HOUSE OF COMMONS

# Committee on Standards

## Oral evidence: Private

Tuesday 13 July 2021

Ordered by the House of Commons to be published on 13 July 2021.

Watch the meeting

Members present: Chris Bryant (Chair); Mrs Tammy Banks (Lay Member); Andy Carter; Alberto Costa; Mrs Rita Dexter (Lay Member); Allan Dorans; Chris Elmore; Mark Fletcher; Sir Bernard Jenkin; Michael Maguire (Lay Member); Mehmuda Mian (Lay Member); Dr Arun Midha (Lay Member); Mr Paul Thorogood (Lay Member).

Kathryn Stone, Parliamentary Commissioner for Standards and Heather Wood, Registrar of Members' Financial Interests, were in attendance.

Questions 1-73

### Witnesses

I: Sir Roger Gale MP.

II: Bob Stewart MP.

III: Adam Holloway MP.

Written evidence from witnesses:

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# Examination of witness

Witness: Sir Roger Gale MP.

Q1 **Chair:** I wonder whether, to start us off, your mind has changed at all since the submission that you made to us, or whether you have any further thoughts that you would like to express to us.

***Sir Roger Gale:*** That is kind, thank you very much. The short answer is "no". The submission that we made was carefully made, and I hope thoughtfully made. It was made in part because the Commissioner ruled that we could not make submissions in terms of argument: we could only make submissions in terms of fact, and inevitably, some of what we have put in writing to the Committee has been argument. That is because—now I have to speak for myself, and Bob Stewart and Adam Holloway will no doubt speak for themselves—I am profoundly concerned by some of the manner in which these findings have been reached.

If you are not aware of it, I think I need to reiterate the point that this has nothing whatever to do with the case of Charlie Elphicke. I think that is important, because that has been widely misrepresented in the press. It is unfortunate that the briefing that was clearly given to the press, though not by us, led to, for example, the headline in *The Guardian* that said, "Tory MPs who wrote to judges during Charlie Elphicke sexual assault trial under investigation". That is disingenuous to say the least—it is broadly, just about true, but the implication is quite clear. They wanted their readers to believe that we had written to judges about that case and its result.

The fact of the matter is that the case had been resolved. Mr Elphicke had been convicted and sentenced before we wrote to the judiciary. The letter that we sent to the judiciary was sent privately. It was not published. The Lord Chief Justice was incorrect in saying in his letter to Mrs Elphicke that we had put that into the hands of the Press Association. We did not.

As far as we were concerned, it was private correspondence. It was correspondence sent in the belief that I, at least, hold, that we have a clear duty as Members of Parliament, under section III of the code of conduct, to represent and defend the rights of those who send us to the House of Commons. Over my time in the House, I hope I have done that without fear or favour.

It was not, as has been suggested, an attempt to try to influence or bring pressure to bear on the judges. It was a representation following a Freedom of Information request submitted by *The Guardian* newspaper, which I believe had potentially very damaging implications for the future of justice, because, if it becomes clear that letters sent, in good faith, in mitigation, are going to be placed in the public domain—that is not, again, contrary to the belief that has been given, normally the case—then, in the future, people will think twice if not three times before writing a letter in mitigation. That cannot serve the cause of justice well.

Of course, in the case of a peer, there is a difficulty—I accept this entirely—because it is possible to make an argument that we tried to influence a particular judge in a particular case. It was not a trial—it was a hearing.

Some of the people concerned were highly vulnerable. One was arguably suicidal. Given the timescale, we felt that we had no option but to take the route that we did, but I emphasise that it was done privately. There was no question of trying to bring pressure to bear. We simply asked the judiciary—I am in the hands of others in this case because, if it had been left to me acting solo, I would have written straight to the Lord Chief Justice, because my inclination always is to go to the top, but we were advised that the appropriate people to write to were the people we wrote to, and that included Judge Whipple.

Q2 **Chair:** Sir Roger, can I interrupt? That is fine, but one of the questions relates specifically to what you were just saying, which is how you came to decide to write to these people. Whose decision was it? What advice was taken? Who was the driving force and so on? Could you just fill us in on that?

***Sir Roger Gale:*** That I cannot tell you, Mr Bryant, because I genuinely do not know the answer. What I do know—what I believe, because I did not hear it from the horse's mouth—is that the original concern was expressed by the solicitors that handled all the letters of mitigation.

**Chair:** Right.

***Sir Roger Gale:*** They had, I think, given undertakings that these letters would be in confidence—that some of the material that those letters contained was highly personal, relating to people's medical circumstances and other matters. By the way, this is not the first time that the press have tried to do this sort of thing. I was involved in another case earlier, which happily had a rather less dramatic outcome. But I don't know the answer to your question. I assume—

Q3 **Chair:** But somebody must have contacted you to ask you to sign—

***Sir Roger Gale:*** Certainly. I don't think there is any secret about that. That was Mrs Elphicke, who is a lawyer, as is Mrs Villiers. They know that this legal route has been relied on all the way. As I said, my inclination would have been to go straight in at the top to the Lord Chief Justice, but we were advised that these were the appropriate people to write to.

Q4 **Chair:** And not the Lord Chancellor?

***Sir Roger Gale:*** Under the circumstances, probably not, although again you make a fair point, and hindsight is a wonderful thing. Yes, I might have written to Robert Buckland if I had been acting on my own. But please don't misunderstand me—five names, six actually, went on to that letter. I take full responsibility for my name being on that letter; I am not seeking to pass the buck.

Q5 **Chair:** And we are not seeking to, in any way, either. Can I just ask at what point you decided to make your concerns public and at what point

you decided to make your original letters public? By letters, I mean the original references.

***Sir Roger Gale:*** There was a feeling, I think, which I shared, that we did not wish to be seen to be trying to protect ourselves. The last thing we wanted was for the press to jump up and down, and say, "Oh, they're trying to hide something". I have no shame whatsoever in having the letter that I wrote in mitigation in respect of Mr Elphicke made public. It is a perfectly normal letter in mitigation; I have done it before, using parliamentary notepaper, and I actually received the thanks of a judge for so doing on one occasion. So I do not have a problem with that.

Quite clearly, however, what we assumed, perhaps wrongly—that it was us that the press were after—we hoped that by publishing the letters, we might take the sting out of our letters.

Q6 **Chair:** But you can see that it might have been a—well, you are effectively saying yourself that some might have seen, if they didn't want to like you, as it were, they might read it that way, that you were acting to defend yourself—

***Sir Roger Gale:*** Yes, exactly. And that was not the case.

Q7 **Sir Bernard Jenkin:** There was this instance where you said a judge thanked you for writing to him. Was that about a particular case that he was conducting?

