistent stance taken by Mr Spratt regarding what he said. Alternatively, Mr Spratt may simply have misheard what Mr McBride said due to poor reception at his end of the call.
19. It is for these reasons that I am satisfied that when Mr Spratt said the words '*no, absolutely not, Sam*' he genuinely, but incorrectly, believed that he was responding to an assertion of the false version of events that had been '*spun*' at, and after, the Committee meeting.

23 Document 5 pages 12 & 13

24 Document 5 pages 12 & 13

25 Document 5 page 13

20. The Code does not define 'honesty' but it would generally be accepted that it is the opposite of 'dishonesty'. Being dishonest is not the same as being wrong: dishonesty almost always involves a deliberate act with an element of deceit. Having had regard to all the available evidence I am not satisfied that Mr Spratt made any attempt to deceive or mislead Mr McBride during the telephone conversation. I am not satisfied that his conduct was dishonest.

Statement to Commissioner for Standards on 21 October 2013 that Mr McBride's allegation that he (Mr Spratt) had denied using the word 'nutter' at the OFMdFM Committee Meeting was 'lies'

21. I am satisfied that knowing what he had said to Mr Spratt in the course of that telephone conversation and having heard that part of Mr Spratt's response that was audible, it was reasonable for Mr McBride to reach the view that Mr Spratt had denied using the word 'nutter' during the OFMdFM Committee meeting. It was also reasonable for him to report the view that he had reached. However, I am also satisfied, for the reasons outlined above, that Mr Spratt did not during that telephone conversation in fact deny using the word 'nutter'. It follows that Mr McBride's report was mistaken. I have not the slightest doubt that his mistake was a genuine one and entirely understandable in the circumstances. The allegation made by Mr McBride, although in fact incorrect, was most certainly not a lie: there was not even a hint of any attempt to deceive. It follows that Mr Spratt's description of the allegation against him as 'lies' was inappropriate and incorrect. However, for the reasons given above, I am satisfied that at the relevant time Mr Spratt was referring to a false allegation that he believed Mr McBride and others had made, namely, that he (Mr Spratt) had said at the Committee meeting words to the effect that all those who were opposed to the building of the Peace Building and Reconciliation Centre at the Maze were nutters. I have found no evidence of dishonesty on the part of either Mr McBride or Mr Spratt. Both reasonably and honestly believed that what they said was true. Both made a genuine mistake. I am satisfied that Mr Spratt did not attempt in any way to mislead me or to provide me with false information. Accordingly, there is no evidence that he failed in any way to co-operate with my investigation.

Statement, in his submission to the Committee on Standards and Privileges that 'in fact at no time did I deny use of the words except the nutters'

22. In my previous report I found that Mr Spratt did not at the OFMdFM Committee meeting ever deny using the words 'except the nutters'. I have found in this investigation that in the course of the telephone conversation with Mr McBride Mr Spratt did not deny using these words. There is no contrary evidence. I am satisfied that in his submission to the Committee on Standards and Privileges Mr Spratt was not attempting to mislead the Committee and that there was no failure to co-operate on his part.

Conclusion

23. I am not satisfied that Mr Spratt breached the honesty principle in the Code of Conduct during the telephone conversation with Mr McBride. I am also not satisfied that in his dealings with me as Commissioner for Standards and with the Committee on Standards and Privileges Mr Spratt made statements which he knew to be false or misleading. I am not satisfied that he was dishonest or that he failed to cooperate either with me or with that Committee.

Douglas Bain CBE TD Advocate

Northern Ireland Assembly Commissioner for Standards

3 June 2014

Annex A

Material Used in Investigation

Document No	Description
1	Report on complaint against Jimmy Spratt MLA (Report: NIA 155/11 – 15 Standards and Privileges Committee) http://www.niassembly.gov.uk/Documents/Standards-and-Privileges/Report/Jimmy%20Spratt%20Complaint.pdf
2	Letter Bain – Spratt 13 February 2014
3	Email McBride - McCaughley 11 February 2014
4	CD of telephone call - McBride - Spratt
5	Jimmy Spratt MLA - transcript of interview
6	Sam McBride – transcript of interview with two documents produced at interview attached

Annex B

Most Relevant Provisions of Code of Conduct

Principles of Conduct

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

Honesty

Members should act honestly. They have a duty to declare any private interests relating to their public duties. Members should take steps to resolve any conflicts between their private interests and public duties at once and in a way that protects the public interest.

Duties in respect of the Assembly Commissioner for Standards and the Committee on Standards and Privileges

The application of this Code shall be a matter for the Assembly, the Committee on Standards and Privileges and the Commissioner.

Members shall co-operate at all times with any investigation into their conduct by or under the authority of the Assembly. Any substantiated allegation of non-compliance with an investigation will constitute a breach of the Code of Conduct.

No Member shall lobby a member of the Committee on Standards and Privileges, or the Commissioner in a manner calculated or intended to influence their consideration of a complaint alleging a breach of this Code.

ASSEMBLY - RESTRICTED



Northern Ireland
Assembly

COMMISSIONER FOR STANDARDS

Room 283
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Tel: 028 9052 1211

Email: standardscommissioner@niassembly.gov.uk

**Mr Jimmy Spratt MLA
Democratic Unionist Party
Room 347
Parliament Buildings
Ballymiscaw
Stormont
BELFAST BT4 3XX**

13 February 2014

Dear Mr Spratt

COMMISSIONER INVESTIGATION INTO YOUR CONDUCT

As required by Direction 6.7(a) of the General Procedures Direction I write to advise you that, having given careful consideration to new evidence in relation to one of the matters at issue in the complaint against you by Robin Swann MLA, I have decided to initiate a Commissioner investigation into whether or not your conduct breached the provisions of the Code of Conduct.

That new evidence is comprised of what I have been told is an unedited and unenhanced audio recording of your telephone conversation with Mr Sam McBride on the evening of 27 June 2013. I enclose a CD of that recording. I am satisfied that it provides prima facie evidence of the alleged breaches that I will investigate.

My investigation will be into whether or not you were in breach of your duty –

1. to act honestly;
2. to co-operate with me as the Commissioner for Standards; and
3. to co-operate with the Committee on Standards and Privileges.

The particular actions which I will consider are as follows –

1. your alleged denial to Mr McBride, in the course of the telephone conversation on 27 June 2013, of using the words '*except the nutters*' at the OFMdFM Committee meeting on 26 June 2013;

ASSEMBLY - RESTRICTED

ASSEMBLY – RESTRICTED

2. your statement to me, in the course of your interview on 21 October 2013, that the allegation that you had, during that telephone conversation with Mr McBride, denied having used the word '*nutter*' at that Committee meeting '*was lies*'; and
3. your statement, in your submission to the Committee on Standards and Privileges dated 8 January 2014, that '*in fact at no time did I deny the use of the words "except the nutters"*'.

I will not be considering the allegation made in Mr Swann's complaint that, at the OFMdfM Committee meeting, you denied having used the phrase '*except the nutters*' nor his allegation that you breached the provisions of the Code by accusing Mr Nesbitt of '*spinning*'. Both these matters were dealt with fully in my report to the Standards and Privileges Committee. There is no new evidence before me relevant to these allegations.

I believe that my investigation is necessary to establish the truth. I note that the issue of what you said to Mr McBride has already been the subject of media comment (albeit from Mr McBride) and also the subject of comment in the Chamber.

My investigation will be undertaken broadly in line with the procedure set out in the enclosed note. I would draw your attention to the relevant statutory provisions outlined in the note and, in particular, to the restriction on disclosure of information set out in section 33 of the 2011 Act.

Pursuant to Direction 6.7(b) of the General Procedures Direction I am copying this letter, less the enclosures, to the Clerk to the Committee on Standards and Privileges.

Yours sincerely,

Douglas Bain

Douglas Bain CBE TD Advocate
Northern Ireland Assembly Commissioner for Standards

Encs: CD of telephone conversation
Note on procedure and statutory provisions

ASSEMBLY - RESTRICTED

From: Sam McBride [REDACTED]
Sent: 11 February 2014 15:17
To: [REDACTED]
Subject: Re: MR JIMMY SPRATT MLA - TELEPHONE CONVERSATION

3

Hi [REDACTED]

I've attached the audio of the phone conversation (there only was one) as it was saved on my dictaphone. It should play using Windows Media Player.

I've also copied below a transcript of the call.

Best regards,

Sam

Transcript:

Jimmy Spratt: Hello, Jimmy Spratt.

