



Scottish Affairs Committee

Oral evidence: [Impact of the closure of City Link on employment](#), HC 928

Tuesday 13 January 2015

Ordered by the House of Commons to be published on 13 January 2015.

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Members present: Mr Ian Davidson (Chair); Mike Crockart; Mark Menzies; Graeme Morrice; Pamela Nash; Mr Alan Reid.

Questions 1-100

Witnesses: **Mick Cash**, General Secretary, **Steve Hedley**, Senior Assistant General Secretary, and **Gordon Martin**, Scottish Regional Organiser, RMT, gave evidence.

Q1 Chair: Gentlemen, welcome to this meeting of the Scottish Affairs Select Committee. As you are aware, we are looking at the collapse of City Link. We had an informal meeting yesterday in Scotland with Gordon Martin and a number of former employees of City Link, as well as subcontractors to the company, which we found very helpful, but that cannot be on the formal record, therefore today we want to hear some formal evidence from you. I wonder whether we could start by asking you to introduce yourselves and telling us where you fit into the grand order of things.

Steve Hedley: My name is Steve Hedley, and I am the assistant general secretary of the RMT. I was the national officer for City Link.

Mick Cash: I am Mick Cash, general secretary of the RMT.

Gordon Martin: I am Gordon Martin, regional organiser of the RMT for Scotland.

Q2 Chair: Thank you very much. Could I start off by asking you what you think were the main reasons for the collapse of City Link?

Mick Cash: It was clear that the company were in trouble for some time. Steve attended a meeting just after Christmas in Leeds with the administrators. It transpired there that as early as November the company already had administrators looking at what their options were going forward. They were obviously operating in a very difficult competitive market;

we all understand that. It is a bit of an irony that, around the same time as the administrators were in City Link, spread across the newspapers was the fact that people were not getting their Christmas presents delivered because there was not enough capacity—enough drivers and proper deliveries—in the parcel delivery industry per se.

The company itself had some difficulties. City Link had been going since the 1970s but it had a bit of a chequered history. It was privately owned and then bought initially by Rentokil, who, as far as we are concerned, did not put enough investment into the company and then sold it. I think it was a management buy-out—no, it was to the venture capitalists; they came along and bought it for £1. Again, they did not put enough investment into it to keep the business going and have all the infrastructure in place to deliver parcels and get the throughput that would have made it a competitive business in a very competitive market. We need to recognise that in that market there is a race to the bottom in terms of how competitive it is and its cost base.

Steve Hedley: As a trade union, we saw the problem as some very ill-advised mergers. They took over other companies. That was where the problem started. Before that they were profitable. The companies they took over did not fit geographically with what they were trying to do. When Moulton and Better Capital took over, the problems were exacerbated because they went for an employment model that relied heavily on agency staff—they said they wanted 30% PAYE and 70% agency—and because of that they became a bit of a toxic brand. People were turning up in dirty old vans delivering things light, or not delivering them at all, and they lost a lot of their customer base. We had several meetings with them where very experienced staff reps tried to point this out, but at no time did they seem to be taking it seriously, so any consultation they had with the union was not really meaningful.

Q3 Chair: Going on from that, what would have been required to make City Link a viable business?

Steve Hedley: They would have needed to invest in new technology and in people. They would have had to move away from a model of employment where they relied on zero hours and subcontractors and sub-subcontractors. I say “subcontractors”: most people were very heavily encouraged to leave employment as PAYE and come back as one-man bands. We believe that is bogus self-employment, because they only worked for City Link. They wore City Link uniform and did not work for anybody else; they had hours of employment that would have made it statutory classification as a worker anywhere, by law. They would have had to invest in people because that was how their relations with customers were built. They would develop a situation where somebody would be there for a while and would have a relationship with the customer, and that would draw in other customers. That was how it had worked previously.

Q4 Graeme Morrice: We know that when City Link went into administration a potential sale fell through. It was reported that perhaps one of the reasons for that failure was undervaluation of City Link’s assets. What is your view of the situation?

Mick Cash: We believed the bid was credible. It was not only us; the administrators believed it was credible. One of the reasons why we want a proper, wide-ranging inquiry

into what happened is to understand the full background. I think it will come down to money at the end of the day. I am not expert on how these things operate, but my understanding is that the consortium that was going to purchase the company would use the debtor book to part-finance it—to keep the business as a going concern and pay off the creditors. I believe that in those circumstances there was enough money on the debtors' book to pay people like Better Capital.

The administrators had a choice. They could have valued the company at a bit less, which perhaps would have meant that the secured loans would not have been paid, and kept employment, or used the debtor book to pay off the secured loans and other loans in the pecking order, including their own costs. I think they chose that. At the end of the day, the value was about what price you put on jobs and keeping the company as a going concern. Participating in discussions and informal meetings during that whole process, it was frustrating to know that people were genuinely trying to save the company. One does not know what would happen with the business model going forward, but they said they were prepared to commit capital expenditure on the company, so it is frustrating that the administrators chose to pay off the secured creditors rather than securing jobs.

Q5 Graeme Morrice: Presumably, you take the view that not enough was done to ensure that a sale went through to allow City Link to continue operating.

Mick Cash: I take that view wholeheartedly. Equally, it was a miracle that we got as far as we did, bearing in mind that they made the announcement on Christmas day and a week later, on new year's eve, they were, effectively, going to shut up shop and get rid of people. The fact that we had something credible in that period of time, which for anybody is a horrendous period to get anything sorted out, speaks highly of the individuals in the consortium who were going to put that together. I do not know whether or not, if it had been done at a different time or if a bit more time had been given, we would be here today talking about how the company could have been saved and kept as a going concern. This is what we need to find out. A number of factors need more thorough investigation.

Steve Hedley: Under the law, we have 45 days when a company goes into administration. We are very concerned that Ernst & Young were involved in preparing contingency plans. I met them on 27 December, and they were preparing contingency plans from November. Surely at that point they should either have made the thing public, in which case it would have given more prospective buyers time to come forward, or at least given the Government bodies and the union time to consult properly with their members and represent their interests. None of this was done.

I do not see Ernst & Young, the administrators, as an impartial body in this. They should have told us a lot earlier, certainly on 23 December when it was decided that the company was going into insolvency. They should have immediately notified the trade unions.

Q6 Graeme Morrice: I think we would all agree that when the announcement was made, it was the worst possible time both for customers and also for all the staff and subcontractors as well. All MPs received e-mails from RMT asking us to contact the Government on this issue. A number of us did, but we were in the Christmas/new year recess, so it was very difficult. Having said that, do you think the UK Government, and the Scottish Government as well, did enough to try to help the situation?

Mick Cash: One of the things I learned from this is that when you get into an administration process the Government turn round and say it is up to the administrator: “We’ll do the other side of this. We’ll make sure we things get things on Facebook so people can apply for jobs, and suchlike.” They do PACE—whatever that acronym is set up to do—and those sorts of things.

At the time we wanted, and called for, a summit with ourselves, the administrators and the Government sitting down to see if we could come up with a viable solution. That was declined, because that was about us getting round the table to talk through these things. Perhaps the Government were doing things behind closed doors, or behind the scenes. They might have thought that if they got directly involved we might ask them to splash the cash and they did not want to do that. They were happy to talk to the DWP and some of these committees that allow people to look for alternative jobs, but I do not think enough was done to save the company. More could and should have been done.

When this consortium came up, they had a business model for doing it. We had a situation where the venture capitalists cut and ran, yet there were viable and credible people who thought they could save the company. I know the Secretary of State said the company had had problems for some time, but the reality is that a group of businessmen—a consortium—thought they could save it and keep it as a going concern. That itself should speak volumes. We should have put more time and effort into making sure that was seen to a conclusion.

Q7 Pamela Nash: Good morning, gentlemen, and thank you for joining us. I wanted to ask you more about your conversations with Ernst & Young so far to see if we can shed some light on the proceeds of sale and where the proportions might go. Have you been given any indications of those figures at the moment?