***Sir Roger Gale:*** Yes. It was not at all similar circumstances. It was a case in which—it was a mitigation. And again, the solicitor acting in that case—this was a young constituent. He was a former constituent, actually, who had lived in my constituency; he was not living in the constituency at the time. But I knew him practically since his birth. He was a very troubled young man who had committed a crime and been convicted of a crime. He was due to be sentenced.

Had he had a custodial sentence—he had actually obtained a place in the armed forces and was due to join the armed forces. I was minded to express the opinion to the court that it would not be in the public interest for this young man to receive a custodial sentence, which his offence could have warranted, because if he had, two things would have happened: one, it wouldn't have done him any good at all, in my view; and, two, of course it would have prevented him from joining the armed forces.

So, via the barrister, I think—it might have been via the solicitor—I received a message of thanks from the judge for taking the trouble to do it. In fact, the young man was able to join the armed forces and is now doing very well.

Q8 **Andy Carter:** I have a supplementary question to that point, Sir Roger. With the letter you wrote to the judge in that case, was that a letter that was written and then presented in open court, so that everyone in the court was aware of it?

***Sir Roger Gale:*** When I put things in writing, as when I make public statements, I expect them to be reported, because—frankly—that is the only safe way for a politician to operate, even if they are said in private. Again, it was at the request of the solicitors, who said that they understood that I would be prepared to write in mitigation, and I said yes. My expectation at that time was that it would be made public, but that was of no concern to me; it did not bother me in the slightest. Whether it was made public or not, I frankly do not know.

Q9 **Chair:** But that letter that you did then is the exact parallel of the letter that you wrote and provided to the solicitors on behalf of Mr Elphicke.

***Sir Roger Gale:*** Yes.

**Chair:** I don't think there is any issue with any of that; that is a pretty standard thing. Lots of MPs provide, effectively, counter-witness evidence for constituents or, for that matter, friends.

Q10 **Michael Maguire:** I just want to clarify something you said. The letter that you talk about went from the solicitor to the judge in the case of that individual, yes? It was not to another judge or anything else? It was directly to the judge?

***Sir Roger Gale:*** You are absolutely right. The difference between the two cases—it is a fundamental difference—is that one was a straightforward letter of mitigation, as indeed our first letter on behalf of Mr Elphicke was a straightforward letter of mitigation. The second letter related very specifically to a matter of principle. I hold the view, even after all this, that first, it was a dangerous situation because of the potential damage that could have been done to individuals but also to the longer-term cause of letters of mitigation.

Secondly, there was the timescale. We did not say in those letters, "You must do this". We simply asked privately—Lord Macdonald's letter was made public in *The Times*; he wrote to *The Times.* Our letter was private. We released our own letters and obviously had to say something about why we were doing it, but the letters sent to the judges, and to Judge Whipple, which was in part a response to a request for input from those letters, was entirely private, and it was made completely plain—you have seen the scripts—that ultimately this had to be a matter for the judiciary to decide, not for us.

I know there is a grey area. I do not actually believe that this has breached the separation rules, which by the way are not formal. They are custom and practice; they have never been written down in black and white as part of a statute or anything else, so far as I am aware—

Q11 **Michael Maguire:** Sorry to interrupt you. Building on that answer, what other means of pursuing your concerns did you consider before sending that letter?

***Sir Roger Gale:*** Given the timescale, there were very few. Bob Stewart tried to raise it on the Floor of the House. I think Mrs Elphicke spoke to the Speaker about it. However, the parliamentary opportunities—Covid is a

excuse for everything, but we were operating in rather difficult circumstances at the time—we were all in lockdown, and I had been shielded for, by then, about nine months—so we did not have the opportunity to have the normal conversations that we might have had. Again, I am not saying completely, but I certainly did not, and so it had to be done remotely and it had to be done fast, for obvious reasons.

What I would like to say—saying probably too much—is that this issue of separation is by no means black and white. I do not know how many other colleagues do this—maybe you all do; maybe none of you do—but I represent, on occasions, constituents at disability appeal hearings. I do that in person. Those are judicial hearings, presided over by a judge, so they have the force of law. Although I have no right of audience, so I cannot appear in a law court, I am allowed to do that, and I do it there. I would argue that there is therefore no clear distinction between what is permissible and what is not. And I do not think we overstepped the mark in this case, because what we did we did privately.

Q12 **Michael Maguire:** On that point, we understand that those who submitted character references had been invited by the court to make representations about—*[Inaudible.]*

***Sir Roger Gale:*** I understand that was the case here.

Q13 **Michael Maguire:** Why did you choose not to represent your constituents *[Inaudible.]*

***Sir Roger Gale:*** Well, we did, in the sense that the solicitor had the letter from the six of us: I had signed it. The solicitor made that letter available to Judge Whipple. But the original letter was written because of the matter in principle. Again, there is this grey area. I understand this. I know that one or two of my colleagues are —*[Inaudible.]*—are concerned. One advantage of hindsight. But this was an issue for us, for Bob, Adam and myself certainly, of clear principle, because if this had gone the wrong way for us—you could argue that it has—the implications of that for other cases, in terms of precedent, would have been serious, potentially. So we felt that it was right to take the approach that we took.

Q14 **Michael Maguire:** Sorry, but why was that? Forgive me: I just want to be clear in my mind on this. Why was it not sufficient to put the letters in to the judge through the solicitors? Why did there need to be—*[Inaudible.]* If you wanted to speak to the judge, why not just do it through solicitors? Why would there have to be another channel?

***Sir Roger Gale:*** Well, for a start, I had no relationship—none whatsoever—with the solicitors. I don't know them; I don't even—I forget the name of the firm. I don't know who they are. Also—again, for the record—I have no knowledge whatsoever of Judge Whipple, as a person or as a judge. I know nothing about her background or anything.

Q15 **Chair:** Sir Roger, there is an issue that is rattling around in my head. I fully accept, incidentally, that there may be grey areas in this world that we might want—you are quite right about hindsight of course—as a result of all this, to clarify somewhat for Members, so that there is clear advice

for Members about what is on and what is not on.

I fully understand sending a letter—as a character witness, as it were—in mitigation in the original trial. I fully understand providing a letter to the solicitors, who, as I understand it, were the original solicitors for Mr Elphicke and who were now acting as an officer to the court in this decision about whether things should be published. Writing to them and therefore to the court, whether in an affidavit or a letter—I don't mind; whatever—I fully understand. But the bit that is the nub of this, I think, is the private letter to senior judges who might be thought to have a supervisory role over Judge Whipple.

***Sir Roger Gale:*** I understand exactly what you are saying—believe me. Obviously, I have thought about this as well. I think I would accept that, if two things were not the fact—one is that we understood these to be the right people to write to. I have said it before and I will say it again: I would have written personally to the Lord Chief Justice, because that is the only person I know—not personally, but I know the job; I know the title. So as a layman, I would have written to the Lord Chief Justice.