Sam McBride: Hi Jimmy, it's Sam McBride at the News Letter. Can you speak? [slight crackle]...Hello?

JS: Yes, Sam, go ahead.

SMcB: Sorry, it's just breaking up a wee bit there. No, just calling about the committee hearing from yesterday and, em, I've just listened to the audio that's gone up on the website there and it does appear to be quite clear that you did say 'except the nutters', em, during...

JS: No, absolutely not, Sam. You print that if you want. I'll be seeing you in court as well. OK?

SMcB: OK, well what did you say?

JS: I was having a conversation with a colleague so there was absolutely no hint of that whatsoever.

SMcB: Who was the colleague?

JS: Just you, you...it was a private conversation, [SMcB: But no one was sitting beside you...] I've made that very clear. I've already stated that. I've already stated. Sorry?

SMcB: No one. No one was sitting to your left at the time because Leslie Cree had just left so...

JS: Well, you don't put words into my mouth or anybody else's mouth, OK?

SMcB: I'm certainly not, but I'm just trying to understand how...

JS: I've made it very clear exactly what I said.

SMcB: What did you say?

JS: I'll be taking legal advice, Sam, and I will seek legal advice against you if necessary.

SMcB: Right.

JS: Nothing further to say to you. Good day.

SMcB: OK, thanks. Bye.

The call lasted 1 minute, 14 seconds.

5



Northern Ireland
Assembly

INVESTIGATION INTO COMPLAINT – MR JIMMY SPRATT MLA

MEETING WITH MR JIMMY SPRATT MLA

7 March 2014
Room 283

Start: 11.00 am End: 11.35

Present: Douglas Bain, Commissioner for Standards
Jimmy Spratt, MLA
Denis Moloney, Solicitor acting for Mr Spratt
[REDACTED] (Note taker)

Mr Bain: I hope this won't take a long time. As you see the meeting is being recorded.

Mr Moloney: Yes.

Mr Bain: And, as I think certainly Mr Spratt knows, after the meeting, we'll send you either a note of the meeting, depending how long it is, or a copy of the transcript, so that you can have an opportunity to suggest revisions to it if you wish.

Just to get the procedure started, are you content to take the oath or do you prefer to affirm?

Mr Spratt: I affirm.

Mr Bain: Could you read the words of the affirmation?

Mr Spratt: 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.

Mr Bain: Just for the benefit of whoever is transcribing this, can we all identify ourselves for the recording. I am Douglas Bain, the Standards Commissioner.

Mr Spratt: Jimmy Spratt MLA.

Mr Moloney: And I am Denis Moloney, solicitor, here with Mr Spratt.

And, commissioner, just before we begin, could I, first of all, thank you and your staff for this expeditious hearing? It is a matter that, whenever it was drawn again, that

this matter became a live issue; that my office, in touch with your good office and your secretariat staff, were most anxious that this hearing would take place today. My office made the necessary arrangements as expeditiously as possible because, as you know, Mr Spratt, of late, has serious medical issues, and this has again caused him serious concern and annoyance, and it is on that basis that he hopes that, in cooperating fully, this matter can be concluded as expeditiously as possible because it is causing serious personal and medical upset to him.

Mr Bain: Well, I can understand that, and I will certainly do everything I can to bring it to a speedy conclusion.

Mr Moloney: A swift conclusion.

Mr Bain: You'll appreciate — I'm sure Mr Spratt's told you — that I submit a report. After that, the timing of it is out of my hands.

Mr Moloney: Yes, but I think it was that there was his aim and object is to address directly, and he is ready to address the issues that you raised in your correspondence in point form, and there is simply one exhibit that Mr Spratt would wish to formally hand in to you. It is a transcript that he has made of the tape that you provided to him, and he would like that handed in to you for the record.

Mr Bain: OK, thank you. That's very helpful.

Now, can I just go through some of the formalities -

Mr Moloney: Yes.

Mr Bain: — so that we have them on record?

Mr Spratt, the interview will proceed by me asking you a number of questions, and I've outlined the areas, though not the specific questions I'll be asking, in the notice. You may consult your solicitor before answering any question. If you wish to do so in private, I'll facilitate that. Your solicitor may not answer questions on your behalf.

Mr Moloney: Yes.

Mr Bain: Can I confirm that you've received a note from me outlining the procedure, both for the interview —

Mr Spratt: Yes.

Mr Moloney: Yes.

Mr Bain: — and for the investigation and drawing attention to the relevant statutory provisions.

Mr Spratt: Yes.

Mr Moloney: Yes.

Mr Bain: At the end of the interview, you will have the opportunity to reflect on anything you've said and alter anything that may have created a misunderstanding, or, indeed, to add anything new that you think appropriate.

Mr Moloney: Yes.

Mr Bain: Are you content with the process?

Mr Spratt: Yes.

Mr Moloney: We are; yes.

Mr Bain: Can I take you first then to the report on the complaint against you by Mr Swann. I have a copy here for you, but, if you have your own copy, that may be better. Can I ask you to go to page 69 —

Mr Spratt: Could we give that, too? We'll give this one, too.

Mr Bain: Oh sorry.

Mr Moloney: Could I just take a copy of that?

Mr Bain: Sure, sure.

Mr Moloney: Thank you very much.

Mr Bain: Page 69 of that report, and would you confirm that what's at page 69 to 79 is the note of your meeting with me on 21 October 2013?

Mr Spratt: Yes.

Mr Bain: And is it correct that, following that meeting, you were sent a draft of the note and afforded an opportunity to suggest revisions?

Mr Spratt: Yes.

Mr Bain: And I think you did in fact avail of that opportunity, and a copy of the report of the statement, note of meeting, showing your suggested revisions is at page 82 of the report.

Mr Spratt: Yes. I think there was only one area, and it was about a newspaper article.

Mr Bain: And the revisions are on page 86, I think.

Mr Spratt: Yeah. I have no issue with that.

Mr Bain: I didn't accept them because they didn't actually seem to make sense, with the tracked changing, but I don't think they're material for this purpose anyway. So, in essence, subject to that minor revision that wasn't accepted, am I correct in my understanding that you accepted that the note of meeting was an accurate note of your meeting with me?

Mr Spratt: Yes.

Mr Bain: And was what you told me at that meeting truthful?

Mr Spratt: Yes.

Mr Bain: Can I refer you to page 72 of the report and to paragraph 23, which states:

"Mr Spratt went on to say that he never denied using the word nutters, and in his interview with Mr McBride, he — Mr Spratt — was very clear that he used the word. Mr Spratt confirmed that, apart from the omission, of which there were many, the transcript was accurate",

and I think there we were referring to the Hansard transcript.

Mr Spratt: Yes.

Mr Bain: And do you accept that the interview that you are referring to with Mr McBride, you were in fact referring to the telephone conversation with him on 27 June?

Mr Spratt: Sorry, just run that in front of me again.

Mr Bain: Sorry, in paragraph 23, you refer to, "and in his interview with Mr McBride". Do you accept that that's a reference to your telephone conversation with him on the evening of 27 June?

Mr Spratt: Yes, absolutely. I mean it's always been about the spin that was being put on it by McBride.

Mr Bain: OK. Then could I take you please to page 113 of the report? Can you confirm that that's a letter that you sent on 8 January 2014 to Mr Gill, the Clerk to the Committee on Standards and Privileges?

Mr Spratt: Yes.

Mr Bain: What was your purpose in sending that letter?

Mr Spratt: Well it was just to clarify some issues. I thought I had a right to do that and I chose that right.

Mr Bain: And, by doing that, you were seeking to influence the Committee in their consideration of my report.

Mr Spratt: Absolutely not.

Mr Bain: Well, if you weren't seeking to influence them, what was the point of sending it?

Mr Spratt: Well I wasn't trying to change your report in any way.

Mr Bain: Oh no, I am not suggesting that; I am just —

Mr Spratt: I thought that's what you did suggest.

Mr Bain: No, no; I am suggesting that you were sending them a letter to draw attention to matters that you believed were important that they should consider —

Mr Spratt: Yes. Yes.

Mr Bain: — when looking at my report.

Mr Spratt: Yes.

Mr Bain: So it is fair to say you were trying to influence —

Mr Spratt: No, it is not fair to say that. I was only making a point.

Mr Bain: All right.

And the second bullet point in your letter reads:

"The one matter that annoyed me most about this complaint was Mr Swann's assertion that I had been dishonest, when, in fact, at no time did I deny using the words, "except the nutters", as borne out by the Standards Commissioner".

