



House of Commons  
Committee on Standards

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**Mr Owen Paterson**

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**Third Report of Session 2021–22**

*Report, together with formal minutes relating  
to the report*

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## Committee on Standards

The Committee on Standards is appointed by the House of Commons to oversee the work of the Parliamentary Commissioner for Standards, except in relation to the conduct of individual cases under the Independent Complaints and Grievance Scheme; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members' Financial Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in the Code of Conduct which have been drawn to the Committee's attention by the Commissioner; and to recommend any modifications to the Code of Conduct as may from time to time appear to be necessary.

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[Tammy Banks](#) (*Lay member*)

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The current staff of the Committee are Paul Connolly (Media Relations Manager), Arvind Gunnoo (Committee Operations Officer), Dr Robin James (Clerk), and Stuart Ramsay (Second Clerk).

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# Report

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1. This report arises from an investigation that the Parliamentary Commissioner for Standards opened on her own initiative in October 2019 following media reports alleging that Rt Hon Owen Paterson MP had lobbied for two companies for which he was a paid consultant.
2. The Commissioner has supplied us with a memorandum relating to these matters, which we publish as an appendix to this report.<sup>1</sup> Mr Paterson provided us with further written evidence, which we also publish as an appendix to this report. Mr Paterson also opted to give oral evidence; a transcript of that evidence is available on our website. We found this to be a very helpful session and are grateful to Mr Paterson for his attendance and explanations.
3. Full details of the Commissioner's inquiry and her findings are set out in the memorandum. We summarise them briefly before setting out our own analysis and conclusions which take into account all the written and oral evidence from Mr Paterson.
4. Mr Paterson has made serious allegations about the process followed in his case. We assess these allegations in detail at the end of this report, and set out our reasons for rejecting them.
5. We are painfully conscious that Mr Paterson lost his wife in tragic circumstances in June 2020; and we wish to express our deepest sympathy to him for his loss. This last year must have been very distressing for him and we have taken these circumstances fully into account in considering Mr Paterson's conduct during the period of the investigation. We have striven to ensure that Mr Paterson has had every opportunity to represent himself as fully as possible before the Committee, in person and in writing. We have extended deadlines at his request and we have accepted his request to be accompanied by his legal advisers and to make a formal opening statement to us.<sup>2</sup> The allegations against him, which are the subject of the Commissioner's memorandum, relate to his conduct between October 2016 and February 2020, before Mrs Paterson's death. It is these allegations on which we are required to adjudicate, impartially, without fear or favour, and with a sole eye to the rules of the House and the requirements of natural justice.

## The Commissioner's findings

6. Mr Paterson has been a paid consultant to Randox, a clinical diagnostics company, since August 2015. He has also been a paid consultant to Lynn's Country Foods, a processor and distributor of meat products including 'nitrite-free' products, since December 2016. The relevant parts of his entry in the Register of Members' interests were as follows:

From 1 August 2015 until further notice, Consultant to Randox Laboratories Ltd, a clinical diagnostics company, of 55 Diamond Road, Crumlin BT29 4QY. I consulted the Advisory Committee on Business Appointments

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1 Written evidence accompanying the Commissioner's memorandum is published on the Committee's webpages, as well as further correspondence from Mr Paterson and from the Commissioner.

2 See paragraph 161 below.

about this role. From 20 April 2017, I expect to receive £8,333 a month for a monthly commitment of 16 hours. (Registered 07 October 2015; updated 26 April 2017)

From 14 December 2016, consultant to Lynn's Country Foods Ltd, a processor and distributor of sausages in the United Kingdom, of Down Business Park, 46 Belfast Road, Downpatrick BT30 9UP. Until further notice I expect to receive £2,000 for 4 hrs every other month (24 hrs a year) to a total of £12,000 per annum. First payment received on 25 January 2017. (Registered 27 January 2017; updated 22 February 2017).<sup>3</sup>