I understood that these two were in fact the people who had custody of these issues and therefore they were the right people to write to. But I have to emphasise again and again: these were private—this was a private letter.

Q16 **Chair:** You think that is our problem—it is the private bit that is the problem.

***Sir Roger Gale:*** But it was private within the judiciary. We were not trying to go out, wave a flag, campaign publicly and say, "This is dreadful. This judge is behaving appallingly. You must do something about this." That did not happen. The letter was very carefully revised—some issue has been made about an earlier draft of it. There are not 100 versions of it, but I think over 100 changes were made to the original draft. Why? Precisely for this reason: we wanted to make sure that we were doing, in so far as we could, the right thing, but fast enough to have an effect, and to make sure that the principle was adhered to.

The bottom line, as far as I am concerned, is that Judge Whipple has done everybody a service in clarifying something that was also in law a grey area. She has determined, not as the Commissioner's report actually said, that there are categories of people whose letters should be published or should not be published, and in the case of privacy they should be published redacted, which is really all that we were asking for, actually. We just wanted to make sure that the protection was in place.

I am not a lawyer, but it appears to me that a precedent has now been set. There is a point of reference, and hopefully from henceforth anybody finding themselves in a similar situation will know that they can make a plea in mitigation and that their private details, where appropriate, will be redacted. If we have achieved that—I don't like these circumstances any more than you do; I appreciate you don't—we have probably done the cause of the House a favour.

**Chair:** Sir Roger, we are going to have to make a bit more progress. Mehmuda wants to ask a question. Some of the questions coming later may already have been answered, but we will plough through.

Q17 **Mehmuda Mian:** Sir Roger, you said earlier that you wanted the letter to have an effect as quickly as possible. What did you hope would happen once you had sent that letter? What were you expecting or hoping for?

***Sir Roger Gale:*** The intention was that the judge in the hearing—I understand it was not a trial—and those who I understood to have custody of the issues raised in the letter, would consider, from Members of Parliament making representations on behalf of those we are elected to represent, the possible consequences of publishing all this information. That had to be their job, not ours. We made that clear. But it was an issue that might not otherwise have been brought to the attention of those who, I believe, had not just the right but the duty to adjudicate these matters.

Q18 **Mehmuda Mian*:*** So it was not just a general principle, then; it was also specifically in relation to the particular case.

***Sir Roger Gale:*** There are two conflated issues here. I accept that entirely. But there would have been small point in not drawing attention to the danger of publication after the event, because by then the damage would have been done. In an ideal world we might have been able to have a parliamentary debate about it, in principle. There are all sorts of things we might have done if we had not been faced with the timescale that we were faced with.

**Chair:** Allan, I think your questions have been asked, unless you want to follow up.

Q19 **Allan Dorans:** Good morning, Sir Roger. You have argued that the letters were not an attempt to influence a live case. I fully accept that it was not an attempt to influence the outcome of the case of Charlie Elphicke. However, it appears to me that it was an attempt to influence other judicial proceedings in respect of the release of the identity of the people who were giving references.

***Sir Roger Gale:*** I can see why you think that, but there was a principle at stake. That principle is whether or not people, under article 8 apart from anything else, do have a right to privacy and whether or not it was right that that information, which was given, rightly or wrongly, in the belief that it was given in confidence—again, I am not a lawyer—should be made public in that way. There would have been small point in trying to do that after the event.

As I said, this is not the first case of this kind. This is slightly different, but I had been involved when Jonathan Aitken was sentenced, convicted and made bankrupt. A national newspaper received the chattels in banks, which, from memory, were 10 or 12 boxes of books, some of which were quite valuable, such as a signed first edition of a biography of President Nixon, signed by Nixon.

**Chair:** Sir Roger, can you stick to the point?

***Sir Roger Gale:*** I am sorry, but the point I am trying to make is that this is not the first time. I was, on that occasion, able to prevent the key issue for me, which was none of those books but a box of papers that contained constituency case work, which, in our business, has to be confidential. I hold to that absolutely entirely. People have to know that they can go to a Member of Parliament and trust him or her in confidence. That is so basic. That is my ethos. In a sense, I have to say that to some extent that came to be my judgment, because, for me, it was not exactly the first time. This was another attempt, basically, to get hands on salacious material, with a view to possibly publishing it. That is what it was about.

Q20 **Sir Bernard Jenkin:** Sir Roger, after you agreed to sign the letter, when did you first consider that this might be seen as an attempt to improperly influence judicial proceedings?

***Sir Roger Gale:*** Only when Mrs Elphicke told me she had received a letter from the Lord Chief Justice. It never crossed my mind, actually, that this would be seen in that way.

Q21 **Sir Bernard Jenkin:** You keep making the distinction between a trial and a hearing, but they are both judicial proceedings.

***Sir Roger Gale:*** I suppose you could argue that they are judicial proceedings, but I must confess that it did not cross my mind at all that this would be regarded as an interference in a trial. What we were trying to do—it really is all we were trying to do—was to put down a marker to say, "Just before we take the pin out of this grenade, could you please make sure that you understand what may happen if it goes 'bang'?"

I think we owe Judge Whipple a debt a gratitude, in the sense that whether she took any account of what we or anybody else had said is immaterial. Whether she paid any attention to what Lord Macdonald, a former Crown prosecutor, said in a public letter to *The Times*, or whether she simply exercised her own judgment, the fact of the matter is that that issue has now been clarified, and I regard that as being in the public interest.

Q22 **Sir Bernard Jenkin:** It may be that your letter had no influence.

***Sir Roger Gale:*** That is absolutely possible.

**Sir Bernard Jenkin:** May I also ask about your duty to your constituents and your desire to uphold their rights? Of course, the argument in the Commissioner's memorandum is that these were not your constituents—they were somebody else's—so you had no locus to represent them.

***Sir Roger Gale:*** You, Sir Bernard, and I both have the same duty to the electorate under section 3 of the code of conduct.

Q23 **Sir Bernard Jenkin:** So your understanding is that you were representing a point of principle. You were not representing individual constituents.

***Sir Roger Gale:*** In this case, yes.

Q24 **Sir Bernard Jenkin:** A point of principle that might affect your constituents at some point in the future.

***Sir Roger Gale:*** In the future, yes, as it might have done in the past with the other letter that I wrote.

Q25 **Sir Bernard Jenkin:** The Commissioner found that only Mrs Elphicke provided evidence that her constituents were affected. How would your own constituents have been affected?

***Sir Roger Gale:*** Your constituents could have been affected. Had one of your constituents been asked to write a letter of mitigation on behalf of somebody within or outwith your own constituency who was convicted, you might well think twice. I would think twice, if I wasn't a Member of Parliament—I would think twice about whether or not I should write a letter of mitigation if I knew it was going to be published in the press.