Steve Hedley: When we met with Ernst & Young, they told us that Better Capital would be top of the creditors’ list, because the so-called £40 million investment they put into City Link was done in the form of a secured loan. They were incentivised to go bankrupt because they were going to be the first to be paid out. In a way, they were incentivised to go into insolvency. What they have done is sell off some of the new technology they recently invested in—about £1.5 million-worth of scanners and so forth—but first they needed to pay off Mr Moulton, who has put himself at the top of the creditors’ list. That is all we know at the minute.

Q8 Pamela Nash: Did they tell you what proportion of the proceeds would go to Better Capital?

Steve Hedley: They said it would be about £20 million. They obviously have plans to sell off the rest of the assets, and they think it is going to come to more than £20 million. That is all they have said at the minute.

Q9 Pamela Nash: The best calculation is not in percentages to creditors; it is about a figure, so they would have a guaranteed figure they would get back before other creditors.

Steve Hedley: They do not do it in percentages. He is top of the list, so as soon as the money comes in he is going to get the first £20 million. That is how we understand it. Then they are going to go down the list of the other creditors, and of course the people right at the bottom of the list are the bogus self-employed subcontractors who bought their own vans, at City Link's encouragement, and now have to go through the administration process, which takes six months, if they want to get back any money at all.

Mick Cash: At one stage I had a conversation with one of the administrators to understand the process. There was a hierarchy of who would get paid out. Some of it would go to the Government. I think the first priority is the administrators' fees; then the Government, for paying things like leave; then there are secured loans of £20 million to Better Capital; then there are the unsecured creditors and suppliers, which would include the 1,000 or so agencies and contractors, and other suppliers, including HMRC, I think, so there is a hierarchy.

Q10 Pamela Nash: Would that include the subcontractors we are talking about?

Mick Cash: Yes. They would be classed as unsecured creditors, as will the staff who want to get their wages.

Q11 Pamela Nash: Some of that information came out yesterday in our meeting and in the advice we have had from our Committee staff, but we were not clear how they calculate that and whether there is a set proportion for each of these.

Mick Cash: We do not know what the percentage is, but we know there is a hierarchy.

Q12 Pamela Nash: I understand. From the conversations you have had so far, do you think there will be any money left to compensate employees or pay them redundancy?

Mick Cash: Better Capital will get their secured loan of £20 million and the administrators will get the money they are owed. I do not know what the asset base of the company is. They had very few assets. Most of the buildings and vehicles were leased. I noticed they sold off some cages and kit to DX for £1 million, so that will go back into the pot. I think the biggest amount would be the money owed to them by the big stores they were delivering for. Then we get a hierarchy where the Government get a bit and the administrators get another bit. Better Capital and Jon Moulton were saying to the City that they thought they would get back £20 million. That does not leave a lot, but I do not know how much it is in total. That question has to be asked of the people who have all the information and knowledge, which will be Better Capital and the administrators. They should be able to tell us how it is divvied up.

Chair: It seems pretty clear. The staff have given us the order of priority of payments. Those who have a capital investment, as it were, get paid before those who invested their labour, which perhaps is an issue on which we will reflect and maybe make recommendations in due course.

Q13 Mr Reid: Good morning, gentlemen. Thank you very much for coming along. I am trying to get an idea of the sequence of events here. Can you tell us at what stage the workers were first aware that their jobs were at risk?

Mick Cash: When they were told on Christmas day. Steve was at a meeting a couple of weeks beforehand with our reps and the management—HR. Rumours were going round and City Link put out a notice at about the same time as we raised it. We got the same answers as their suppliers: there was not a problem. That turned out to be a lie. From the meeting we had with the administrators on 27 December, it turned out that they were looking at what to do about putting it into administration. They were there not to look at rescue but, I suspect, at how to go into administration. They had known about this particular issue for a considerable time, and as administrators they would know that if they are going to do things like this, in particular threaten people's jobs and make them redundant, they have to consult with us. They deliberately flouted that. They can do that, because you and I as taxpayers pick up the tab for the Insolvency Service. It is absolutely disgraceful.

Q14 Mr Reid: Are you able to pin down a date when it was definite that the administrators were aware there was a problem?

Steve Hedley: They told us they were in there from mid-November.

Mick Cash: But we were told they made the decision on 22 December to go into administration.

Steve Hedley: I met the administrators who said that on 22 December it was a cast-iron guarantee that they were going into administration. They knew on the 22nd. I do not understand this. If by law we have 45 days' consultation on redundancies, how could the administrators, once the decision had been taken on the 22nd, not tell us immediately to begin that 45-day period of lawful consultation about redundancies? I do not understand how they cannot do that.

Q15 Mr Reid: Have the administrators given you any explanation as to why they did not tell staff on the 22nd?

Steve Hedley: When we met them they said they did not want to cause a panic. City Link had put out a notice, which Mick referred to, because rumours were going around. We met them two weeks previously. They told us these rumours were absolutely false. They put out a notice saying they were absolutely false in predicting that a day earlier—on 24 December—it was going into administration. It was a remarkable prediction. Their reason was that they thought it would have damaged their business case. We argued to the contrary, because as soon as people became aware the company was in trouble, the consortium came forward and made what even the administrators said was a viable bid. If we had had the 45-day consultation period, which we are entitled to by law, it is probable that other people would have come forward to make a bid.

Q16 Mr Reid: Is there any particular reason you can think of as to why they chose Christmas day to make the announcement? Was it because everywhere was shut down?

Mick Cash: The parcel delivery business has its peaks and troughs. From, say, September right through to Christmas day and beyond is the busiest period. That is when they earn most of their money, so they will be generating a lot of income and a lot of parcels. They would either have lost income or ended up having a lot of parcels in vans, in depots and in the hub that they would have had to deal with if they had announced it early. So it was quite cynical—they knew what they were about.

The other side of all this, which is equally frustrating, is that they announced it on the 25th. People were sitting down eating their Christmas dinner and heard it on the telly. They were not listening to the Queen's speech—they were listening to City Link blasted all over the media. Then the administrators made the decision that they had, effectively, only a week to sort out the problem. They made the decision to sack people on 31 December. Not only did they know in November that there were problems, but they made a decision on 22 December and announced it on the 25th, although they originally planned to announce it on Boxing Day. On top of everything else, as part of that time line they said they were going to sack everybody on the 31st. It does not give anybody time to sort out any problems. There is something fundamentally wrong about how they operated.

If we had more employment rights for workers across the piece that allowed better controls to be put in place, we would not have that type of operation. Even if they had to do it over Christmas, at least we would have had something to put in place to allow for proper discussion and dialogue. We had a credible bid from a consortium of businessmen—quite hard-nosed businessmen, if you don't mind my saying so; I think they knew the game. They would perhaps have had the opportunity in the time to develop it further, but there was a time limit. The clock was ticking to 31 December.

I remember having a conversation on the morning of New Year's Day to see if we could keep the thing going along. The clock was ticking. Suddenly, late in the afternoon, the administrators made an announcement. I found it through the media by the way. They did not pick up the phone or e-mail us. I got the HR one after I found out in the press that they had announced the redundancies. I spoke to one of the administrators, who was very professional about the information; I wouldn't knock them—they did not tell us anything private. I said to him, "When are you going to make the announcement? What time are you going to declare the redundancies?" By that time I already knew about the bid. I was told, "We haven't decided a time yet." That was two or three days before the 31st. Yet at some stage in that process when they had finished with the consortium they made the decision. They announced it in the media, and we subsequently found out through the media. I was not contacted. I do not know whether you were contacted by the administrators about when they would announce the redundancies.

Steve Hedley: We met them on the 27th and they said they were going to announce it on the 31st, but—

Q17 Mr Reid: Did they give a reason why it was only a week?

Steve Hedley: They did not. Referring to your original question, because their model of employment was subcontractors, they knew that if they had announced it in the run-up to Christmas those subcontractors were not going to be paid. I cannot see why that is not fraud. They employed those people and they knew they were not going to be paid. They worked all over the Christmas period, and then they went into administration. They are hit

by a double blow. Although it is bogus self-employment, they are not even entitled to jobseeker's allowance. Officially, they are self-employed so the Government do not pick up any tab for their redundancy; they do not get any jobseeker's allowance and they have to claim income support, which is means-tested. If they have a little bit of savings they will pick that up as well, so the people who are at the lowest point in the chain suffer the most from this.