Mr Spratt: Yeah. And I still stand by that statement; absolutely.

Mr Bain: OK. Then could we turn please to page 70 of the report, which reads:

"Mr Bain responded, saying that the allegation was that, while acting in his capacity as an MLA, Mr Spratt had, when speaking to Mr McBride, denied using the word nutters. Mr Spratt was adamant that it was lies".

Mr Spratt: Yes, and I still stand by that statement on the basis of the way the story was being spun.

Mr Bain: All right. Then can we go, I think, for the last reference to paragraph 37, which is page 76 and 77 of the report. It starts on the bottom of page 76, and do you see about halfway down the bit of the paragraph on page 77 the passage:

"Mr Spratt was adamant that, at no time during the call, had he denied using the words in question".

Mr Spratt: Yes, and that still stands, and it was the way it was being spun.

Mr Bain: Yeah. And do you accept that the words in question were "except the nutters"?

Mr Spratt: They were always on the record, and if McBride had taken the time to actually read that part of Hansard as well, as he obviously did listen to a recording, he would've very clearly seen that, but he obviously didn't want to do that.

Mr Bain: Yes, but the question was: do you accept that, when the note refers to using the words in question, that is a reference to using the words "except the nutters"?

Mr Spratt: I have never denied using the words "except the nutters" at any stage, Mr Bain.

Mr Bain: Now, can we turn now to consider the recording and the transcript.

First of all, can you confirm that you received a copy of the recording and copy of my letter of 13 February?

Mr Spratt: I received a copy —

Mr Bain: OK.

Mr Spratt: — of a recording that, under data protection, I was not afforded, told it was being recorded, and then it was handed to a third party.

Mr Bain: Do you accept that the recording is unedited and unenhanced?

Mr Spratt: I do not accept the copy of the recording as a true record.

Mr Bain: That wasn't the question, with respect. Perhaps you could answer the question.

Mr Spratt: I do not accept the copy of the recording as a true record of the conversation with Mr McBride, as there was poor and intermittent reception at my end at the time the call was made and, as a result, much of the conversation cannot be heard or transcribed. At no time did I deny using the phrase "except the nutters". Rather I denied the way McBride had been implying the story and the way he was spinning it.

Mr Bain: Yes. Now the question was, Mr Spratt: do you accept that the recording is unedited?

Mr Spratt: No. It could be. It could've been edited. I don't know.

Mr Bain: Do you have any basis for suggesting that Mr McBride edited the copy?

Mr Spratt: I don't have any basis because it's not — I've already told you what I told you a few minutes ago. I don't accept its accuracy.

Mr Bain: Do you suggest that the recording has been doctored or enhanced in any way?

Mr Spratt: I am not suggesting anything. That's not for me to say, but it's certainly not an accurate — and I've already told you that, and I can't go any further than that.

Mr Bain: If you just bear with me while I look at the document you've provided here, if I can find it.

Mr Moloney: That's exhibit 1. That's the matter we handed in to you. Is that correct?

Mr Bain: Well, it won't be exhibit 1, but it's a document that you've handed to me.

Mr Moloney: Yes, it's the one that we would refer to as exhibit 1, yes.

Mr Bain: I just want to compare that with the version I have.

Mr Moloney: OK.

Mr Bain: Yes, thank you.

Mr Spratt: Are the two accurate?

Mr Bain: Well I haven't —

Mr Spratt: I haven't seen a transcript from your end.

Mr Bain: No, and nor do you need to at this stage. The —

Mr Moloney: Sorry. Would it be possible at some stage to get a copy of your version of the transcript?

Mr Bain: If I am using — If it is necessary for me to use my version at all, then, certainly, you'll get a copy. Indeed a copy will be attached to the report.

Mr Moloney: Sorry. The copy that we have provided is a prepared transcript taken directly from the tape that you provided to us.

Mr Bain: Yes.

Mr Moloney: OK. Thank you.

Mr Bain: I mean there should be no difference between them, but, without taking time to compare them, I can't say, but, on the material points, there don't appear to be any difference.

So I know your position is there were bits missing because of interference on the line, but do you accept that the actual words recorded on the transcript that you've given me were spoken by you and by Mr McBride?

Mr Spratt: I'm sure they were.

Mr Bain: Can I take you to the passage then quite near the start of the recording, where Mr McBride is recorded as saying:

"Sorry it's breaking up a wee bit there.... [Interference] Just calling about the Committee hearing from yesterday, and I've just listened to the audio that's gone up on the website there, and it does appear to be quite clear that you did say except the nutters during".

Mr Spratt: Yeah —

Mr Bain: To which your response was —

Mr Spratt: — but I was quite clear that I said that.

Mr Bain: To which your response is "no". Or on your version, it's "absolutely not". So isn't that a denial of having used the word nutters?

Mr Spratt: No, it's not a denial, Mr Bain, of having used the words. I never denied using the words.

Mr Bain: Well perhaps you could explain to me the meaning of that phrase.

Mr Spratt: Well the bottom line is this: I suspect that I probably said something to McBride at the start in relation to the way the story was being spun, because there's comments from me that can't even be heard on the tape. And then eventually "go ahead" was the only two words that appear to have been able to be transcribed.

Mr Bain: There wasn't much time in the bit of the tape you can't hear —

Mr Spratt: Well I mean —

Mr Bain: — for you to say a great deal, Mr Spratt.

Mr Spratt: Spinning the story again or whatever, I don't know, but it was quite clear that he was spinning a story, and I have always denied the way it was being spun, and I can put it no further than that.

Mr Bain: Well perhaps you can explain why it would be wrong to give the words you've used their ordinary meaning, where you say, "absolutely not", which refers to you quite clearly to a denial of saying, "except the nutters"? What other interpretation can you fairly put on them?

Mr Spratt: Well, the "absolutely not" is in the way it was being spun, Mr Bain, and I've told you that consistently from the word go.

Mr Bain: Do you accept that it would be perfectly reasonable for a person hearing the words that you've spoken in the context to take what you said as a denial of having said "except the nutters"?

Mr Spratt: Depending on the way you were wanting to spin the thing, and the 'Newsletter' and McBride had been involved for weeks in the Maze issue, and he had been contacted, as I told you I think in the last interview, at a very early stage by the press office of a particular party and it was quite obvious that he was talking to other people and he was trying to spin the story. And I consistently denied the way the story was being spun, and I can put it no further than that.

Mr Bain: Yes, but leaving aside Mr McBride, do you not accept that an ordinary person reading — hearing — the words that you used on that occasion would take them as a denial of you having used the words "except the nutters"?

Mr Spratt: No, I don't accept that. I only accept that on the basis that, if somebody was trying to make that assertion. Nobody else has made that assertion, and the bottom line is it was on the basis of the way the story was being spun, and I can put it no further than that.

Mr Bain: OK.

Mr Moloney: I'm sorry. Just to point out again in the transcript that we have handed to you, you can see quite clearly, Commissioner, that there was interference at the start; there was broken words; and it is again Mr Spratt's position with regard to the interference that was on the line.

Mr Bain: Yeah. Do you have clear recollection of what took place during this conversation that isn't recorded here?

Mr Spratt: I don't have the recording of the thing. You know, if I had a recording, I would share the recording with you, but I don't have the recording. I mean, I don't operate like the way McBride obviously operates.

Mr Bain: But do you have a clear recollection of what you said to him and what he said to you, other than what's recorded here?

Mr Spratt: I can't put it any further than what I've told you, and I'm not putting it any further, Mr Bain.

Mr Bain: OK.

Mr Moloney: And, again on that particular point, it is unfortunate that, again, Commissioner, you have put the point: was there a true and accurate record? It is unfortunate if Mr Spratt had known that there was a recording being made of him that he would not have entered into discussions nor, because if he had been recording someone's conversation, he would've put them clearly on notice that that conversation was being recorded.

Mr Bain: But you were aware that Mr McBride was a reporter from the 'Newsletter'

Mr Spratt: Oh yes, everybody knows Mr McBride — as a biased journalist.

Mr Bain: Indeed he told you that at the very start of the conversation.

Mr Spratt: Yeah well, it is on the record.

Mr Bain: And you would expect newspaper reporters to make notes of meetings — of conversations — for the sake of accuracy, wouldn't you.

Mr Spratt: Notes, but not recording.

Mr Bain: Then you have told me about how you reconcile what appears to be recorded on the transcript with what you said to me. Does the same apply to what you said in your letter to Mr Gill? That — sorry, that probably isn't very clear so let's start again.