Q26 **Sir Bernard Jenkin:** Given what we know now and what the Lord Chief Justice did, would you do it again? Or would we say that we have learned something and we wouldn't do it that way again?

***Sir Roger Gale:*** Would I do it again? Not in the same way. We all learn from mistakes. I think the mistake we made is in not understanding, perhaps, that two issues would be conflated. I certainly made the mistake of not beginning to believe that the Lord Chief Justice would take exception to what we had done in a private letter. Clearly, he did. I would find a different way of doing it, but would I do it again—would I seek to achieve the same effect? Yes, I would.

Q27 **Chair:** Sir Roger, I just want to check a factual point. You are not saying that you had an individual constituent who had raised it with you and that this was an issue.

***Sir Roger Gale:*** No. Our involvement, obviously, from the beginning was that we were asked, initially, to write letters of mitigation. That is why we were involved at all.

Q28 **Chair:** So the only constituent of yours was yourself.

***Sir Roger Gale:*** Well, no. There are the people I represent, because it could have had, and still could have—less now, I think—implications for any one of them.

Q29 **Chair:** In the broader principle.

***Sir Roger Gale:*** Yes. You and I have the same duty. We legislate all the time. We don't legislate with a particular constituent in mind; we legislate because we legislate for the national good. This was a matter of principle and it was pointed out to us that there was a danger. The solicitors asked us to see if we could do something about this. There was a very real danger that if these letters were published, it could have unintended consequences. That is really all that this is about.

Q30 **Chair:** I understand that, Sir Roger. All I am clarifying is that there was not an individual constituent who had come to you in your constituency and said, "This is an issue." You were not defending a specific individual who had submitted a letter.

***Sir Roger Gale:*** No.

Q31 **Chair:** Mrs Elphicke is in a different situation, because she did have constituents. That is all I am trying to clarify.

***Sir Roger Gale:*** I think that is correct. I stand to be corrected; of course, people move, so they might now be my constituents, but I don't believe that is true.

Q32 **Chair:** But that is not how it came about. For you, this was just like any other political issue that you saw, that affected the whole of the nation, including your constituents, and that you wanted to take up.

***Sir Roger Gale:*** That is correct.

**Chair:** Right. Mr Elmore, and then I think we may not have many more questions to ask.

**Chris Elmore:** I think my question has been covered.

**Chair:** Mehmuda, do you want to ask yours?

Q33 **Mehmuda Mian:** In the written evidence, you suggested that the findings of the Lords Commissioner in relation to Lord Freud has had some bearing on the Commissioner's finding in this case. Do you accept that the Commons Commissioner considers cases independently and is not bound by any decision by her Lords counterpart?

***Sir Roger Gale:*** It is unfortunate. I have a high regard for the Commissioner, but I think it is unfortunate. This is something that both Houses might wish to address in the future—please God this doesn't happen again in this way. It is unusual, to say the least. Mostly, these are not the kinds of cases that come before the Standards Committee or the Commissioner.

But I think it is unfortunate that the Lords Commissioner, who I understand operates on a different sort of yardstick, reached her decision and published her decision, and Lord Freud was asked to apologise, without any input from us, because obviously we do have an interest in the matter, and before the whole adjudication had been done and dusted. I think it placed the Commons Commissioner in an unhappy position. Effectively—I don't mean any disrespect with this—she was between a rock and a hard place, actually.

I said in our evidence and meant it that I mean no disrespect to Lord Freud, or any other Member of the other House, in saying that there is a different yardstick because they do not have constituents and we do. They are not elected, and we are. We have a bounden duty under section 3 to represent the people who sent us to the House of Commons. For my entire time in the House, that has been probably my leading light—and maybe why I have spent so much time on the Back Benches. That has been the principle by which I have abided, and I believe my colleagues acted in the same good faith without trying to do anything improper. It is up to this Committee to decide whether what we did was improper—that is your judgment, not mine. However, I believe that what we did was done for the right reasons and in

what we thought at the time was the right way, writing to who we thought were the right people to achieve a consideration of what was potentially a dangerous situation. Lord Freud had a different set of duties but not as an elected representative—there is a fundamental difference.

**Chair:** It is worth saying that obviously each of the two Houses has a different code of conduct and conducts itself in a different way. I take the point that you made, Sir Roger, about whether the timing could have been aligned differently. However, we want to assure you that the decisions here are made on the basis of what we see in front of us, not on the decision the Government made in the other House, because we are operating to our code. I give you that assurance. Michael, do you want to ask a question quickly? I am aware that we have another witness and then I will finish with Andy.

Q34 **Michael Maguire**: It is just on the background surrounding what we were talking about earlier, Sir Roger. I notice from Judge Whipple's judgment that she directed Mr Elphicke's solicitors, acting as officers of the court, to contact each of the 24 character referees to tell them that they were entitled to make written representations about the disclosure of the references. Why did you not just leave it at that?

***Sir Roger Gale:*** I am not sure. We all have a lot going across our desks and I am not perfect. We are operating under rather strange circumstances at the moment. I am not sure that I ever had that request from solicitors. Mrs Elphicke says we did, and if she says that then I am perfectly prepared to take her word for it, but I do not recall seeing that. My recollection is that the request came from—for a start, I did not understand when Judge Whipple referred to officers of the court. As I said, I am not a lawyer. No officers of the court had been in touch with me. I did not realise that the solicitors, at this point, suddenly become officers of the court—apparently they do, but I did not know that.

I am not certain that I ever received that request, but what I do know is that when we put the letter in, the solicitors submitted that to Judge Whipple as a response, which was fine by me. However, you asked the question of why did I not write directly, or via the officers of the court, to Judge Whipple. I am not certain that I ever received that request, but I may be wrong.

**Chair:** I think we have just one more question from Andy, Sir Roger.

Q35 **Andy Carter:** In the written evidence, you suggest that the advice from Speaker's Counsel to the Commissioner should be discounted. Can you explain why you said that?

***Sir Roger Gale:*** Yes. I find it rather strange that Speaker's Counsel, who I don't know—I am sure she is an eminent lawyer, very good at her job and all that—said on the one hand, "We are not allowed to discuss things with Members of Parliament," when, as I understand it, she was asked by the Commissioner if we approached her, but then in the next breath, and without hearing any of the reasons behind this, offered an opinion. You have been courteous and kind enough to listen to what I have got to say. You

may not agree with me—that is your prerogative—but you have heard what I have had to say.