Q18 Mr Reid: Clearly, rumours were circulating before Christmas day. Was there any announcement from the company or the administrators to the effect that these rumours were false?

Steve Hedley: Yes; we have got it in writing from City Link. Basically, they said that their competitors had been putting it around that they were going out of business on 24 December, and that this was completely untrue and they were threatening all sorts of legal action against these scurrilous rumours. It was obviously completely true.

Q19 Mr Reid: In your opinion, was it clearly something that they had planned and thought through well in advance?

Steve Hedley: You do not get in the administrators in mid-November to prepare contingency plans for insolvency unless you think it is a real possibility, do you? The trade union and the employees are not children. If that was in the balance, they might have calculated their whole Christmas and spending plans completely differently. That is the worst part about it. I am skint this month; I have no money. Can you imagine waking up on Christmas day and saying, "Oh, my God. Where's the mortgage money going to come from?" They could have pulled the mat in November.

Q20 Mr Reid: You think the reason they did not was because of all the business they would get in the run-up to Christmas.

Steve Hedley: That, and the fact that they knew they would have people working for them for free over that period; they would not have to pay them.

Q21 Chair: The point about people working for free applies entirely to the subcontractors who have not been paid at all, but it would also apply to some of their own workers who, while they got their salaries—their base rates—did not get overtime. Is that correct? Unfortunately, *Hansard* does not record nodding; you have to say something.

Steve Hedley: That is correct. People were actively encouraged by City Link management to work a lot of overtime in the run-up to Christmas and over the Christmas period. I believe they shut on Christmas eve. They did not deliver anything on Christmas day. They shut on Christmas eve, so people worked right up to that period.

Mick Cash: They are paid in arrears, aren't they?

Steve Hedley: There was a lot of overtime and a lot of them have not been paid that overtime, but the administrators told us they would be picking up that bill for the PAYE employees.

Q22 Chair: We had an informal meeting yesterday with some of the staff. You are telling us something new: the employed staff will be getting their overtime paid.

Steve Hedley: That was certainly what the administrators led us to believe, but it is going to take six weeks for that to happen. We asked them the direct question about the employed staff at the meeting on the 27th, but very few of the staff are actually employed. A lot of people have been working a lot of overtime who are basically employed staff but are not classed as such, and they will not be getting any of that.

Q23 Chair: I understand the distinction between the subcontractors and the bogus self-employed. Gordon, can I turn to you for a moment? That was not what we heard yesterday from people.

Gordon Martin: No, it was not. My understanding was that the directly employed PAYE staff were struggling to be paid their overtime. While I was with one of the reps, Mick Ward, on 6 January he got a call about overtime. I can't call to mind the exact hours, but he was being told that he was going to be paid a fraction of it—about 20%. That was what he was being told by the management still in place at his depot at that time. He was going to be paid a percentage of the overtime he had worked. That was my understanding.

Steve Hedley: That was not what we were led to believe when we spoke to the administrator. Mind you, he did say there would be overtime paid; he did not say a percentage. I suppose, looking back at it, the answer was a bit ambiguous.

Mick Cash: This also fits into that part of the process. We had to ask for a meeting with the administrators. We instigated that on 27 December. We instigated the phone calls asking for certain things. We have asked for a subsequent meeting to meet the administrators following our concerns so that we can raise them. As to the formality of that, whether there are properly recorded notes of meetings, as we would have in our normal consultation process, where we can get questions and answers written down and formalised so they form a commitment and we can get the detail, there is another flaw in the whole process. We are effectively talking to administrators trying to sell off the business to the highest bidder. They had already made the decision to get rid of people. Their job is to give those in the pecking order whatever is their due. That depends on what the pecking order is. Having formality around proper discussions, as we would in the trade union movement, where we sit down with the employer, properly minute meetings, raise questions, get answers and agree the position so that it becomes a record that everybody can stand by, does not happen in these circumstances. Quite often, you are running to catch up and talking to people on the other side of the equation who are accountants and what-not, rather than HR specialists and experts. That is why sometimes you get grey areas. You will get a message. We had an e-mail at one stage from Scotland. Steve, you said to me that one of the contractors said he was going to get some money. I contacted you and said, "Can you get hold of the administrator?" You e-mailed, and I do not know whether you ever got a response to that e-mail.

Steve Hedley: I did.

Mick Cash: We were told that guys in Scotland—the agencies and contractors—had been told they were going to get some money. You contacted the administrator and were told

that was not the case, but rumours were spreading all over the place about what was or was not happening. The process does not facilitate getting properly recorded facts and understandings about what will or will not happen.

Q24 Chair: Can I go back to a point Alan raised? The City Link letter to suppliers seems to be a bare-faced lie, as far as I can see, in saying that the business would undoubtedly continue. Can I be clear as to whether or not anything was given to staff at that point, giving them similar assurances? The letter I have is marked “City Link letter to suppliers”. Was something similar given to the work force?

Steve Hedley: It was posted on notice boards for staff.

Mick Cash: In addition, we had a formal meeting and procedures where they said exactly the same thing.

Steve Hedley: We had a meeting two weeks before they went into administration, and they were denying it. They said, “Look, we’ve got all this new scanning equipment; we’re fully committed to making the business work. We’re going to invest more money.” We were given a verbal assurance, and in a roundabout way staff were given a written assurance because this was posted on staff noticeboards.

Q25 Graeme Morrice: What was the date on the memo? I know this is just a transcript, but it does not seem to have a date.

Gordon Martin: I do not think there is a date on it.

Steve Hedley: It is difficult to read.

Chair: I think we were told it was undated.

Gordon Martin: I certainly cannot see a date on it.

Steve Hedley: It quotes 24 December. I think we got this just before the whole process kicked off, which would have been in the run-up to Christmas.

Mick Cash: What was the date of the meeting you had with City Link two weeks prior where they said the exact same thing to you and the representatives?

Steve Hedley: It was two weeks before, so it would have been on about the 14th.

Gordon Martin: I have been advised by staff that they had seen the letter; they were not given the letter. They saw it posted on noticeboards in early December. The exact date is not clear.

Q26 Chair: Can I just clarify the motivation for lying? Presumably, the directly employed staff were pretty well trapped in a sense, because they were working for the company. Maybe they would have wanted consultation. They might not have done overtime if they thought they were not going to be paid. Presumably, customers might have fled if they thought the business was going bust, and certainly the self-employed, or the contractors, might not have

made any effort to help out the company. In those circumstances, lying was the sensible thing to do, was it not?

Mick Cash: Are you saying it is a good lie?

Chair: I just want to hear your view.

Mick Cash: Not really.

Steve Hedley: It might have been a sensible thing to do if you were Jon Moulton and you were going to pick up £20 million in secured loans, but if you were a poor subcontractor who was working all over the Christmas period doing lots and lots of hours, trying to pay off a van that City Link had forced you into buying, or at least strongly encouraged you to buy, it is not a sensible thing at all. I do not think it is sensible to tell lies in any situation. If they had brought this into the public sphere a lot earlier, other consortiums would have come forward and offered viable bids to save the company. Even over the Christmas week one consortium came forward. That tells you there is potential for other people to come forward to save the business. But the whole process incentivises somebody like Moulton to pull the plug, because the taxpayer picks up the redundancies, the administrators make sure that because he has a secured loan he gets his money first, and all the poor creditors down the line might not get paid at all. The only person's interest is the investors—Better Capital or Mr Moulton. To tell lies hurts everybody else, including workers and creditors.

Q27 Chair: Could they argue that they were trying to trade through their difficulties?

Steve Hedley: How? They had obviously made the decision on 23 December.

Q28 Chair: Sorry, I should have made myself clearer. When this was put up, they had called in the administrators to discuss with them their options. Presumably, they were hoping they would be able to trade through the peak period in the run-up to Christmas, and then maybe come out the other end still as a viable business. Is that a reasonable view?