In your letter to Mr Gill, in essence, you said you hadn't denied using the words "except the nutters".

Mr Spratt: Yeah.

Mr Bain: And you —

Mr Spratt: I still stand by that.

Mr Bain: And your position is that that is the case because whatever appears to be recorded in the recording —

Mr Spratt: Absolutely.

Mr Bain: — is not what actually took place.

Mr Spratt: Absolutely. Well I think you're putting words into my mouth now that you say that again.

Mr Bain: It's not a full and accurate record of what took place because there are bits missing —

Mr Spratt: Absolutely.

Mr Bain: — and you have to read what's on the transcript in the context of the bits that are missing.

Mr Spratt: Yes.

Mr Moloney: Sorry, just for clarification, Commissioner, I think that Mr Spratt, lest there be any doubt, he stands over the correspondence dated 8 January. Is that correct?

Mr Spratt: Absolutely.

Mr Bain: Is it fair — tell me if this isn't fair — is it fair to summarise — Sorry. Your position is that whatever is recorded on the transcript is not a complete record —

Mr Spratt: No.

Mr Bain: — of the conversation, and that you have to view what's recorded on the transcript in the context of what had happened beforehand and on what's missing from the transcript.

Mr Spratt: Yeah, and in fact, in terms of some of McBride's comments, I already told you, Commissioner, at the previous interview that it was fading in and out.

Mr Bain: Yes.

Mr Spratt: That it was an appalling reception that I had. I should've ended the telephone conversation right there and then, but I was giving him, I suppose, I was giving him the opportunity. But it was fading in and out; it was appalling at my end so I didn't hear even everything that he said.

Mr Bain: You'll appreciate I have to put to you things as part of — *[Interruption.]* — my job.

Mr Spratt: Well I mean I have already told you about the reception in the hotel is a major issue.

Mr Bain: Yeah.

Mr Moloney: Sorry and at no stage, Commissioner, Mr Spratt's position is was he ever told, as is the norm if a recording's being made, he was not put on notice of a recording.

Mr Bain: Yes.

Mr Moloney: And I think that, when you are talking about, I have to ask the Commissioner — your good self — to take on board that if a true and accurate records, if you are put on notice, and why was that not done if that was being a recorded conversation?

Mr Bain: OK. That's something I'll take into account.

Mr Moloney: Yes.

Mr Bain: You were irritated to receive this telephone call from Mr McBride, weren't you?

Mr Spratt: Yeah, pretty irritated at the way the whole thing was being spun, and, you know, he and others would've been at it on that evening on Twitter and other places.

Mr Bain: And —

Mr Spratt: And I mean, you know, I refer you to the 'Belfast Telegraph' interview, which I actually did on 26th — on the evening of the actual meeting — which was printed on the 27th. I didn't deny it there but I denied the way it was being spun, and you know the issues around talking to a colleague.

Mr Bain: Yes. And Mr McBride is not someone you hold in high regard.

Mr Spratt: No. I don't hold him — I don't rate him as a journalist.

Mr Bain: And because you were annoyed, you lost it at this interview, didn't you, during this telephone call?

Mr Spratt: No, I didn't lose anything.

Mr Bain: And you —

Mr Spratt: I lost a lot of the conversation through interference.

Mr Bain: And you denied having used the words "except the nutters", which in fact you had used.

Mr Spratt: No, I never. I've already told you, Mr Bain, that I never denied using the words. I denied the way it was being spun consistently.

Mr Bain: Who had you been harassed by prior to receiving this telephone call?

Mr Spratt: Well I had been harassed by a lot of people on Twitter and on other social media, some of them with assumed, they don't even identify themselves; they have all sorts of odd names.

Mr Bain: And you would be well used, as a politician, to receiving that sort of abuse.

Mr Spratt: I am not here to be abused by anybody.

Mr Bain: Right. It is not something that would particularly —

Mr Spratt: I'm quite happy to defend myself if I am abused.

Mr Bain: — upset you.

Mr Spratt: Well it does upset you. I've already told you that it upset me in the terms of the way it was being spun in relation to the RUC widows and the RUC GC.

Mr Bain: Who do you claim was spinning it in that way?

Mr Spratt: Well, a number of politicians were spinning it in that way. It was being spun directly after the meeting in that context. It was spun by Mr Nesbitt, with words that weren't even picked up on the tape because there wasn't an issue raised about them on that day, and I made that clear to you in my initial interview.

Mr Bain: OK, well —

Mr Moloney: I'm sorry, Commissioner; I just, on behalf of Mr Spratt at this stage, I would simply want to point out that you can obviously see the toll that this is taking

on him. You have to go through and put these issues to him, but you can quite clearly see that, having been very clear and unambiguous in the report and the investigations that you carried out beforehand, that this matter, having raised itself again, has taken a great personal toll on him, as is evidenced by the obvious annoyance that he has been subjected to personally.

Mr Bain: I can well understand that.

Now, you will be pleased to know that that concludes all the questions I intend to ask. This is your opportunity, if you've anything further you wish to raise, to do so.

Mr Moloney: Could I just ask for the formal record: Commissioner, you very appropriately set out in point form a number of questions that you wished to address. Now Mr Spratt has prepared a written response, which I would ask him to read into the record, and it correlates to the questions that you put to him, and I would ask you to allow him to read those responses. They are in numerical form in the sequence that were outlined in the letter, if that's —

Mr Bain: I am very content for him to do that or, if he prefers, and it will save a lot of transcribing time, if he simply wants to read for the tape that he is handing it over to me, then it will appear attached to the transcript.

Mr Moloney: Well I think that, for a true and accurate record, it would be easier if you read them.

Mr Spratt: Yeah.

Mr Bain: OK.

Mr Moloney: Thank you.

Mr Bain: I am very content.

Mr Spratt: Well, in relation to the first question that you raise, I do not accept a copy of the recording as a true record of the conversation with Mr McBride as there was a poor and intermittent reception at my end. Reception at the time the call was made, and, as a result, much of the conversation cannot be heard or transcribed. At no time did I deny using the phrase "except the nutters", rather I denied the way McBride had been implying the story and in the way he was spinning it.

2: I refer to the first answer. It is very clearly not complete. It is rendered inaccurate because the conversation cannot be transcribed in its entirety.

3 and 3a: Sam McBride is one of the chief spinners of the story, and I have always denied the way in which he was spinning it. If McBride had taken the time to check the Hansard transcript of the entirety of the meeting, he would've found that I never denied using the phrase. This has already been borne out in the Commissioner's initial report.

b: I stand by the statement made at the time. At no time did I deny using the phrase "except the nutters". I made it to a colleague from a sedentary position. I stand by my initial statement to you as Commissioner, and that the comments made by the press, and Mr McBride in particular, was lies because of the way the story was being

spun. Again, that is not only borne out in Hansard but also in an interview with the 'Belfast Telegraph' on 26 June 2013, printed on 27 June 2013.

c: I totally stand by the statement on the basis of the spinning of the story by certain individuals.

4: At no time did I breach my duty under the Code of Conduct to act honestly.

5: I fully cooperated with the Commissioner for Standards.

6: I have fully cooperated with the Committee for Standards and Privileges.

I have nothing further to add.

Mr Bain: Just two points, or three points, if I may. Just for clarification, the points I was investigating about failure to cooperate with me and the Committee were on the basis that, if it was true that you had not given an honest account to myself and the Committee, that plainly would be a failure to cooperate.

Mr Spratt: Yeah, well I understand.

Mr Bain: So *[Inaudible.]* on the same issue.

Mr Moloney: Yes.

Mr Bain: Could I just ask you two points in relation to what you've read there. You say that, because of the interference, much of — I think it was much of — the transcript isn't —

Mr Spratt: Much of the conversation cannot be heard or transcribed.

Mr Bain: That's rather overstating it, isn't it? The gaps in time are a very small part of a conversation that lasted, I think, from memory a minute and 14 seconds.

Mr Spratt: Well, I mean, if you do 10 seconds on the television, you would get quite a few words in. You do five seconds on television, you can get quite a few words in. I can, Mr Bain.

Mr Bain: Yeah, but it's quite a small proportion.

Mr Spratt: Well I can, Mr Bain.

Mr Moloney: I think that the point that Mr Spratt would be making is that all these things, if it is a true and accurate record, and you have the full thing, things can be seen in the proper context. You are saying — Mr Spratt's simple point, Commissioner, is that these things have to be contextualised.

Mr Bain: OK. I accept that.