7. Mr Paterson told the Commissioner that the only occasions on which he has engaged with Ministers or public officials on behalf of Radox and Lynn's are those which were the subject of her investigation.<sup>4</sup>

### ***Paid advocacy***

8. The Commissioner found that Mr Paterson had breached the rule prohibiting paid advocacy, set out in paragraph 11 of the 2015 Code of Conduct for Members, in making three approaches to the Food Standards Agency relating to Radox and the testing of antibiotics in milk in November 2016 and November 2017; in making seven approaches to the Food Standards Agency relating to Lynn's Country Foods in November 2017, January 2018 and July 2018; and in making four approaches to Ministers at the Department for International Development relating to Radox and blood testing technology in October 2016 and January 2017.

### ***Declaration of interests***

9. The Commissioner found that Mr Paterson had breached paragraph 13 of the 2015 Code of Conduct, on declarations of interest, by failing to declare his interest as a paid consultant to Lynn's Country Foods in four emails to officials at the Food Standards Agency on 16 November 2016, 15 November 2017, 8 January 2018 and 17 January 2018.

### ***Use of parliamentary facilities***

10. The Commissioner found that Mr Paterson breached paragraph 15 of the 2015 Code of Conduct, on use of parliamentary facilities, by using his parliamentary office on 25 occasions for business meetings with his clients between October 2016 and February 2020; and in sending two letters, on 13 October 2016 and 16 January 2017, relating to his business interests, on House of Commons headed notepaper.

### **Mr Paterson's position**

11. Mr Paterson has acknowledged that he breached the rules of the House in using House of Commons headed notepaper on two occasions for correspondence relating to his business interests, and has apologised to the Commissioner and to us for doing so. We are grateful to him for this.

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3 Appendix 1, para 5

4 Appendix 1, para 10; Appendix 2, para 4.11

12. Mr Paterson maintains that he has not breached the Code in any other respect.
13. In addition, Mr Paterson has raised a number of serious allegations relating to the process in this case.
14. We set out in detail below our analysis and conclusions in respect of each of the Commissioner’s findings, then turn to address Mr Paterson’s arguments relating to the process of investigation and adjudication in this case.

## **Paid advocacy**

### ***Relevant rules of the House***

15. Paragraph 11 of the 2015 Code of Conduct provides that:

No Member shall act as a paid advocate in any proceeding of the House.

16. The paid advocacy rule incorporates the lobbying rules as set out in Chapter 3 of the Guide to the Rules. Paragraph 8 of Chapter 3 of the 2015 Guide to the Rules states:

The [lobbying] rules place the following restrictions on Members:

a) When initiating proceedings or approaches to Ministers, other Members or public officials. Subject to paragraph 10 below, Members must not engage in lobbying by initiating a proceeding or approach which seeks to confer, or would have the effect of conferring, any financial or material benefit on an identifiable person from whom or an identifiable organisation from which they, or a family member, have received, are receiving, or expect to receive outside reward or consideration, or on a registrable client of such a person or organisation.<sup>5</sup>[...]

17. Paragraph 9 of Chapter 3 of the 2015 Guide to the Rules provides:

Exceptionally, a Member may approach the responsible Minister or public official with evidence of a serious wrong or substantial injustice even if the resolution of any such wrong or injustice would have the incidental effect of conferring a financial or material benefit on an identifiable person from whom or an identifiable organisation from which the Member, or a member of his or her family, has received, is receiving or expects to receive, outside reward or remuneration (or on a registrable client of that person or organisation).<sup>6</sup>

18. Mr Paterson does not dispute that, during the events investigated by the Commissioner, he was in receipt of “outside reward or consideration” from Randox and from Lynn’s Country Foods. The rules of the House therefore restricted Mr Paterson from initiating approaches to Ministers, Members, or public officials which sought to confer, or would have the effect of conferring, a financial or material benefit on Randox or Lynn’s Country Foods, unless the “serious wrong” exemption in paragraph 9 applies.