Steve Hedley: How is it possible? We have very weak legislation in this country, but we do have legislation saying that the redundancy period has to be 45 days and you have to give notice. It appears to me that they took a deliberate decision to flout that employment law. They knew this was a possibility; they certainly knew on 23 December that it was a certainty, and yet at that stage they did not even comply with the law in force in this country. If as a trade union we had said, “Well, we’re better off telling you lies,” we would be in court; we’d be sequestered—our funds would be taken away from us. How is it possible for an employer at a week’s notice to make 2,700 people redundant? I don’t understand it.

Mick Cash: It is perfectly reasonable to ask whether they were trying to work through. Other companies have difficulties and rely on a good Christmas—Marc Bolland at M&S is worried at the moment because of that. I would not mind hearing the administrators and management of City Link answer that question and then figure out whether or not they did the right thing. From our perspective, looking at it from our end of the tube, clearly they did not. It looks a very cynical way of operating a business. You wanted to get Christmas out of the way so you could sack everybody and let the state pick up the tab, and people

could then cut and run. Why don't they come along in an open forum and explain their actions—explain to us what they did?

I have had a number of private conversations in the past with a number of businesses across the piece. If somebody had picked up the phone and said, "I've got a problem and I want to talk about this, that and the other and what we are doing, but I need you to keep confidence," I have done that in the past. That was not done here. I have kept trade secrets. Like Steve, I am a trustee of pension schemes. We keep secrets because we know that is in our interests, and it is our duty. None of that happened in all these circumstances. We need the same answers to give you the response, "Well, they might have been right." I do not think I could say that, but we are not going to get that unless they come out into the open and say, "This is what we did A, B, C, D. This is why we deceived the trade unions." It was not only two weeks before; on Christmas eve they were denying it. Our difficulty in all of this is that we are looking at just one end of it. What happened looks despicable. We need more answers from them, and then perhaps we can give you a more yea or nay response.

Steve Hedley: Your question might have some resonance if there had been a serious attempt by City Link to carry on as a going concern—if that was what they were going to try to do; if they had said, "We're going to try to get over the Christmas period and we actually think we're going to come out of this in a better place." I do not think that was ever an option. The administrators were in from November. They had taken the decision on 22 December. It was never going to be an option that they would continue. The option was that Moulton wanted as much as he could to cover his secured loan, and cut and run. They made no effort to sell it as a going concern. It seems quite simple.

Gordon Martin: On the concept of the "good lie", this has wrecked human lives and there is human misery all over the place, including in the constituencies represented by some of the Members here today. On the basis of the employer telling them, "Everything is fine; don't worry about the scare stories," people bought over-the-odds Christmas presents; one bought a new car. Other people, through the business, went out and bought additional vans to put on the road. This is a human tragedy across the piece. People are thousands of pounds in debt. Who knows how they are going to pay? I understand the point you are making about the "good lie" concept, but it is not a good lie for our members and for workers who in some cases are facing penury and real financial difficulties across the piece, whereas Jon Moulton and others are walking away with their pockets stuffed with cash. It is totally unfair.

Q29 Pamela Nash: Before we move on, there was anecdotal evidence from my constituents, Gordon, and at the meeting we had yesterday, that customers might have been tipped off that this was about to happen. For instance, I know that Mothercare and John Lewis, who were two of the major customers of City Link, appeared to have alternatives in place extremely quickly. Is that something you have heard elsewhere?

Steve Hedley: I have not heard that. All we have heard is that rumours were circulating, and that was why they put out this notice. I have not heard where they were circulating, but it is certainly something the company acted on by putting out a denial in writing.

Mick Cash: I do not know whether Mothercare, M&S and John Lewis already have contingency plans. I would like to know. I would like to get them here and ask the

question, “Do you have contingency plans as part of your normal business model, or did you get the nod or a Gypsy’s warning from someone a couple of days beforehand?” In that case, that action adds to it. I think we should ask that question of those who managed to recover from this rapidly, because, as Gordon has just said, there are loads of members and workers out there who ain’t going to recover for some time.

Pamela Nash: Absolutely.

Mick Cash: Insider trading is illegal, but I suppose not in this case. By the sound of it, it is proper stuff.

Q30 Pamela Nash: You said that you personally were given assurances on Christmas eve that this was not going to happen. Is that correct?

Mick Cash: We were made aware on Christmas eve that an announcement was coming. We communicated that to our members because we thought something was going on. Then we were told that that was not the case. People started to doubt it.

Q31 Pamela Nash: Who told you that?

Steve Hedley: I had a phone call from a contractor who was high up in HR in the company saying that it was going into administration. That was on the 24th. I phoned up a manager in the company. I cannot remember the manager’s name, but he had given a phone number. They denied it. They stonewalled me. He did not confirm or deny it; he just said, “We have no plans.” I made the call. I said, “Mick, we’ve got to put this out there and get this squared up.”

Q32 Pamela Nash: To be clear, they did not deny it in that phone call.

Steve Hedley: They said, “We have no plans.”

Q33 Pamela Nash: As politicians, we know what that means.

Steve Hedley: Yes. I did not plan to be here today, but here I am.

Q34 Chair: You just happened to be wandering by.

Steve Hedley: Exactly. I had no plans before Christmas eve. They were just stonewalling us. They said they had no plans to do that, but then we found out when we put it in the media. The question was asked of the administrators directly, and they explained it to us in the meeting on the 27th. Once that question is put to the administrators they have to tell the truth; otherwise, it is illegal, although I didn’t know that. I have never dealt with a situation like this before, where something has been sprung, but you can approach the administrators directly. At that time we did not even know who the administrators were, so it was impossible to ask them the question directly before it went into the media.

Q35 Pamela Nash: You pointed out that you had not been given any prior notice whatsoever. That was the final conversation you had before it all blew up. As a constituency Member of Parliament, I have never had this situation either. I have been made aware of any major impending unemployment in my constituency, and advised in order to offer support to my constituents and ensure PACE is in place, apart from very small businesses. We are very much aware of that.

Gordon Martin: The manager of the depot in your constituency phoned me on Christmas eve and assured me it was rubbish. He assured me that he had been assured from way higher up the managerial chain that it was nonsense.

Q36 Pamela Nash: Is it your view that that was information he had been given?

Gordon Martin: It is only my opinion, but I don't believe he would have known. It was probably a decision made right at the top of the managerial chain and contained within quite a tight senior level of management.

Q37 Pamela Nash: We heard from people yesterday that they had heard from colleagues in different companies who were very specific about the rumour that it was going to shut on Christmas day. As a Committee we must be impartial and play devil's advocate and look at every possibility. They were still saying on Christmas eve that they had no plans for this to happen. Is it possible that any sudden event could have blown it out of the water at the last minute?

Steve Hedley: No, because we heard from the administrators that the decision was taken two days earlier; they had taken the decision that the company was not saveable.

Q38 Pamela Nash: Did anything else happen between 27 November, when you said the administrators were contacted, and the final decision?

Steve Hedley: They had been contacted in mid-November.

Q39 Pamela Nash: The argument they could possibly make—I am sure I am putting words into their mouth—is that they were still trying to save the company.

Steve Hedley: No doubt they had made efforts to save the company, or they had explored that, but the fact is that on 22 December they had taken the final decision that that was not what they were going to do; they were going into administration. Two days later, on the 24th, they were still denying they had done this and saying they had no plans to go into administration and no plans to lay people off. They did know it.

Q40 Pamela Nash: But legally at that stage they would have had to say that because they should not have been trading after the 22nd.

Steve Hedley: Yes, and when we asked the administrators that question directly they told us that, but we did not know who the administrators were before that period. We did not know that administrators were involved until 24 December when I had the phone call.

In connection with the contractor from HR who phoned me and tipped me off, it is very interesting that we had worked through a similar thing before and we had managed to salvage loads of jobs. I think that if he had been given his head he would have handled this. It was very unusual for somebody at his level to contact me and say, “Look, this is what’s happening.” He knew there was something wrong; otherwise, he would not have picked up the phone.