Speaker's Counsel exercised a judgment without any of this information at all—well, I obviously don't know what information the Commissioner gave her. It does strike me as odd that Speaker's Counsel should be approached and used in that way. I think, had we had the opportunity to say, "Look, this is why we did what we did," she might then have said, "Well, actually, it was a bit of a cack-handed way of going about it. You should have done X, Y and Z, speaking as a lawyer." Fine—I can accept that. We all make mistakes from time to time. But to offer, cold, an opinion as categoric as the one that was offered was rather like the first gentleman who gave information about the stationery and said, "This was wrong."

When the Clerk of Journals was asked, but only asked about the letter of mitigation, he said, in terms, very clearly, "This was not used for party political purposes or personal gain. It was perfectly okay." He wasn't asked about the second letter to the judges. Had he been asked, I suspect he would probably have given exactly the same answer, because it was not done for personal gain or party political purposes. I think in the great scheme of this, it is a slightly minor issue. Nevertheless, I don't believe that using that headed notepaper was improper for that purpose. Indeed, when I wrote to the court for my young constituent, I did it on parliamentary headed notepaper. Of course I did—I'm a Member of Parliament.

Q36 **Andy Carter:** I just want to conclude on one final point. You have mentioned hindsight on a number of occasions. Is there anything else you wanted to say to this Committee, in terms of your conduct? Is there anything that you might have approached differently if you were to come across this again?

***Sir Roger Gale:*** I really don't think so. I think we have all tried to act honourably. I think we have acted in good faith. Whether what we did was procedurally correct, with respect, I think is a matter for you to decide, not me. You may find fault with that, but what was done was done for absolutely the right reasons, upholding absolutely the right principles of representation. Whether or not, as Sir Bernard said, it was actually instrumental in delivering a result, the fact of the matter is that there is now a result.

Section 17, I think, of the code of the conduct, which this hearing is about, says that we have taken an action that has brought the House into disrepute. I don't believe we have brought the House into disrepute. I can't see any evidence to suggest that anything we have done will have done that. From time to time, Members do some pretty frightful things and are rightly hammered for doing so, but in this instance I believe we did what we did for the right reasons. Whether or not it was done in the right way is a good point, but it was not dishonourable, and I think we have upheld the traditions of the House in seeking to represent those who send us here. I can't understate that. That's what I believe. If you find otherwise, you no doubt will tell me so.

Q37 **Chair:** Sir Roger, I am very grateful for all your time—the whole Committee is—and for the way you have approached today's session. We are very grateful, but we are seeing your two colleagues and I don't want to delay them any more unless there is anything final that you want to say. I suspect that you may have said everything you want to say.

***Sir Roger Gale:*** Thank you for your time, and for listening so courteously.

**Chair:** Sir Roger, thank you very much.

## Examination of witness

Witness: Bob Stewart MP.

Q38 **Chair:** Colonel Stewart, I am really grateful to you for coming before us today, and I am sorry we have delayed you. We have about half an hour's worth of questions, but I am conscious that you may want to say something first about exactly how we got to where we are now, and if there is anything that you maybe think you would have done differently or that you regret. Maybe that is the best place for us to start.

***Bob Stewart:*** I just want to start by putting my position. I am sure you have been well briefed already on the charges against myself and the other four Members of Parliament, but I want to make my own points as well. Let me be clear, right from the start: I accept that the Standards Commissioner has ruled against us, and I apologise unreservedly if I have offended. I did not mean to.

However, I do consider the Committee to be a court of mitigating appeal, in a way, with an understanding of the position of Members of Parliament, and that understanding is an understanding of why we offended—which, I repeat, we did not mean to. Although the catalyst for action was the trial of Charlie Elphicke, he was convicted and sentenced well before we wrote to the three judges. We wrote to them because we were seriously concerned that our constituents—not just my constituents: everyone's constituents—who give character references in court might not do so if there was a risk that their words, their identities and their addresses could be publicised. I know that such privacy concerns were also raised by BCL Solicitors, who in fact originally asked me if I would write a reference for Charlie Elphicke as a Member of Parliament.

Q39 **Chair:** Can I just check, BCL Solicitors are the solicitors for Mr Elphicke, who then became the officers of the court?

***Bob Stewart:*** They are not my solicitors.

**Chair:** I understand that. But they then became the officers of the court in the hearing with Justice Whipple.

***Bob Stewart:*** I don't about that. All I know is that they spoke to me.

Q40 **Chair:** Did they ask you to write in relation to this?

***Bob Stewart:*** Yes. Not to the judges; the original reference.

**Chair:** Just let me finish the question. I fully understand that they asked you to write the character witness letter. That is not of concern to us. Did they ask you to write to Justice Whipple about the issue of what should or should not be made public?

***Bob Stewart:*** They didn't ask me, no.

**Chair:** Right.

***Bob Stewart:*** The letters we sent to the judges were private—we didn't release them to the media. That was not us. Lord Ken Macdonald, the previous Director of Public Prosecutions, said much the same as us in an open letter to *The Times*. All we felt was that we were fulfilling a formal obligation to defend the interests of constituents.

Personally, I also raised my concerns in the Chamber at the time we wrote the letters. I think, Chairman, that you were there when I raised it on 19 November 2020. I said to the Leader of the House, through the Speaker of course:

"Mr Speaker, *The Guardian* newspaper has applied for the release to the media of character references that were provided to a judge solely to assist in sentencing during a criminal trial. If allowed, this would be a fundamental change of practice, with far-reaching consequences for the criminal justice system. Will my right hon. Friend allow time for an urgent debate on this vital matter?"

Rees-Mogg responded:

"It would obviously be wrong for me to comment on a specific case, but my hon. Friend raises a concerning point. If people have, in a generality, given evidence to a trial on the understanding that is confidential, it risks people not being willing to give such evidence in future if what is believed to be confidential turns out not to be. A just system requires certainty, whatever degree of certainty that is. In individual cases, I understand that it is a matter for the trial judge, under rule 5 of the criminal procedure rules, but I will of course refer this matter to my right hon. and learned Friends the Lord Chancellor and the Attorney General."

I gather that releasing character references to the public was not normally done before. I gather that. If that happens, it will neither be fair on people who come forward to give evidence, and it is obviously not really in the interests of justice because people will be reluctant to give evidence if their names and addresses are given out.

I think the Committee has got, the same as I have got, some of Natalie Elphicke's comments to her constituents—you have got those?

**Chair:** Yes.

***Bob Stewart:*** Some of them are pretty sad. In conclusion, we were definitely not trying to interfere with any prerogative quite rightly held by

judges. We perhaps asked that they look at our worries as politicians, on behalf of our constituents, when composing practice notes for courts. I didn't know what practice notes were, but my friends tell me that they are notes handed down by senior judges.

That said, it is clear to me, since speaking to friends who have analysed every word we signed up to, that it would be impossible for senior judges to do as we suggested without influencing a more junior judge. In other words, we were wrong. Those are my friends telling me that. We got it wrong.