And the second point, I just want, it would be helpful to me: you were saying that Mr McBride had been spinning this. To your knowledge, had he been, as you described it, spinning it prior to his conversation with you?

Mr Spratt: Absolutely. He was spinning it on the evening of the Committee meeting. I mean I have knowledge of telephone conversations that took place between him and others from another political party — two political parties.

Mr Bain: I appreciate that you may not want, that you may feel that you shouldn't reveal further details of these, but obviously it would be helpful to me, when I am interviewing Mr McBride, if I could put specifics to him.

Mr Spratt: I'm not taking the matter any further. I have taken the matter as far as I can take it, and I can take it no further, and that's the end of discussion.

Mr Bain: That's perfectly acceptable. Is there anything else that you would wish to say?

Mr Spratt: No.

Mr Moloney: The only other point, Commissioner, that one would say on Mr Spratt's behalf: you have conducted a very full and a very comprehensive and a very professional inquiry in this report. You have conducted a very full and comprehensive investigation into this additional matter that has come to your attention. This, one can only say, has taken a tremendous personal toll on Mr Spratt, and one is not, one cannot overemphasise enough, it is public knowledge that Mr Spratt has a health issue, and, if this matter could be concluded as expeditiously as possible, because it has had serious knock-on effects for his physical and emotional well-being. And that is why we are very clear that, if there are any other points that you wish to address, simply come back and they will be addressed immediately.

Mr Bain: OK. I mean I hope that won't be necessary. I have, at the moment, only one further person that I am scheduled to see, though I can't guarantee that there won't be others will emerge as a result of that, and I am hoping to do that on Monday. If that is the case, I should be in a position to submit my report within a maximum of two weeks after that but hopefully quicker than that. Though, as I say, how long the Committee take to fix a hearing, if they want to have that, it is a matter for them.

Mr Moloney: Well, if there are any other matters that you wish to address, they would be addressed expeditiously and well.

Mr Bain: I appreciate that, and thank you very much.

Mr Moloney: Thank you very much for this opportunity.

Mr Bain: I hope that you appreciate I have a job to do. It doesn't mean I —

Mr Spratt: No, I understand you have a job to do, but it is very frustrating, you know; this is just malice and vindictiveness.

Mr Bain: OK. Thank you very much.

Mr Moloney: Thank you very much.

6



Northern Ireland
Assembly

INVESTIGATION INTO COMPLAINT – MR JIMMY SPRATT MLA

MEETING WITH MR SAM McBRIDE

10 March 2014
Room 283

Start: 4.00 pm End: 4.30 pm

Present: Douglas Bain, Commissioner for Standards
Mr Sam McBride, Political Correspondent, News Letter
Mr Ben Lowry, Deputy Editor, New Letter
[REDACTED] (Note taker)

Mr Bain: OK. I think I indicated in the notice that I would take your evidence either on oath or affirmation.

Mr McBride: Yes.

Mr Bain: Which do you prefer?

Mr McBride: I'm happy to take it on oath.

Mr Bain: Could I ask you to read the words?

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

Mr Bain: And just for the benefit of whoever transcribes this, if we get a transcription, it would be helpful if we all identify ourselves. So I am Douglas Bain, the Commissioner for Standards.

Mr McBride: Sam McBride, the political correspondent of the 'Newsletter'.

Mr Lowry: Ben Lowry, the deputy editor of the 'Newsletter'.

Mr Bain: OK. Mr McBride, can I just ask you to confirm that you've received and understood a note I sent you —

Mr McBride: Yes, I have.

Mr Bain: — on a couple of occasions, outlining the procedure, both for this interview and for the investigation?

Mr McBride: Yes, and I'm just going to try to get the documents out here so that I can remind myself of what's what.

Mr Bain: OK.

Mr McBride: I printed out some of the things that I said I was going to bring with me. Let me see. Yes, so that's the letter that you had sent, and these are the different things. So that's the transcript, which you've already seen —

Mr Bain: Yeah.

Mr McBride: — but I printed that out, and then there is two other things there, which I can explain as to other documents, but —

Mr Bain: OK. We will come to them in a moment.

Mr McBride: Sure.

Mr Bain: I'm just, so as we are complete, could you also confirm that you got a note explaining the various offences —

Mr McBride: Yes.

Mr Bain: — in relation to this?

Now, I asked you to bring with you the recording device that had the recording on it.

Mr McBride: Yes.

Mr Bain: And it would be helpful if I could just hear that.

Mr McBride: Yes, no, I have got that. Let me just work out.

Mr Bain: If you can find it.

Mr McBride: I took it out when I was going through the security thing, so let me remember which pocket I put it in. And actually I have brought a laptop, which will help to play it here because it's a USB device.

OK, so this is the device. Do you mind if I plug it in?

Mr Bain: No.

Mr McBride: You can watch how I do this if you want.

Mr Bain: No, that's —

Mr McBride: Let me see. So, basically, just to give you an idea of how this works: basically, it comes apart like this. This is a USB pen. I plug this in, and you can play it and you can organise it and give it a different name, but it doesn't change anything in terms of what's recorded on it.

Mr Bain: Very clever.

Mr McBride: *[Inaudible.]* still works after these years.

I am just trying to find it. So do you want me to turn this round so that you can see it?

Mr Bain: No, I just want to hear it.

Mr McBride: OK.

JS	Hello, Jimmy Spratt.
SMCB	Hi Jimmy, it's Sam McBride at the 'Newsletter'. Can you speak at the moment? [Interference.] Hello.
JS	[Inaudible.] there.
SMCB	Yes, sorry, it was just breaking up a wee bit there. I am calling about the Committee hearing from yesterday, and I've just listened to the audio that's gone up on the website there, and it does appear to be quite clear that you did say "except the nutters" during the —
JS	No, absolutely not, Sam. You print that if you want. I'll be seeing you in court as well.
SMCB	Right, well, what did, what did, you say?
JS	I was having a conversation with a colleague so there was absolutely no hint of that whatsoever.
SMCB	Who was the colleague?
JS	Just you. You. It was a private conversation. I've made that very clear.
SMCB	No one was sitting beside —
JS	I've already stated that.
SMCB	No one —
JS	I've already stated —. Sorry?
SMCB	No one, no one, was sitting to your left at the time because Leslie Cree had just left, so —
JS	Well, you don't put words in my mouth or in anybody else's mouth, OK.
SMCB	Certainly not. I'm just trying to understand how —
JS	I've made it very clear exactly what I said.
SMCB	Once.
JS	I will be seeking legal advice, Sam, and I will seek legal advice against you if necessary.
SMCB	Right.
JS	Nothing further to say to you. Good day.
SMCB	OK. Thanks. Bye.

Mr Bain: Thank you.

Mr McBride: No worries.

Sorry, I mean the speakers on this —

Mr Bain: Do you want to close that down or —

Mr McBride: Yeah, I'll just try and turn this off. The speakers on this aren't brilliant there; it's a wee bit better when you have better speakers, but that's the gist of it.

Mr Bain: Just for the avoidance of any doubt: is that an unedited —

Mr McBride: Yes.

Mr Bain: — recording, and you haven't enhanced it any way or deleted any bits of it?

Mr McBride: No. Certainly not.

Mr Bain: When did you first become aware that there was an issue about something that Mr Spratt had said at the OFMDFM Committee?

Mr McBride: During the meeting. I wasn't present at the meeting, but you can obviously watch these things online quite often, and I can't recall — I think there was a briefing from the First and deputy First Ministers — I can't recall why I was watching it, whether I thought there would be something particularly interesting. I think it was a fairly quiet day, and I was just keeping an eye or an ear on it in the background. It wasn't particularly interesting, and then this erupted towards the end of it obviously, as you now know. So that was how I came to be aware of it.

Mr Bain: And you followed that up with a telephone call to Mr Spratt that evening.

Mr McBride: First of all, no.

Mr Bain: Well, the next evening.

Mr McBride: First of all what happened was I did a fairly brief piece, because it was late in the day and the paper was pretty full, but I think it had a very small presence on the front page as a little brief, and then a piece inside saying there had been a row at the Committee. Spratt had, I can't remember how it was phrased to be perfectly honest, perhaps I should've brought it with me, but there had been a dispute between Mike Nesbitt and Jimmy Spratt as to whether Jimmy Spratt had called opponents of the Maze nutters. And ran some of what they said in the Committee: so Jimmy Spratt said this, Mike Nesbitt said this, he accused him of spinning, he, you know, etc, etc, and that was the way it was left.