Q41 Pamela Nash: Can I move on to the support ex-employees are now getting? I am just talking here about direct employees. I will come to subcontractors in a minute. This morning I received a letter from the Scottish Government Minister, Fergus Ewing, outlining what we discussed yesterday about what is in place for Scottish people who are affected. There are meetings and PACE applications. Is it your understanding that everyone in Scotland has had the application pack, or are people still waiting?

Gordon Martin: Our understanding is that the directly employed staff started to get it mainly on Friday of last week. The problem seems to be that the administrators are not releasing that information to the Scottish Government, in effect, to make the process work.

Q42 Pamela Nash: Do you mean in terms of the list—the contacts and the names of the people?

Gordon Martin: That seemed to hold up the whole process. I met Fergus Ewing on 6 January. It was his understanding at that stage that everybody had received their PACE leaflet outlining all the support. Mike Ward was with me. He had not received it; his family members who worked for the firm had not received it. He had spoken to other people. We made the reasonable assumption that very few people, if any, had received it on 6 January.

Q43 Pamela Nash: In his letter to me, Mr Ewing also said that the pack was to be distributed to all subcontractors as well.

Gordon Martin: At the meeting we had with him I asked who they were helping, and whether they were helping directly employed staff or workers, because ultimately the workers are the bogus self-employed, the agency people, the “one man with a van” concept—they are a kind of employer or subcontractor; they self-contract, if you know what I mean. The decision was made that the Scottish Government would offer assistance through the PACE scheme to the workers—everybody they could—and the way they were going to do that, as well as pressing the administrator for information, was through the media and through the RMT contacting our members.

Q44 Pamela Nash: I take it that is difficult, because I know that few of the subcontractors are RMT members. Is that correct?

Gordon Martin: It is very difficult.

Q45 Pamela Nash: The focus of the Scottish Affairs Select Committee is Scotland, but we are British politicians who are interested in those affected across the UK. Is that the experience of those across the UK?

Steve Hedley: It has been a very mixed bag. A lot of people just disappear from the radar. A lot of our members, with their skills, have just got other jobs, especially in the south-east. The further north you get, the more they rely on Government agencies. There are spots of high unemployment where it is difficult to get a job. It has been very mixed. Some people have been reporting that BIS and Government agencies have got in touch; other people are saying they have not. What is worrying us are the bogus self-employed people who cannot even claim benefits and will not be paid redundancy.

Mick Cash: The important thing in lifting the lid on the whole process is understanding what the administrators have done. Have they focused on just sorting out and selling the assets? They have all the information. I do not know whether they have HR support as part of their team to do stuff, but they will have access to all the records for both the contractors and the employees. It should be up to them, not the Government, to provide the information, because they have access to it. The Government can give them the paraphernalia; they can post it or tell you where to go on Facebook, but shouldn't the administrators, who have all the key levers in terms of information, be given the responsibility? Shouldn't they have done more? It is a question I would not mind asking them, and I think we will do so.

Q46 Pamela Nash: It is my understanding that in Scotland the Government did give the information to the administrators to distribute, but I was not clear whether that was the case across the UK.

Mick Cash: I don't know if they have; it is not finished. The point is that we don't know.

Gordon Martin: I met the Scottish Government Minister on 6 January. The administrators said the Scottish Government had been advised that the PACE leaflet had been distributed to all staff. That had not taken place at that stage. It is taking place now, but it had not at that stage.

Q47 Chair: When you say the PACE leaflet had been distributed, was that done by the administrators or the Government?

Gordon Martin: The administrators had advised the Scottish Government that they had distributed it by 6 January, but that was evidently not the case.

Q48 Chair: That is the fault of the administrators. Yesterday when we were speaking informally, you mentioned to me that the administrators were saying there was a data protection issue about them providing information to the Government in order to help the various employees and subcontractors. From what you are saying that has not been resolved, except that the administrators are doing the distribution. They have not passed the information to the Scottish Government agencies in order that they can distribute material, or contact people directly; they are acting as a conduit themselves.

Gordon Martin: That is my understanding.

Q49 Chair: Is that what is happening UK-wide?

Steve Hedley: All we can say is that we have had the same information. It has been very patchy. Even a lot of our members, and that is not everybody at City Link, have not received the PACE documents. What we did was e-mail all our members, and it was on job boards as well. We had a discussion with BIS two days ago on a conference call and they said they would be contacting everybody. My understanding was that the administrators had given them the list of potential employers.

Mick Cash: The administrators were sending out the information.

Steve Hedley: The administrators had given the Government agency the list of potential employers. That was given out directly to the staff, but even a lot of our members had not received it.

Q50 Chair: Maybe we will pick up the point about what the process is in these circumstances. It seemed to me that the administrators were not providing information to the UK Government in that case, nor also to the Scottish Government in terms of distributing information about how people could seek other jobs. I cannot quite understand why that is not taking place, but we can pick that up.

Pamela Nash: Chair, should we deal with that later or treat it as part of this meeting?

Steve Hedley: I do not know whether there are any data protection issues. That might be one of the reasons why the administrators are doing it directly.

Gordon Martin: That was what the administrators told the Scottish Government—it was due to data protection. The administrators had given the Scottish Minister a guarantee that this process had taken place by 6 January. Clearly, it had not, because when I met one of the ex-City Link employees he was able to name people he was in direct contact with who had not received it. The information given by the administrators to the Scottish Government and, I assume, the British Government was incorrect.

Q51 Pamela Nash: That is referred to in the letter that the Minister sent this morning.

Mick Cash: Unfortunately, insolvency and administration is a well-worn path, in some places more than others. Administrators have a lot of knowledge and expertise about how to deal with insolvency, but you would have thought one of the things on their tick-list would be how many PACE fact sheets they should have. “We have all these addresses. Can we get them out?” Why do they have to be told? It should be an automatic part of the process. You should not have to rely on the Government to send you stuff; you should have it. I am a bit surprised that we are talking about such matters when administration is such a well-worn path for some people, unfortunately.

Chair: I think we understand that now but we did not understand it before, so we will pick that up.

Q52 Pamela Nash: I want to move on to self-employed drivers and subcontractors. I am still not clear about the numbers affected. The clear numbers are the employees. I appreciate that not all of them are your members, but do you have any figures for the number of subcontractors, sole traders and self-employed who are impacted?

Gordon Martin: In Scotland specifically?

Q53 Pamela Nash: I would be interested in both, but can you deal with Scotland?

Gordon Martin: Speaking purely for Scotland, my information is that there are 165 directly employed staff. For the normal day-to-day running of the business there would have been 100 subcontractor drivers. That would go up round about the Christmas period, from, say, October right up to Christmas, to 250 to 300 subcontractors. They would be self-employed and agency people. They used to bring in a lot of agency people, not just drivers but warehouse people in the five depots, to move the Christmas logjam. There were 165 directly employed and for day-to-day running there were roughly 100, but for the peak period that would go up.

Q54 Pamela Nash: That is a huge amount. I did not realise it went up that much at Christmas. In terms of the 100 subcontractors, does that include people who are self-employed and also those who may have a few employees?

Gordon Martin: Yes.

Q55 Pamela Nash: It includes both those groups.

Gordon Martin: Yes.

Q56 Pamela Nash: So far, what support do you think they have been getting? The Minister said that they should be getting the same support, but that does not seem to be the case.

Gordon Martin: I am not aware of them receiving any support whatsoever.

Q57 Pamela Nash: Is that the same UK-wide?

Mick Cash: They are bogus self-employed effectively, aren't they? They are tied to the company; they have to wear the uniform and they have to use the company livery on the vehicles. They might outsource some of the work to family members. Once or twice, I have been in the house when someone has delivered a parcel out of a car. That is the way the market is, unfortunately, but they are employees by any definition, other than the fact that they have an arrangement in place where they seem to be divorced from the company but are employed by it.

Q58 Pamela Nash: Is that the case across the board? Would subcontractors have customers other than City Link?