I apologise unreservedly for putting my name to these well-intentioned but perhaps poorly drafted letters. That is all I want to say before the Committee.

Q41 **Chair:** Thank you very much, Colonel Stewart. I will ask some questions, but we may not need to ask all the questions that we had earlier. The first is this. When the Leader of the House said, "It would obviously be wrong for me to comment on a specific case", did that not set your antennae worrying about whether you should be writing about a specific case?

***Bob Stewart:*** Well, we weren't, really. The honest truth, Chairman, is that we weren't really thinking about the Elphicke case then; we were thinking about the principle.

Q42 **Chair:** But there was still a case or a judicial proceeding, which you were trying to influence.

***Bob Stewart:*** He was—

**Chair:** Elphicke was done, as it were.

***Bob Stewart:*** He was in prison.

**Chair:** So it wasn't about Elphicke; we've got that very clear. But there was still a decision to be made in a court of law by a judge, so it was a judicial proceeding, which you were trying to influence.

***Bob Stewart:*** I wouldn't say—we were trying to alert the judges. Influence? Well, I suppose, in a way, we were, which is where we were wrong. What we were trying to do was to alert the judges—senior judges—that we were concerned about something. We weren't going to tell the judge—we couldn't. There's no way. I'm not stupid. I know I'm not a lawyer, so some of the legal stuff beats me. I'm a straightforward bloke. There's no way I would think that I could tell a judge to do anything. And I didn't mean it if that letter—my friends told me that letter implied I was, so that's where I'm wrong.

Q43 **Chair:** That does seem to be the nub of the issue, doesn't it? Were there any other avenues that you thought of? It's interesting that the Leader of the House said that he would approach—

***Bob Stewart:*** I did think that we might be able to have an Adjournment debate on this matter. It might be that some of the Government legal

officers might look at it. But that was it; beyond that, I didn't. I raised the matter. I, honestly, raised the matter because the five of us decided that we would raise the matter in the House of Commons so that people were aware that we were concerned. I don't think it's just me that's concerned. I think every MP should be concerned.

Q44 **Chair:** Just to clarify bits and pieces that might be in doubt, you didn't have individual constituents who had approached you about this?

***Bob Stewart:*** No, I had no dog in the fight. There was no dog in this fight for me. I knew Elphicke. He wasn't a great friend, but he was a good Member of Parliament, I thought, and that's what I wrote about. That's why I was asked.

Q45 **Chair:** None of this is about your original letter.

***Bob Stewart:*** No; I know that. You put your finger on it, Chairman: the nub of it is that we wrote a letter that, fundamentally, implied to the judge, "You should do this." We didn't mean to. The honest truth is: I didn't mean that to happen. What I meant was to tell, alert, judges that there was concern.

**Chair:** I think Rita wanted to ask a question.

Q46 **Mrs Rita Dexter:** I think the thing that I am most puzzled by is why you as a group did not feel you could rely on the judicial proceedings to make the right decision. In the end, Justice Whipple ruled that some references should be published, and most should be published but with identifying features redacted. I'm not a lawyer either, but if I had been thinking about this, I would have been thinking about general principles of data protection, and I think I would have taken a view that she was bound to take those into account. It is inconceivable to me that she could make any decision other than to protect the identities of those constituents.

***Bob Stewart:*** To be perfectly honest, I can't quite remember, but I've got a sneaking feeling it was because Natalie Elphicke told me that her constituents were extremely concerned. I think that is what was the trigger for the letter—for the letters. The trigger for the letters was that Natalie, who I do like a lot, came to me and said, "You know, Bob, I've got these constituents." And she said they were really upset about the possibility of them being identified, regardless of redaction. I think that's what caused the letters. But as I said, I had no—as we would say, no skin in the fight, really. I was just doing what I thought was right—what I thought was right. Clearly, I wasn't right, but that's what I thought felt right.

**Chair:** Rita, did you want to follow up?

**Mrs Rita Dexter:** No. That is helpful. Thank you.

Q47 **Sir Bernard Jenkin:** When you first read what the Office of the Lord Chief Justice said—that it was particularly improper for them to use the authority and status conferred on them as Members of Parliament to influence the outcome of legal proceedings, what was your reaction?

***Bob Stewart:*** I was quite hurt, actually, because I did not think that that was what I was doing. I thought I was alerting the judges to a worry. I was not trying to influence the outcome of any legal proceedings.

Q48 **Sir Bernard Jenkin:** Okay. You've been an MP since 2010. Has anyone ever given you advice, or where would you go and look for advice, about a relationship between your activities as an MP and the judiciary?

***Bob Stewart:*** No, I don't think I have had any such advice. I am not trying to blame the system.

Q49 **Sir Bernard Jenkin:** Where would you go for such advice?

***Bob Stewart:*** I've got no idea. I just took it and thought this seems fair. It is fair and right for me to write to a judge and say this. I didn't know there were such rules. The rules, if they exist, are pretty unclear. I did not know there were such rules, so I am in ignorance of them—if there were such rules.

Q50 **Andy Carter:** Colonel Stewart, I understand the point you made about the rules and there not being anything that's clearly written down. Did you think about writing to the Lord Chancellor to raise the point directly with him? Have you ever written previously to a judge?

***Bob Stewart:*** Actually, it's not in any of the evidence, but I did speak to the Lord Chancellor. I said I was really concerned, and he said he couldn't get involved.

Q51 **Andy Carter:** Did that alert you to—

***Bob Stewart:*** Forgive me, I am not trying to put you on the spot. It was in the Tea Room. I said, "I'm really concerned that we appear to have offended judges, and we didn't mean to", and he said, "I can't get involved." It's a good question. I hadn't thought of it before. I am not trying to ditch the Lord Chancellor in it.

**Andy Carter:** No, no, of course.

***Bob Stewart:*** I am trying to say that we were casting around for what to do.

Q52 **Sir Bernard Jenkin:** That was after the event, wasn't it?

***Bob Stewart:*** Yes. To be honest, Sir Bernard, I can't remember, but I did speak to the Lord Chancellor. He might not even recall it, but I remember it was in the Tea Room and I said we were really worried about what to do. So we were unclear.

Q53 **Andy Carter:** In the 10 years that you have been a Member of Parliament, had you ever written to a judge previously?

***Bob Stewart:*** Never. I have never written to a judge previously, so I have no precedent to go on. To be honest, most of the drafting was done by Natalie Elphicke, and it was subbed by the two ladies—two women. I just read it through, thought that makes sense and signed it.

Q54 **Chris Elmore:** Just on the rules, Colonel Stewart, I can see clearly why you wouldn't understand that because you are not a lawyer, but Mrs Villiers is a barrister and Mrs Elphicke is a solicitor, so they would know the rules. One would assume they would know the rules.