Then the next evening, I —. The next afternoon, I think, I got a copy of the recording — I think it went up on the website from memory, and somebody pointed me towards it — of what had been said, and I was able to listen back, because we are not able to record what's coming from the Assembly on the live stream. So I was able to get a bit more clarity as to what actually had been said, because I certainly hadn't heard it in the initial melee. You know, it didn't strike me, and I don't think it was very apparent, and, on the recording, which I then heard, again, it was far from certain that he had said, "except the nutters", but I was pretty sure that he had, and that's why, when I spoke to him, I phrased it in the way that I did:

"It would appear to be that you said this".

And he was very clear at that point:

"No, no, certainly not".

Mr Bain: And would it be fair to say that, in the period that had lapsed between the Committee and your phone call to Mr Spratt the next evening, that there was certainly stories going around that you

were aware of that he'd said that all those who were opposed to the building of —. No one was opposed to the building of the building, the peace and reconciliation centre, except the nutters.

Mr McBride: The story —. Sorry, I don't understand the question.

Mr Bain: Sorry.

Mr McBride: You're OK.

Mr Bain: There were stories going around, weren't there, that Mr Spratt had said that no one was opposed to building a peace and reconciliation centre except the nutters.

Mr McBride: Well I think it was Brenda Hale who had said nobody was opposed to it, as far as she was concerned, in her constituency, which, obviously, is where the Maze is happening, and it was at that point that he had interjected. I don't think there were any stories going around as such, other than the fact there was this big dispute and it was on the news, and we had an article on it, the 'Belfast Telegraph' had an article on it. I can't recall if the 'Irish News' had. It was a big story, but I don't think there was much —. People were waiting to see whether it was going to be in Hansard, and that was the big issue at the point when I phoned him. So would Hansard record that, yes, he had used the word nutters, or would they say, actually, no, he didn't? So that was, as far as I was concerned, that was what I was trying to find out when I phoned him to ask him, essentially, what's your side of the story now that we have a bit more of an understanding about what happened.

Mr Bain: And I mean it has been suggested to me that Mr Nesbitt and others were spinning a version that Mr Spratt had said that no one was opposed to the building except the nutters. Were you aware of that prior to your telephone call with him?

Mr McBride: Well it was said in the Committee. That was all said in public at the Committee, so, yes, I was aware of that, but, I mean, I think, I mean, in so far as anyone can tell, it would appear to me that both sides were trying to use it for political advantage, as happens routinely every day up here at Stormont. So there was nothing particularly unusual. It was a very simple dispute: did he say it, did he not? He seemed pretty emphatic at the Committee that he hadn't said it. I had what seemed to be evidence that he probably did say it but I wasn't certain because Hansard hadn't been published by that point, and I wanted to see what he said about that, so that was where it sat. There was a degree of uncertainty as to what actually was said.

Mr Bain: Ah but you see there's, and herein perhaps lies the difficulty, when you read the transcript, at no time does Mr Spratt say that no one is opposed except the nutters to building the peace and reconciliation centre, which was the first part of the complaint against him that I dealt with.

Mr McBride: OK.

Mr Bain: And that simply isn't borne out by the transcript.

Mr McBride: Although the point where he interjects, I mean, Brenda Hale is saying:

"nobody opposes this"

She is talking obviously within her constituency, but nobody opposes this. At that point, he interjects to say:

"Except the nutters."

So if he doesn't mean that the only people who oppose this are those who are nutters —. It is difficult to see how that could mean anything other than —.

Mr Bain: Well —.

Mr McBride: Otherwise what was he trying to say?

Mr Bain: You have no doubt read my conclusions on that.

Mr McBride: I have.

Mr Bain: And it has been suggested to me that you, prior to telephoning Mr Spratt, you were actively spinning what we might refer to as the Mr Nesbitt version of events.

Mr McBride: I am pretty surprised to hear that, to be honest, because not only was it, I suppose, something that everyone was reporting that morning, in broadly the same terms that the 'Newsletter' reported it: there had been a row at the Committee, as to what was said, but there would've been absolutely no reason for me to have taken that approach. Aside from the fact that I had absolutely, and I can say this categorically, no animus with Jimmy Spratt whatsoever prior to this, and I am pretty shocked at the way this has come about, there would just be no reason for me to take a particular line on this. I don't — certainly it was not something that the 'Newsletter' was, to my knowledge, taking an editorial position on. There was a lot of opposition to the Maze, but it was something where there was a debate within unionism. It certainly wasn't something where I [*Inaudible.*] taking sides.

Mr Bain: OK.

Mr McBride: And I think, sorry, if I could just end that point, I think my motivation, in so far as that's at all relevant to this, is really not relevant to this because it was a very simple case of I was trying to find out what did he say. Now whether I thought he was politically correct, whether I thought he was incorrect in terms of the position he took, whether I thought the people who disagreed with the Maze were in fact nutters, was neither here nor there. It was whether he had said, at the Committee, except the nutters. He was very clear to me that he didn't say that; I was trying to report what he did say and give him a chance to put his side of the story across.

Mr Bain: And was that your purpose in making the telephone call?

Mr McBride: It was. Yeah.

Mr Bain: Now what was your purpose in recording that telephone call?

Mr McBride: Very simple: to have an accurate record of what he said.

Mr Bain: And what's your normal practice in relation to making recordings of telephone calls with third parties?

Mr McBride: It varies from situation to situation. I mean, I suppose, first of all, just general recording if we don't need details of conversations and telephone calls just immediately, but, if I am conducting an interview with someone — perhaps I'm sitting down with Peter Robinson, I'm sitting down with Mike Nesbitt, Jim Allister, whoever — pretty much all the time now I think pretty much all journalists would record those for various reasons. It means that you can think more. You can talk to them and have a bit more of a dialogue. You're not scribbling the whole time. And it means that it is absolutely accurate. When it comes to phone calls, most phone calls are not — I do not record most phone calls with people, but, if it's a lengthy phone call, if it's a long interview with someone, maybe the Secretary of State's out of the country and you are doing an interview with them about the Budget or something like that, if it is something which is legally perhaps contentious and you want to have an accurate record of what you put to someone, or if you think someone might be in a position where they would try to claim that they had been misquoted, it is in both my interests and that of the 'Newsletter', and in that person's interests, that we have an accurate record of exactly what they said, and while, you know, taking a shorthand note of it, while touch-typing it onto the screen, both of which is common in

journalism, is great, there's something extra which you get from listening back to a phone recording and actually working out, well, actually, maybe there was a hint of humour in what he said there, maybe he didn't quite mean that, you hear an inflection in his voice, things like that. It just provides an accurate record of what was said.

Mr Bain: So the norm is, as I understand it, is not to record telephone calls, but, in certain circumstances, you do it.

Mr McBride: Yeah.

Mr Bain: So which of these circumstances that you've outlined applied in this instance?

Mr McBride: Good question. I think I wanted to have an accurate record of it. That was the first thing and the main thing. There was a degree to which, at the heart of this was a dispute about what had been said, so it was clear that Mr Spratt had said something. It might not have been nutters; it might've been something totally different. Maybe Mike Nesbitt was being incredibly unfair to him. But perhaps he had said nutters and he was trying to get out of it. I wanted to be absolutely clear that I wasn't in a situation where he was claiming that I had misquoted him in some way, and I had no way to prove what had actually been said. And I think, with hindsight, it is pretty clear why I did that.

Mr Bain: It's been suggested to me that, whatever the legal position may be, journalistic good practice would be to tell someone if you intended to record a telephone conversation with them.

Mr McBride: Could I ask you who told you that?

Mr Bain: No. The good position is that I must ask the questions, and you are to answer them.

Mr McBride: I would be intrigued —. I mean I totally accept that it's right that you should protect your sources, but I would be intrigued as to know who it was told you that. I mean I studied a postgraduate diploma in journalism. This was something that was discussed as part of the course, as to how to make accurate records, and certainly there is a huge gulf between —. I think there is a degree of confusion evident in what Jimmy Spratt said to you in terms of his interview in your first investigation where he claimed that it was illegal if I had a recording of this. And I think perhaps he was hoping it was illegal because, if it had been illegal, I wouldn't have been able to use that, and he would have been able to continue his position, which our recording obviously shows is not accurate. But I think that it is certainly not something that I have ever had suggested to me that speaking on the record to someone, where you have identified yourself as a journalist, that they could have any expectation of privacy, whether I'm taking a shorthand note of what they say, whether I'm typing it onto the screen or whether I'm going a step further and being absolutely and completely recording everything that's said so that's there's no hint that I've misheard it or mistyped it or taken it down incorrectly, and I can double-check it later, there's no reason that someone should have any concern. And I'm surprised that someone has suggested that, first of all, this was illegal, and now it seems that perhaps that individual or someone else is accepting that it's not illegal but that, in some sense, it's improper. It's certainly not improper, and if someone wants their words to be accurately reported, which is what, I think, any of us would want if we were speaking to a journalist, they should have nothing to fear from their words being recorded.