Mick Cash: I do not think they would have other customers; I think they would be tied. Someone asked me about it the other day, and I said that Victorian times come to mind, when the farm labourer had to work for the estate and had a tied cottage. It is the same sort of arrangement. This type of arrangement is rife in that part of the road freight business and industry. Other companies do exactly the same. You might want to ask other companies what employment practices they have in place. You will find that they have direct employees, some full-time; they will have part-time, particularly for the handling grades; and they will have agencies and subcontractor arrangements in place. The subcontractors will have master contractors in this case who employ other workers. It is rife across the whole of British industry these days, and it is driving the race to the bottom.

Q59 Pamela Nash: Is this commonplace across other industries?

Mick Cash: Yes.

Steve Hedley: With successful firms like Royal Mail, it is not. There are peaks and troughs in all these industries, City Link in particular. They have a few master subcontractors—we are talking about guys who have three or four employees. They work basically for City Link; that is the only contract they have. The vast majority of them are one-man operations. It is just a guy who has bought a van and works directly for City Link; he doesn't work for anybody else. That is their model of employment.

Q60 Pamela Nash: So it happens across the industry.

Steve Hedley: Yes, but City Link are one of the main offenders. They went from a model five years ago where they had mainly PAYE, which was a successful model for their business, to one where they employ these subcontractors and bogus self-employed people. By the way, bogus self-employment is costing the Treasury billions of pounds a year, because neither the employer nor the employee is paying national insurance contributions at the levels they should be. That might be room for an investigation itself.

Q61 Pamela Nash: We are very much aware of that. You mentioned the livery and the colour of the vans people were buying. To put it on record, at the meeting yesterday, a constituent told me that it was going to cost him £3,000 per lorry to paint the lorries. That is a big expense. Those not in the industry might not realise that it costs so much money. How much money have the subcontractors and self-employed people lost?

Steve Hedley: My son-in-law was employed by one of these subcontractors in Beckton, at a firm called Darn. He is owed about £50,000, because neither he nor his staff have been paid.

Q62 Pamela Nash: Was that because they were putting on additional staff at Christmas?

Steve Hedley: He employed four or five guys just to deliver. I think he had two or three vans. One would drive and one would deliver, and sometimes just the driver delivers. He employed them because he was employed by City Link. He has not been given any money. He has been told that he might receive something if he goes through the administration process, and that will take six months. That is at the top end, but at the

bottom end you have an ordinary person who bought a van because City Link guaranteed him years of employment on a self-employed basis. They have got themselves into debt and now they haven't got a job.

Q63 Chair: Yesterday a couple of guys came in and said they were owed £36,000 by City Link. They are now dependent on the good will of their staff to keep going as a business, because they were not able to pay the wages they owed their staff, and were hoping that the staff would bear with them so they could trade through their financial difficulties. I am presuming that that is quite a widespread pattern, and many of these subcontractors could themselves now go into liquidation as a result of the hit they have taken from City Link.

Steve Hedley: The one I was referring to has gone out of business; he cannot trade any more. He cannot pay his staff and cannot afford to run his vans.

Q64 Pamela Nash: Gordon provided figures for Scotland. Do you have any indication of the figures UK-wide?

Mick Cash: From HR, we were told there were about 2,700 employees across the country. At about the time the news story broke, a figure of about 1,000 contractors was quoted. We have nothing to back that; we do not have the details. Did we get the details from the administrators?

Steve Hedley: We did not get the details from the administrators, but in normal times they had about 1,000 people working for them on a subcontractor basis—the bogus self-employment basis. Coming up to Christmas, that would have gone up, because the peak is Christmas.

Q65 Pamela Nash: If you had the same proportion as for Scotland, what would the figures be for the rest of the UK?

Steve Hedley: I imagine it would have nearly doubled coming up to Christmas. With the use of agency staff and short-term contracts coming up to Christmas, they would probably have doubled the number, because it is the time when people send the most packages.

Q66 Pamela Nash: The figure I saw on the news on Christmas day was that about 5,000 were affected. Does that sound about right?

Steve Hedley: That probably includes the PAYE staff.

Q67 Pamela Nash: I am sorry; that is what I mean.

Mick Cash: The estimate we were given was that, with the supply chain of employees and contractors, at least 5,000 could be affected. I think that is a reasonable estimate, and perhaps a conservative one. The people who would know this are the administrators.

Q68 Pamela Nash: We have got that point. On subcontractors, we are talking about whether legislation is robust enough to protect those people at the moment. Under current legislation, what more can both our Governments do to help subcontractors, and what would you suggest to strengthen the legislation to ensure this does not happen again?

Steve Hedley: There is already a law in place as to what defines a worker. These people clearly are not subcontractors, especially the one-man band with a van who works solely for City Link. The legislation is there; it just needs to be enforced. This company is flouting the law and costing the taxpayer a lot of money. To add insult to injury, because they flouted the law not only in regard to employing subcontractors but also on the period for consultation about redundancies, the taxpayer is now picking up the bill for that as well. That this can happen seems incredible.

Q69 Chair: Can you talk us through how and why it is that the taxpayer picks up this bill for redundancies?

Steve Hedley: Basically, it is a Government agency. The company is now in administration; it will not pay out any money for redundancies to anybody who has been there for more than two years. We spoke to the Government agency on the phone. Anybody who is due redundancy has to apply to the Government agency. That will take about six weeks, and they will get redundancy money. All of that is picked up by the Government. Obviously, people will claim benefits in the meantime, and that will be picked up by the Government.

Q70 Chair: You seemed to be suggesting at one point that, because the administrators had sacked people more quickly and without consultation, the bill would be picked up by the Government, but what you are saying now is that because the firm has gone into administration the bill will be picked up by the Government anyway. Therefore, the question of consultation does not come into it.

Mick Cash: We have legal advice that it is quite clear there should have been consultation on the redundancies, and you can get a protective award. You have to go to an employment tribunal to get it. I think the maximum is eight weeks' wages because of lack of consultation in the process. You are entitled to notice and redundancy, and if you have not had proper consultation as part of the process, in normal circumstances you can go to an employment tribunal. As part of their award they can give you extra money for that lack of consultation. That has clearly happened in this case. They have to comply with the law and they have not consulted properly.

There is a sting in the tail in all of this. I want to mention casualised labour before I forget, because it is important in terms of the law and employment rights. Because of the lack of consultation, and because they have not complied with the law, we are now looking to support our members by taking legal action on the lack of consultation. We would apply to the employment tribunal, but because the law has changed we have to pay 1,200 quid for every single one of those individuals. For union members, it is okay, but we have to pay 1,200 quid per person, because the law has changed. To get access to the employment tribunal you have to pay 1,200 quid to get that money back. The only way you can get the money back, or get any sort of compensation because of lack of consultation, is to go to the employment tribunal.

Q71 Pamela Nash: You would have to pay that for every individual.

Mick Cash: Yes. BIS and the Government will not pay back that money. It could be non-trade union members. There are non-trade union members as part of the 2,700 and they are entitled to consultation like everybody else. If they wanted to try to get access to the compensation for that they would have to cough up 1,200 quid straight away.

Q72 Pamela Nash: Are you saying that for RMT members the union would do that for them?

Mick Cash: Yes.

Steve Hedley: To answer your original point, the point I was making about the Government picking up the tab was the fact that Moulton has already got his money out in the form of the secured loan. If he had sold the company as a going concern, those people would not have had to go to the Government at all. If he had decided to keep running the company, and invest and down-scale, which other companies have done, Better Capital or City Link would have been responsible for paying out the redundancies. There were redundancies last year and the company was required to pay redundancy money, but by doing it this way—wrapping up the business—they can take their secured loan out and they are not responsible for paying any of the redundancy they might have inherited had they kept the company going.

Q73 Chair: I understand the point about redundancy and the way in which Better Capital has avoided paying it. That is falling on the Government. The second point you were making, Mr Cash, is that because of the lack of consultation potentially another payment is required to be made, but it would have to be taken to an industrial tribunal. Did you say that would be for eight weeks' money?

Mick Cash: A maximum of eight weeks' money.

Q74 Chair: But people would have to put up £1,200, which they would get back if their case was successful.