***Bob Stewart:*** To be honest, in answer to that question, I would think they would get it right. Neither Adam Holloway, myself or Roger Gale are in any way connected to the law. I think Roger was a journalist. Adam was a soldier and then a journalist. And I was a soldier and then a pretty lousy businessman.

My approach was fundamentally always, "Look, if I've done wrong, I put my hands up now." The Commissioner—she's behind me—has ruled that I have done wrong. I accept that. I am sorry. I have done wrong. But I can tell you it was a sin of non-intention; it was a sin for the best possible reasons. It wasn't as if I was totally an ignoramus. I did speak to the Lord Chancellor. We did think of—I did raise it in Parliament. I wanted to do the right thing.

Q55 **Chair:** Can I just ask you about the raising in Parliament? I cannot see how we could have had an Adjournment debate that did not end up breaching the sub judice rule, because it would be a debate about the case, and I would have thought that the Speaker would have had to say, "I'm sorry: you can't say anything about the case," in that debate.

***Bob Stewart:*** I accept that view. I asked the question perhaps in ignorance—whatever. I am straightforward on the matter. The whole thing, this whole matter—I wish now I had never bloody written the bloody thing, because apparently it raised legal difficulties. It has caused all this aggravation when actually I feel quite hurt by it.

Q56 **Chris Elmore:** To continue the line of questioning, Colonel Stewart, can I just understand that at no point—in answer to, I think, Mr Carter, you said that Mrs Villiers and Mrs Elphicke were doing the drafting—was there a conversation between all five of you, with Mrs Villiers and Mrs Elphicke, about the fact that this might not be within the rules for writing to a judge? What I am puzzled about is this. I can see how you wouldn't know, but as a barrister and a solicitor? Admittedly, Members don't normally practise in the law when they are elected, but I am just confused as to how a letter could be drafted when—you have said, several times now, that you have made a mistake, you are sorry for it and it was clearly wrong but you didn't know the rules. Two of the five colleagues are qualified in the law, and I don't know how a letter was drafted, signed and sent to a judge without anybody saying, "This is probably not within the rules for a Member of Parliament writing to a senior judge." So was there ever a conversation to query it?

***Bob Stewart:*** I cannot remember. We had a couple of meetings—one of them in my office—about this. I cannot remember that being said, to be honest.

**Chris Elmore:** Fair enough. I just wanted to get that on the record.

***Bob Stewart:*** I think I'm getting too old to remember things well these days. November last year is a long time ago now, and I cannot remember exactly what was said.

**Chris Elmore:** Thank you, Chair.

***Bob Stewart:*** They were the experts; Adam, myself and Roger were not.

**Chair:** I just want to clear up one final—

***Bob Stewart:*** Please don't think I'm putting them in trouble.

**Chair:** No, no—

***Bob Stewart:*** We are all equally responsible. I signed that letter.

**Chris Elmore:** It was purely on your comments about rules. I just wanted to understand about the conversation. That's all it was. I accept you are not trying to blame.

Q57 **Chair:** There is just one final thing to clear up—unless anybody has got anything else—and this is a question we have asked of others as well. How would you respond to the charge that you were agreed that the courts were going to publish your own original letters?

***Bob Stewart:*** Well, the reason why we did that, Chairman, was that we didn't want anyone to think we were doing it in our own interests. That's why we did it. We said, "Look, let's publish. Let us make public what we have said, so that no one thinks that we are trying to shy away, shut up and keep our own thoughts". We thought, "We are public people and we are concerned about non-public people, i.e. constituents." The law is one thing, but also politics could come in. We actually do represent people. And we felt it was not fair for people who have come forward. I have been involved in quite a lot of trials in the military, so I always felt that, when someone gives evidence, they shouldn't actually be publicised. But I don't know whether I'm wrong. The impression I got was that, previously, if people gave mitigating references, their names and addresses and things were not made public, but maybe I am wrong.

**Chair:** Colonel Stewart, we are very grateful to you for your time and we thank you very much for the words you have said today. We will continue our deliberations. We have another of your colleagues to see now.

**Bob Stewart:** I know—Holloway *[Laughter.]*

**Chair:** You are not meant to laugh.

***Bob Stewart:*** He is my really good friend.

**Chair:** I understand that. I think we are all grateful for the words you said earlier. The relationship between the courts and Parliament is a really serious matter that we want to take seriously, and we are grateful to you for giving evidence today.

# Examination of Witness

Witness: Adam Holloway.

Q58 **Chair:** Thank you very much for being with us today, Mr Holloway. We tend to proceed very formally in the Committee. We obviously have some questions for you, but I thought you might want to say a few words at the beginning about where we are at now, what you stand by, and whether there is anything you would like to say.

***Adam Holloway:*** Sure. I actually prepared one earlier.

**Chair:** I hope it is not an hour long.

***Adam Holloway:*** I think it is about two minutes. Knowing what I know now, I certainly would not have agreed to the letter, but we were all trying to do the right thing by Natalie Elphicke's constituents and, by extension, our own. My intention most certainly was not to get more senior judges to influence Mrs Whipple, but I accept that others have come to the opinion that the ill-drafted letter did precisely that. I was talking to Theresa Villiers yesterday, and if you think about it, if you write to more senior judges to try to prevent publication of these things, then that is exactly what you are in effect doing.

Those of us who are MPs here will know that we are asked to sign literally hundreds of similar letters by colleagues in any Parliament, about this or that. The truth is that I probably did not even read this letter when it was sent. Basically, I am sitting here because of a few emails from Natalie Elphicke and probably a 20-second conversation—you know, "My constituents are upset. One of them is threatening to do X, Y or Z. Will you sign the letter?" Having said that, just because I did not read it—probably did not read it—I am still a signatory, so I take complete, full responsibility. I do not duck that at all, but even if I had read it, I would not have known how it could be interpreted, and I almost certainly would have waved it through to get on with the next email. I could have read it a thousand times and it would not have occurred to me that I was out of order. I accept that it was absolutely about the judiciary and Parliament, but I could have read it a thousand times and not thought it very much different from writing to a Minister or the chairman of a tribunal, or whatever else.

I do not think the guidelines are clear—ignorance of the law is no defence, of course—and we have no source of legal advice. We have hundreds of emails to do every day, and these things literally just go "one, one, one, one", so we have no source of legal advice, and I think there needs to be much clearer guidance. It is an important point, if we are not to start to feel fearful as MPs when taking stuff up on behalf of our constituents. A 20-second conversation has cost you guys a whole chunk of your time, potentially brought Parliament into disrepute, and taken days and days of my time over the last six months when I should have been looking after my constituents. As I say, I do not think the guidelines are clear, but this really was an innocent and well-intentioned mistake.

Having reflected on the matter further, I do not want to contest the Commissioner's findings. The letter I signed, with two colleagues, which I am sure you have read, outlines the justification. I should again make clear that if I had known then what I know now, of course I would not have included myself in the original letter.