Mr Bain: It's also been suggested to me that you had a political agenda in making this recording, in that you hoped to illicit material that could be used for political purposes. What do you say to that?

Mr McBride: I don't think I'm going to dignify that with a response because it's preposterous. I speak to politicians all the time: some of them are in situations where they are recorded; some of them are in situations where they are not. The idea that I'd do that for political purposes —. I am a political journalist. I want to accurately report what people say. If I didn't want to report accurately what

people said and I wanted to make political points, I would do that, and I probably wouldn't be in journalism. I certainly have no motive other than the truth in this.

Mr Bain: OK. Now there was a degree of interference, not on the line, but on the airwaves or whatever you have, so there were some parts — one part at least — where you couldn't hear what Mr Spratt — if he was saying anything.

Mr McBride: Right at the start.

Mr Bain: Would you accept that what he could hear may not have been the same as what you could hear?

Mr McBride: I would say obviously that I can't prove what he could hear because I wasn't there. I would be astounded if what he heard was substantially different to what I heard and to what we just heard when we played it back, not least because it was published on the front page of the 'Newsletter' the following day, having made clear that he had no issue with threatening to sue us if we got it wrong. We published word for word what he said. If he was so grotesquely misquoted and he had misunderstood the question and he didn't know what he was responding to, the very least he would've been phoned or emailed or contacted me through the DUP press office and asked for a correction. He and the DUP and other people know that the 'Newsletter' is not an aggressive 'Sun'-type tabloid paper, which contests things when it's shown to us that we've made an honest mistake. We correct things on a basis where it's shown to us that we have made a mistake. That would not have been an issue. I think the reality is that, if he had been so grotesquely, and it would've been a grotesque misquotation if he had not heard what I had said and we had printed what we claimed he had said, if that had been the case, he would have sued us without doubt and would've got very considerable money from us. It wouldn't even have been something which I think our lawyers would've advised us to contest. As it was, there was no complaint whatsoever, so I can't prove what he heard in that call, but I would find it astonishing if, now, a year later, he suddenly claims that he didn't hear what I was asking him.

Mr Bain: Just to pick up on two points from that. First of all, do I understand you correctly that he didn't ask you to publish a correction?

Mr McBride: He didn't.

Mr Bain: And, although there are some gaps in the recording, they are of very short duration, so not a lot could've been said during it that you didn't hear.

Mr McBride: The key —. I mean it is a short recording, but the key bit, I think, that's central to this now is I put to him the recording seems to say that you said, "except the nutters", and not only does he hear what I say, he actually cuts across the question to put his response in, so he was hearing it absolutely clearly at that point. His voice is very clear, it is very strong, and it is clear that he's responding to that. He then goes on, it's perhaps less clear in terms of the, not in terms of the line, but in terms of this issue as to what he's denying, but saying things like there's absolutely no hint of it whatsoever. It's all in the vein of denying that he had said this, so, no, no, I certainly wouldn't accept that.

Mr Bain: I just put to you for comment a suggestion that, because of what had taken place between the time of the Committee meeting and your call to Mr Spratt and the difficulties with communication, he may have thought that you were asking him whether he'd given the Nesbitt version of what had happened at the Committee meeting. For shorthand, that's saying it: no one was opposed to the building at the Maze except the nutters, and that that's what he thought you were asking him and he denied.

Mr McBride: I think it would be an enormous stretch to suggest that he was responding to anything other than the question that I put to him.

Mr Bain: OK. Then you mentioned at the start that you had a couple of other bits of paper.

Mr McBride: Yes. Probably these aren't massively helpful, but you had asked for everything that was relevant. So the first one is this — I'll give this to you — and this, actually, Ben, ironically is one of the people it was sent to; he was the news editor at that time and Rod was the deputy news editor. So really what it was, and you can see the time of it there, which gives a time for the call. I think the last time I spoke to you I had given you a time for the call from memory that is after the call, it is maybe 10 minutes after the call.

Mr Bain: OK.

Mr McBride: And it's basically a very quick draft of what he said to give them an idea of what he said, space in the paper, that sort of thing. So it's not my final version obviously. It's not an accurate —. Well I haven't checked it to see if there are changes in terms of —. I scribbled it down very quickly basically to give them an idea of what he said and the tenor of it. So that's what that is.

This is —.

Mr Bain: Sorry, just so it makes sense in the transcript, can we mark this document 1?

Mr McBride: Sure.

Mr Bain: OK.

Mr McBride: This is, just to explain how I've come to this, because, again, I didn't want to write anything on it in terms of identifying it, but you'll maybe give it a name there. This is basically a draft email, and I couldn't print it as a draft email so I had to copy it into Word and print it. Basically it is scribbled notes, it's the equivalent of what I could've written in my notebook, as it so happens I do this sometimes because I have the screen in front of me, I type things down. So you'll see there that there are questions, some of which I think I did put to him, some of which I maybe didn't get round to putting to him because he ended the call. And there's a crude draft I think at the bottom, which may, I haven't double-checked all of this, but it may be the same as what's in that email, sort of a first draft of it and bits and pieces. It's not massive. It doesn't add massively to this, but you'd asked for anything that was relevant, so those were the two that were pulled up. This is the transcript, which you have already.

Mr Bain: Can I just mark this one document 2?

Mr McBride: Yes.

Mr Bain: And, sorry, just to remind me, when was this produced?

Mr McBride: So that was —. Well it was produced both just before the call, so that day, probably, you know, an hour before it or half an hour before it, whatever it was, after I had listened to the Hansard recording but not seen Hansard, and then the bit at the bottom obviously is a rough draft of a story.

Mr Bain: OK.

Mr McBride: So that was written just immediately —. So it is really just at the time of the call, and then this is the, just the transcript, which you had asked for.

Mr Bain: Yeah. I will mark that document 3.

Then you will be pleased to know we are nearly at the end.

You may recall at the end of our previous meeting, the last question was whether you had anything to add, and you hadn't. I just wonder why you didn't, at that stage, say, by the way, I've got a recording of this?

Mr McBride: I think I know why you're asking that, and you probably know what I'm going to say at this stage. As far as I was aware at that stage, and certainly I have made this clear in the email to yourself in terms of what I said at that meeting, this report was not challenged. This was what happened during the conversation. Nobody had doubted it. There had been no legal action, which was something that we talked about a bit and you asked whether I was overly concerned about that, and there had been no call for clarification. I think I made very clear at no point did either the DUP or Jimmy Spratt claim that in any way he was misquoted. So it wasn't a question, so any sort of evidence that I might've had to support my story, any sort of conversations with contacts — any this; any that — was neither here nor there. As far as I was concerned, the story stood, and, if it had been questioned, that would've been a separate thing, so I think the chronology that your report shows is that then you spoke to, I think the following month, and he challenged it at that point, but, at that point, you clearly didn't know that he had challenged it or was going to challenge it in terms of the next month, and I certainly didn't know that and was of the view, still am of the view, that he has never challenged it with us. If he had, you know, we would obviously substantiate.

Things go into the paper all the time. We have evidence for them; we don't necessarily have to produce that all to show that something is correct if it's not even in dispute. I think that was my —. It never really crossed my mind, to be honest, that it was relevant. I mean, if he had been disputing it, it certainly would've been relevant, but, at that point, I didn't think that it was relevant.

Mr Bain: Well I'll ask you the same question: is there anything else that you know of that is relevant to this investigation?

Mr McBride: Can you think of anything?

I think that's everything.

Mr Bain: OK. Is there anything you wish to clarify in anything you've said or adding anything further?