Mick Cash: They would get back their costs if they were successful.

Q75 Chair: But you have to be guaranteed that you are going to win before you put up your £1,200, don't you?

Mick Cash: Yes.

Q76 Chair: Can I clarify whether or not in these circumstances precedent applies? If you as a union are taking 45 cases, for example, and you win one of them, do all the rest fall over like skittles, or do you have to go through the process for the other 44?

Mick Cash: I am not certain on that point. I don't think so, but it is a point we can check and come back to you.

Q77 Chair: If there is a precedent argument, the union takes one and then everybody else is covered, whether or not they are union members.

Steve Hedley: I have been involved in that sort of process before. Usually, if a company is reasonable it will do that. It can fight every one at an employment tribunal, but then the judge is liable to award costs against the company, if it decides to do that.

Q78 Chair: But in these circumstances it would not be the company.

Mick Cash: It would be the insolvency agency, wouldn't it? We will get back to you on that. It would be the insolvency agency that would pay for lack of consultation.

Q79 Chair: That is the same issue as with Comet.

Mick Cash: I believe so.

Q80 Chair: Maybe we can get clarification of that at some stage.

Mick Cash: Can I just pick up the point about casualised labour? The last conversation I had with the Secretary of State was about concern over employment rights in these circumstances—the whole difficulty around very poor employment rights, the right to consultation and how to deal with it. There is also the issue about bogus self-employment. My understanding is that the Government are due to review bogus employment status and what-not. One of the ways to prevent this type of incident in the future, bearing in mind what Steve has already said about the company changing the business model actively to encourage people to become self-employed and then tied to the company, is to have a proper review of employment practices and get rid of the bogus self-employed arrangements. We have seen it on the railways. We have talked about zero-hours contracts. I think I have been before you about that. It is the same sort of arrangement.

In this country there is a race to the bottom. Workers are effectively employed by a company and tied to it, but for tax and other reasons they get them off the books by classifying them as contractors when they are actually employed. That is another thing we need to get squared off in all of this debate, because it has lifted the lid on the employment practices in the parcel delivery industry in this country. It is important that we have a proper review of employment practices. We would not have half these problems if we did not have bogus self-employment arrangements in place. Companies are encouraged to do it because there is a race to the bottom at the moment. There is no floor.

Q81 Chair: Before I ask my colleagues whether there are any other questions, can I turn to the statement you gave us and seek clarification of a couple of points? On page 4, in the fourth bullet point you ask, "Whether the administrators have deliberately flouted employment law to avoid their consultation responsibilities to employees knowing that the

tax payer will pick up the tab?” Surely, the taxpayer was going to have to pick up the tab anyway, because basically it is a no-money situation.

Mick Cash: Yes, but you can get a protective award for lack of consultation. If people can be made redundant the taxpayer picks up the tab, but lack of consultation adds to that.

Q82 Chair: Presumably, the estimate they make is whether or not it would cost more in the award against them for lack of consultation, as compared with the costs of keeping the business going for the period of consultation, so it ends up basically as an arithmetical decision.

Mick Cash: Put it this way: if you have a situation where you have a secured loan and you do not get consultation, the administrators may have a different attitude to you. If they have to find the money for you, they might be in a position where they treat you a bit differently. You have no rights in these circumstances.

Q83 Chair: So they might have had the consultation from the time in November when the administrators were brought in. Had they started consultation from that period, they might have avoided any award for lack of consultation.

Mick Cash: Indeed, they might, but we have to get to the bottom of their behaviours. They can keep everything close to their chest, do what they want and announce something. They then concentrate on making sure the creditors get their money, and at the end of the day somebody else will look after the workers. There is an issue about behaviour across the piece. They believe they are okay; they have to look after the creditors—they have to realise the assets and pay the creditors. That is implicit in what we are trying to say here, and that needs to change.

Steve Hedley: Why did they not contact us on the 22nd when the decision was taken? Even if there had to be a truncated redundancy period, why didn't they tell us as soon as that decision was made?

Q84 Chair: My understanding from the press is that they did not want to spoil people's Christmas and they would tell them on Boxing day. That was the argument, wasn't it? But even if they had told people then that they were sacking them on new year's day, that still would not have met the consultation period, would it?

Steve Hedley: No. You are absolutely right, but at least they would have been able to walk away and say, “We acted impartially, and as soon as the decision was taken we notified all the relevant parties.” They had deliberately taken the decision after the 22nd to hold it over for three days; they were going to announce it on Boxing day, which would have been four days. What gives the administrators the right to do that? If they know there is going to be a truncated period anyway, surely it is in everybody's interests to get that knowledge to the public and in public so there is at least the potential for other firms to come forward and make a bid.

Q85 Pamela Nash: We know now that the Secretary of State for BIS was informed on the 23rd that the company was going into administration on the 25th.

Steve Hedley: Okay; we were not told that.

Q86 Pamela Nash: That was our information.

Steve Hedley: That is even worse, because they were denying that they had any plans on the 24th, and they had already told—

Mick Cash: I do not know when the Secretary of State's Department was told.

Q87 Pamela Nash: The Secretary of State confirmed to Parliament that it was the 23rd.

Mick Cash: Very little notice was given to him.

Q88 Chair: In your statement, you also mention on page 4 that we should check why BIS have not yet agreed to hold an investigation, and are saying that they will consider doing so only in about six months once they receive the administrators' report. If it is six months until you get the administrators' report and then there is an inquiry, most people will have retired by the time anything comes out on something like this. Does that seem appropriate to you?

Mick Cash: No. Originally, I think the Secretary of State in Parliament referred to six weeks, but it turns out to be six months. We need to understand clearly what happened and how it happened, and make sure that we do not replicate it, or we need to put legislation in place to protect workers. We need to have that debate and lift the lid on this to understand how we got here in the first place, come up with solutions that do not leave all these workers, whether employees or agency workers, in the state they are in, and have a proper process for dealing with companies in trouble that do not put the interests of just one party ahead of others. Six months puts it the other side of a general election. In six months' time, will people still have the same level of information and knowledge as they have so close to the events? I do not think they will. I am disappointed that we have to wait six months. We should be having it as soon as possible while the issue is still current. It is important that we sustain that and look for it to happen.

Steve Hedley: The other point about the administrators' report is that we do not see them as acting impartially, so they are hardly going to come up with a report that condemns a process they have been involved in. There should be some independence in it.

Q89 Chair: Who would this independent person or group be?

Steve Hedley: I do not know; that would be for you to decide as a parliamentary Committee. If we were doing a report on the actions of the RMT and BIS had a part in that, I am sure employers would be saying, "Well, that's not an impartial report; they wrote it themselves."

Q90 Chair: The final point on the fourth page is, "How can insolvency and administration law be improved to protect workers?" Are there any particular recommendations you think ought to be considered and put on the table? If you do not have a list just now, maybe that is something you would want to follow up in writing.

Mick Cash: All of us who took part in the process found it very difficult, because in one respect it looked as if the administrators had just one thing to do, which was to realise the assets and sell them off. The interests of the workers and protecting the company to keep it as a going concern did not seem to be at the heart of it. It was very difficult to get anyone to intervene directly from Government, because the administrators had a role to play. It is a legal process and therefore that was what they had to do.

We need to have arrangements in place that put the interests of the workers of a company as much at the heart of the process as realising the assets and selling them off. We need to make sure that there is protection in place, or changes in the law, so we have proper time to do it. The decision was made on Christmas day and New Year's Eve. I do not know why the administrators decided that a week was all they needed to do that.

We will try to follow up with something a bit more specific. It was a very frustrating process and it happened very quickly. There did not seem to be a lot we could do. We have already mentioned consultation. We had to chase the administrators and ask them the questions. It would not be just one level; it would be about what they do in these circumstances. We need to make sure there is protection for properly defined workers. The other aspect is that we need to make sure it happens for casualised labour and bogus self-employed, so that if a company goes bust in the future, and they are all employees, you do not get this debate about people being owed tens of thousands of pounds, and a PACE leaflet would be helpful to them because at least they would understand that they are entitled to redundancy pay, consultation and all that sort of stuff. It is not just one facet—though it is important—of the law in terms of how administration works; it is also about the law for the protection of workers.