Q59 **Chair:** Thank you, Mr Holloway. Can I ask two questions? I do not think we need to ask all the questions that we have prepared.

First, you know the sub judice rule in the Chamber—you cannot refer to an ongoing court case in the Chamber. The Speaker would stop you doing so. Did it never occur to you that there might be a parallel?

***Adam Holloway:*** The truth is, I do not think I thought about it. Thinking about it now, what I probably would have thought to myself is this is not about Elphicke's being convicted—it is about the publication of letters from constituents. In my head, I would not have seen that as a legal proceeding. I do not think I thought that at the time. I do not think I thought about it at all.

Q60 **Chair:** But it was overseen by a judge—

***Adam Holloway:*** No, sure. I am just telling you the truth. I think Bob Stewart had raised it in the Chamber anyway. Truly, this is like a 20-second transaction in my head, that suddenly came back to bite.

Q61 **Chair:** I will say this as gently as I can. One could suggest that that showed a degree of carelessness.

***Adam Holloway:*** I completely accept that. I wonder whether any of the Members here have always read every letter that they have agreed to put their signature to. It is immaterial whether it is careless or not. I totally accept that by signing up to it—it is not material whether it was careless or not—I am in with the others. I am not using that as an excuse. I am just using it to illustrate the amount of consideration that one gave to this.

Q62 **Andy Carter:** I am interested to know, Mr Holloway—you have been an MP for about 10 years—

***Adam Holloway:*** Fifteen.

**Andy Carter:** Have you ever written a letter to a judge before, in any judicial matter?

***Adam Holloway:*** No idea. I cannot tell you. Probably not. I don't know. I just don't know. We do it every single day—we write to Ministers, we write to agencies on behalf of constituents. I did not think this was any different. I am not suggesting that I did not know the rules and that that is an excuse at all. I am just telling you how it is.

Q63 **Chair:** One other thing to clarify, unless Bernard wants to come in in a minute. Your signing it had nothing to do with you having constituents who were involved.

***Adam Holloway:*** Totally. We had—

**Chair:** I mean named constituents.

***Adam Holloway:*** Let me answer that. We had done these references. I do not know about you, but I check my emails the whole time—in bed, when I am lying on the sofa; the whole time. I had several nasty, vile emails, which we have all had pop up, about that I was supporting Charlie Elphicke—but I am not; he is a fellow Kent MP. At the end of a trial, people write character references and that is the moment when you actually express the totality of someone's life, not just one particular thing.

You get these disgusting emails. When Natalie Elphicke rings me up and says she has got constituents who are ready to jump off a cliff or whatever, I am definitely thinking about my constituents, because I know what it feels like myself to be on the end of that. So, yes, absolutely. I have never heard of references being made public. This is a novel thing. That is certainly what Ken Macdonald thought in his *The Times* piece.

Q64 **Chair:** Sorry to be daft, but the only point I am making is that Natalie Elphicke undoubtedly had constituents of her own, whom she was representing. You did not. There was not somebody—

***Adam Holloway:*** That is just not true. If that precedent was breached, absolutely it would apply to my constituents. It is not about that particular moment. It is not about that particular case. It is wider than that.

Q65 **Chair:** I understand that. It would, but it did not at that time.

***Adam Holloway:*** Of course not. That is not what I was trying to achieve. If it had been, I would have said or alluded to my constituent, so-and-so. It was not. It was about the whole precedent changing.

Q66 **Chair:** And it did not occur to you to write to, I don't know, the Lord Chancellor, for instance.

***Adam Holloway:*** No. No. I do not need to tell you that we have so many things to do. It was a 20-second interaction.

Q67 **Mrs Rita Dexter:** We asked your two colleagues the same question. From the outside looking in, after the event and all of that, it looks different now, I am sure. I have read the judgment from Justice Whipple, and what I have taken from that is that there was a well set-out process. This application was made to her in September, after the sentencing, and she took a couple of days of informal soundings about how to proceed. Then she set it down for a hearing two months from then, so the hearing was to be in late November.

On the basis of what is in the judgment, it looks like it was an orderly process whereby she said to the people who were Charlie Elphicke's solicitors but who then became officers of the court—was it BDL?— "You can supply to the court all these references from all these people; your reference and those of constituents and others. Go away and talk to them about whether they want to say anything to the court about this question of whether their references ought to be published or not." One of the things that I now realise I am interested in is whether you were approached by

that firm of solicitors, who then became officers of the court, and asked whether—

***Adam Holloway:*** I have told you this. It was a 20-second email transaction. I do actually vaguely remember seeing a piece of paper with BDL written on it, but no.

Q68 **Mrs Rita Dexter:** So you were not asked by that firm, acting as officers of the court, whether you had anything you wanted to say.

***Adam Holloway:*** I might have been, but I don't think so.

Q69 **Mrs Rita Dexter:** Okay. One of my interests in this is why none of you felt that you could rely on the courts to do the right thing. It feels like—

***Adam Holloway:*** I just cannot build 20 seconds, or perhaps a total of three minutes—. This thing has been given—rightly so—the most enormous amount of scrutiny. Two people wrote the letter, and five of us take full responsibility for signing it. For some of us, it was like a—*[Inaudible.]*

**Mrs Rita Dexter:** That is helpful. Thank you.

Q70 **Mark Fletcher:** Mr Holloway, can I clarify something? If you were in the Tea Room tomorrow and a colleague was talking about potentially writing to a judge on a matter of principle—a hypothetical—what would you say to that colleague?

***Adam Holloway:*** Today, I would say no, but then I would have said, "Yeah, sure. That makes sense. Go for it."

Q71 **Mark Fletcher:** So just no. Would there be anything else?

***Adam Holloway:*** What now? Of course, it would be no, because I realise that that is not something you are meant to do. It has created huge amounts of time for everybody and loads of drama, so of course I would not. I'm not stupid.

Q72 **Mark Fletcher:** Are you a bit more careful about putting your name to things?

***Adam Holloway:*** Of course. So will you be now.

Q73 **Mark Fletcher:** It is just that you are coming across as a bit casual about this.

***Adam Holloway:*** I am not casual at all. I never thought I would be sitting in front of the Committee on Standards. It is appalling to me. I am not a stooge of a Russian oligarch; I am a social worker from Kent. Yet I am here. It is not casual at all. Don't take it that way one bit.

**Chair:** I think we're done. Mr Holloway, I am grateful to you for coming and giving your evidence today. Thank you for responding so quickly about whether you wanted to come on your own and all the rest of it. We shall have our deliberations, and we are very grateful to you.

***Adam Holloway:*** Thank you for having me. I will not be seeing you again.

**Chair:** We will be the judge of that.