Mr McBride: I think just the one thing that I would say to summarise, I suppose, everything that I've said is that my role in this was very simple. It was to try to get to the truth of what had been said at the Committee hearing. Part of that involved going to Jimmy Spratt for his side of the story. I think it would be right to say that I am extremely disappointed with how he's reacted to that. If I wasn't interested in his side of the story, I wouldn't have gone to him. And I think that it's extremely unfortunate that, in your first report, that he took the chance that was afforded to him there to explain what had happened, there was a degree of controversy about this, there was a degree of political point-scoring as happens within political parties, involving Mike Nesbitt and Robin Swann and Jim Allister and this and that, that's politics. I don't think he should be particularly surprised about that, and that happens in all parties, including the DUP. But I was particularly disappointed that he took that chance that you gave him to explain himself by having, essentially, a baseless attack on my character and my motivation, on the motivation of the 'Newsletter', when none of these points were raised with us. None of these points had any evidence produced to substantiate them. I think it's absolutely right that he has statutory privilege to say what he said about me, even though it was absurd and preposterous, but I think it's disappointing that someone who understands the law, who makes law, rather than take the issue up with us if he had a problem with it, or legally or otherwise, chose to try to slur my name and the name of the 'Newsletter'. I think that was unfortunate.

Mr Bain: OK. Thank you very much for your assistance.

25/2014

Johnston Publishing Limited Mail - Spratt - FYI

Dx 1

Johnston Press**Spratt - FYI**

Sam McBride <[REDACTED]> Thu, Jun 27, 2013 at 4:48 PM
 To: Ben Lowry <[REDACTED]>, [REDACTED]

When contacted by the News Letter last night and told that from the audio it appeared quite clear that he did say "except the nutters", Mr Spratt said: "No, absolutely not, Sam. you print that if you want. I'll be seeing you in court as well."

When then asked what he did say, Mr Spratt said: "I was having a conversation with a colleague so there was absolutely no hint of that whatsoever."

When asked who the colleague was, Mr Spratt said it was a "private conversation, I've already stated that".

When told that no one was sitting to his left at that point, because Leslie Cree had just left (and Ms Hale to his right was speaking at the time), Mr Spratt said: "Well, you don't put words in my mouth or anybody else's mouth, OK?"

He added: "I've made it very clear exactly what I said. I will be taking legal advice, Sam, and I will take legal advice against you if necessary. I've nothing further to say to you. Good day."

At that point, Mr Spratt hung up.

—

Sam McBride
 Political Correspondent
 News Letter
 6-9 Donegall Square South
 Belfast BT1 5JA
 Direct line: 028 9089 7722
 Twitter: @SJAMcBride

Doc 2

"absolute privilege"

what did you say?

in what context did you use the word nutters?

do you think the orange order, victims groups, ex RUC members, are nutters?

why

absolute privelege for

except the nutters

in hansard it is recorded as 'except the nutters' defamation

Lagan Valley DUP MLA Brenda Hale said: "When I canvassed [in the area] and when I canvass now, there's no local opposition to the Maze or the buildings within it, em..." At that point, Ms Hale paused and Mr Spratt is heard whispering. The first words are fainter than what follows but appear to be "except the" and then, very clearly, he says "nutters" before Ms Hale continues.

brenda

When contacted by the News Letter last night and told that from the audio it appeared quite clear that he did say "except the nutters", Mr Spratt said: "No, absolutely not, Sam. you print that if you want. I'll be seeing you in court as well."

When then asked what he did say, Mr Spratt said: "I was having a conversation with a colleague so there was absolutely no hint of that whatsoever."

When asked who the colleague was, Mr Spratt said it was a "private conversation, I've already stated that".

When told that no one was sitting to his left at that point, because Leslie Cree had just left (and Ms Hale to his right was speaking at the time), Mr Spratt said: "Well, you don't put words in my mouth or anybody else's mouth, OK?"

He added: "I've made it very clear exactly what I said. I will be taking legal advice, Sam, and I will take legal advice against you if necessary. I've nothing further to say to you. Good day."

At that point, Mr Spratt hung up.

3-2014

Johnston Publishing Limited Mail - RE: MR JIMMY SPRATT MLA - TELEPHONE CONVERSATION

Doe 3

Johnston Press

RE: MR JIMMY SPRATT MLA - TELEPHONE CONVERSATION

Sam McBride <[\[REDACTED\]](#)>

Tue, Feb 11, 2014 at 3:16 PM

To: " [REDACTED] "

Hi [REDACTED],

I've attached the audio of the phone conversation (there only was one) as it was saved on my dictaphone. It should play using Windows Media Player.

I've also copied below a transcript of the call.

Best regards,

Sam

Transcript:

Jimmy Spratt: Hello, Jimmy Spratt.

Sam McBride: Hi Jimmy, it's Sam McBride at the News Letter. Can you speak? [slight crackle]...Hello?

JS: Yes, Sam, go ahead.

SMcB: Sorry, it's just breaking up a wee bit there. No, just calling about the committee hearing from yesterday and, em, I've just listened to the audio that's gone up on the website there and it does appear to be quite clear that you did say 'except the nutters', em, during...

JS: No, absolutely not, Sam. You print that if you want. I'll be seeing you in court as well. OK?

SMcB: OK, well what did you say?

JS: I was having a conversation with a colleague so there was absolutely no hint of that whatsoever.

SMcB: Who was the colleague?

JS: Just you, you...it was a private conversation, [SMcB: But no one was sitting beside you...] I've made that very clear. I've already stated that. I've already stated. Sorry?

SMcB: No one. No one was sitting to your left at the time because Leslie Cree had just left so...

JS: Well, you don't put words into my mouth or anybody else's mouth, OK?

SMcB: I'm certainly not, but I'm just trying to understand how...

JS: I've made it very clear exactly what I said.

SMcB: What did you say?

JS: I'll be taking legal advice, Sam, and I will seek legal advice against you if necessary.

SMcB: Right.

JS: Nothing further to say to you. Good day.

SMcB: OK, thanks. Bye.

The call lasted 1 minute, 14 seconds.

[Quoted text hidden]

Sam McBride

Political Correspondent

News Letter

6-9 Donegall Square South

Belfast BT1 5JA



Northern Ireland
Assembly

Appendix 2

Minutes of Proceedings of the Committee relating to the Report

Wednesday, 25 June 2014

Room 106, Parliament Buildings

Present: Mr Alastair Ross (Chairperson)
Ms Anna Lo (Deputy Chairperson)
Mr Steven Agnew
Mr Cathal Boylan
Ms Paula Bradley
Mr Colum Eastwood
Mr Fra McCann
Mr Ian McCrea

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

Apologies: Mr Declan McAleer
Mrs Sandra Overend
Mr Mervyn Storey

5. Report from the Northern Ireland Assembly Commissioner for Standards into the conduct of a Member

Members noted a Clerk's paper and a report from the Commissioner for Standards in relation to the conduct of a Member.

The Chairperson welcomed Mr Douglas Bain, the Northern Ireland Assembly Commissioner for Standards, to the meeting, and invited him to brief the Committee on his report into the conduct of a Member.

Mr Bain briefed the Committee on his report and answered members' questions.

The Chairperson thanked Mr Bain for attending the meeting.

Agreed: The Committee agreed with the conclusion of the Commissioner that the Member had not breached the Code of Conduct.

Agreed: The Committee agreed that the Clerk shall prepare a draft report for the Committee's consideration at its next meeting.

The Chairperson reminded members that the Committee's decision should not be disclosed until the report is published.

[EXTRACT]

Wednesday, 2 July 2014

Room 106, Parliament Buildings

- Present:** Mr Alastair Ross (Chairperson)
Mr Steven Agnew
Mr Cathal Boylan
Ms Paula Bradley
Mr Declan McAleer
Mrs Sandra Overend
- In Attendance:** Mr Paul Gill (Assembly Clerk)
Mrs Ashleigh Mitford (Assistant Assembly Clerk)
Mr Jonathan Watson (Clerical Supervisor)
- Apologies:** Ms Anna Lo (Deputy Chairperson)
Mr Colum Eastwood

6. Committee consideration of its report on an investigation into the conduct of Mr Jimmy Spratt MLA

The Chairperson referred members to the tabled draft report.

- Agreed:* The Committee considered the draft report paragraph by paragraph and agreed it as amended.
- Agreed:* The Committee agreed that the Commissioner's report, including all evidence, should be appended to its report.
- Agreed:* The Committee agreed that Mr Spratt should receive an advance copy of the embargoed report.
- Agreed:* The Committee agreed to order its report to print.

[EXTRACT]



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

and available from:

Online

www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

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

Textphone 0870 240 3701

TSO@Blackwell and other Accredited Agents

£10.50

Printed in Northern Ireland by The Stationery Office Limited
© Copyright Northern Ireland Assembly Commission 2014

ISBN 978-0-339-60533-6



9 780339 605336