Q91 Chair: That is helpful. If you want to reflect on that and give us anything in writing, that would be helpful to us. We have not really been looking at cases of liquidation or administration before either. It is only because Pamela, as a member of this Committee, and Margaret Curran, who is one of the local Members, asked us specifically to look at the City Link case that we are having this dialogue with you now. To be fair to ourselves, we are starting from a fairly low knowledge base. We have not gone through this before, so perhaps you can give us help on that.

Steve Hedley: I suppose it boils down to what the priorities are. It seemed to us that the administrators' priority was to pay off debtors rather than keep the company going. I do not think it is reasonable in anybody's book to say, "Well, you have a week between Christmas and new year to find a buyer for this company." We think that the law should be skewed more, and the administrators' responsibilities should be skewed more, towards selling the company as a going concern rather than paying off the debtors. I think that is the thrust of what we are saying.

Q92 Chair: The argument on the other side, presumably, would be, "This is a dead parrot; this company is not going to fly at all. We are going into the quietest period of the year—January—and if we keep it going any longer, losses are going to continue to mount even faster. Our job is to pay off the debtors in the order specified, so we will cut the losses, shut it down as fast as possible and that maximises the amount of money those who are going to get

something out of it can get out of it.” Is that not a reasonable possibility to explain their actions?

Steve Hedley: Obviously, it is a reasonable argument, but the counter-argument is that as soon as this came out, even with a week’s notice, a consortium came forward with a bid, which the administrators said was a viable bid. It was not just somebody chancing their arm. That was at a week’s notice. If we had had the full 45 days, how many other serious bids would have come forward? There was undue haste in closing it. They were breaking the law. The law says it is 45 days, but, as far as we are concerned, the administrators colluded in breaking the law and taking a mathematical decision: “We’re going to be hit for x amount, but that’s less than we would pay out if we didn’t break the law.” That is completely wrong. We need to skew the thing. If it is a dead duck, it is a dead duck. If no one comes forward in 45 days with a viable bid, we understand as a trade union that it cannot continue to trade, but nobody had the opportunity. That redundancy period of 45 days is set in law. It is not an argument, is it? That is the law: 45 days. In that time companies could have come forward with alternative viable bids to buy it as a going concern.

Mick Cash: Was the bar set too high for a particular reason? Were they required to have the bar so high so that the protection of jobs and keeping the company as a going concern was not important, and their main responsibility and the easiest option was to realise the assets and pay the creditors? I got the distinct impression that they had two reasons for saying the consortium failed. One was that they were not prepared to put in their own cash. It was a miracle that over the Christmas period we had a bid from somebody prepared to keep it as a going concern. The other was to do with the value of the assets. I do not know about the cash stuff. I don’t know if they had been given enough time. I do not know how important it was. They said they did not even have enough money to pay the wages. I do not know how important that was overall in the way it ended up, but the value of the assets was quite an interesting question. Ultimately, as a consortium they were prepared to pay less for the assets and use some of them to refinance the business to keep it as a going concern. That would have meant that the creditors, including the venture capitalists, would not have got back their £20 million. How much of that was in their thinking when they looked at it?

The question is whether the bar was raised. We can all fail at things. If you raise the bar so much we can all fail. If you lower it, you can succeed. It would be interesting to see what their responsibilities were, and what they were required to do by law. I am not saying they said this to me, but the impression we got is that they had a legal process to go through and legal responsibilities as well. We hide behind that sometimes. We also have a moral responsibility to protect up to 5,000 jobs. I use that phrase again, because it is a good number. I do not think there was as much pressure on them to do that as to go through the legal process and protect themselves from any criticisms. That meant the company went under.

Q93 Mike Crockart: We have talked a lot about investors and loans. Better Capital were 100% owners of City Link.

Mick Cash: Yes.

Q94 Mike Crockart: There is a bit of confusion about investors getting their money back.

Steve Hedley: They bought the company outright, or the investment was in the form of secured loans.

Q95 Mike Crockart: They bought the company for £1.

Steve Hedley: Yes.

Q96 Mike Crockart: They then put money into the company through secured loans. In your experience, is that a normal way of buying a company?

Mick Cash: I am not an expert on venture capitalists or private equity. Venture capitalists are supposed to be turnaround specialists. I have seen how they operate elsewhere. My understanding from what I read at the time is that they said they put £40 million into the business: £20 million in equity and £20 million in secured loans. I do not know whether or not that is true because I do not have the balance sheet to be able to answer that, but they bought the company for £1 and invested that money. I do not know whether it was actual money that allowed it to operate, whether it was an unsecured loan, whether they had a 10% interest rate on it and they were getting money back on that loan, or whether they were using equity and pulling out dividends. The balance sheet will tell us that. Perhaps that is something you want to ask Better Capital. I would like to ask them why they cut and ran, but I do not have the opportunity.

Steve Hedley: We have not seen the balance sheet, but there is a very interesting article in the *Financial Times* which outlines how they have been drawing substantial sums of capital from the company in the past year. That, together with the fact that they set up in early December another company, City Link B2B, indicates to me that they knew exactly where they were going; they were trying to take as much out of the company as they could.

Q97 Mike Crockart: That was going to be my next question. That company was set up on 9 December. Has there been any movement towards constituting it as an active company? Does it have any assets that you are aware of?

Mick Cash: We do not know, but I assume the administrators would know as they were in the business at the time. All we know is that there were directors in that company from both Better Capital and City Link. It seemed strange to us that it was on 9 December, just ahead of the decision being made. We did not know when we first heard of this company that they had done the restructuring and that the administrators had been in since November. They had two or three subsidiaries; they had a property company and a consultant company, plus the company that owned City Link itself. To create a subsidiary right in the middle of looking at going into administration seemed strange and we wondered why it was done. I do not know the answer to that. You need to ask the people who made those decisions why they did it. We don't know.

Q98 Mike Crockart: This is a shell company and no investment was put into it, therefore, the administrators would not necessarily know anything about that. Have you heard anything about City Link B2B rising like a phoenix from the ashes and starting to trade?

Mick Cash: You know more than I if you know it is a shell company. I do not know what has happened to it. I do not know whether it is part of the stuff that is being sold. I assume that the administrators would understand that and they would be able to say, perhaps in their report, why it was created, what it is doing and what it has on its books. The people who can answer that question are the administrators, Better Capital or the management of City Link. That just reinforces the point. It looked a bit strange—even worse than strange—that in the run-up to what ended up as administration they created a subsidiary company for no reason. Why would you do it? What was the reason for it? I do not know.

Q99 Mike Crockart: At the same time as maintaining they were doing everything to save the company.

Mick Cash: Yes.

Q100 Chair: My understanding is that the administrators said it was an empty shell, which was drawn up when there was still a possibility to have a voluntary arrangement to freeze the assets and allow them to restructure, but it was never used. Presumably, it was established at a time when perhaps they were seeking some other arrangement as an option and then decided it was not viable, but again that is left hanging at the moment.

At this stage we usually ask whether there are any answers you have prepared to questions we have not asked. Are there any points that you think we should have raised with you that we have not covered so far?

Mick Cash: We have given you our briefing. I think we have covered quite a lot of the stuff in terms of the behaviours. We need to understand the behaviour of the administrators, Better Capital and the company both in the run-up to the administration and since. We are truly pleased that the Committee is asking the questions. We want a wider and more thorough investigation into what happened to see what lessons can be learned, including on the law of administration, and on employees' and workers' rights in these circumstances under employment law. Thank you for the opportunity to do that. I do not know what else we can say.

Steve Hedley: Thank you for letting us put our case. We hope this will go forward to a full inquiry. If we cannot do anything about City Link, certainly there are lessons to be learned for similar companies in the future. I think people need protection.

Mick Cash: I am reminded that the other party to all this is the Government. It would be very helpful if the Government were also asked the relevant questions in these circumstances.

Chair: Thank you very much for coming along.