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5 [Code of Conduct together with the Guide to the Rules relating to the conduct of Members](#), 18 March 2015 (HC 1076), Chapter 3, para 8(a)

6 2015 Guide to the Rules, Chapter 3, para 9

19. We note that breach of paragraph 8(a) does not depend whether the lobbying is successful, nor on whether the Member was motivated, or motivated primarily, by the conferral of any benefit. Nor is paragraph 8(a) breached solely where the Member personally seeks to confer a benefit during an approach: it is sufficient that a Member initiates an approach which seeks to confer, or has the effect of conferring, a benefit.

20. The Guide to the Rules explains the purpose behind the lobbying rules as follows:

The rules on lobbying are intended to avoid the perception that outside individuals or organisations may reward Members, through payment or in other ways, in the expectation that their actions in the House will benefit that outside individual or organisation, even if they do not fall within the strict definition of paid advocacy. They prevent a Member initiating proceedings or approaches to Ministers, other Members or public officials which would confer a financial or material benefit on such a person or organisation. These rules are intended to provide the right balance between enabling Members to bring to bear their experience outside the House on matters of public policy while avoiding any suggestion that the parliamentary or policy agenda can be set by an outside individual or organisation making payments to a Member.<sup>7</sup>

21. The lobbying rules also provide for Members to release themselves from the restrictions, and thereby resolve any conflict of interest, by repaying any sums received within the relevant time limits:

A Member can free him or herself immediately of any restrictions due to a past benefit by repaying the full value of any benefit received from the outside person or organisation in the preceding six month period.

22. Mr Paterson seeks, in a number of instances, to rely upon the “serious wrong” exemption in paragraph 9 of Chapter 3 of the Guide, as set out above. The inclusion of this paragraph in the Guide was recommended to the House by the Committee on Standards and Privileges in 2012. In the report on proposed changes to the Guide, the Committee commented:

We have inserted a “whistle-blowing” provision to make clear that in exceptional cases, where there is some serious wrong or substantial injustice a Member may approach the responsible Minister or public official even if doing so might incidentally benefit a paying client.<sup>8</sup>

23. The serious wrong exemption is not a blanket exemption that can be invoked at will after the event. Four criteria are required for it to apply. Firstly, it can only be relied upon in an exceptional instance. Secondly, the whole approach—rather than just aspects of it—must fit the criteria. Thirdly, the benefit that might accrue to the third party must be entirely incidental and not integral to the approach. And fourthly, there must be evidence of a serious wrong or substantial injustice.<sup>9</sup> The exemption is—and must be—a narrow exemption, not a wide loophole.

<sup>7</sup> Guide to the Rules, Chapter 3, para 4

<sup>8</sup> Committee on Standards and Privileges, Third Report of Session 2012–13, Proposed Revisions to the Guide to the Rules relating to the conduct of Members, HC 636

<sup>9</sup> Guide to the Rules, Chapter 3, para 9

24. We address the question of whether Mr Paterson’s approaches were “exceptional” in paragraphs 108 to 111 below. Mr Paterson has also disputed the Commissioner’s interpretation of the “serious wrong” exemption. Mr Paterson states in his written evidence:

The Commissioner states my actions must be limited to providing evidence. The Rule does not state this. It enables an approach to be made “with evidence”, not limited to the provision of evidence. Any approach will include more than just the evidence for example:

(a) Context will need to be given so the importance and accuracy of the evidence can be known;

(b) The Member may be well placed to assist on resolution, using expertise in this regard;

(c) It matters that the disclosure is acted upon, it would be ridiculous if the Member could not follow up to make sure the issue was being or had been effectively addressed. This is what I did with milk for example.<sup>10</sup>

25. We agree with Mr Paterson that the exemption logically extends to closely related matters such as the context. But this cannot be taken to extend to the promotion of a firm or a product, or whether or not the firm or product might be of assistance in rectifying the alleged wrong or injustice. Nor can it extend to further approaches or follow-ups in person or in writing, particularly where these actions might promote a product or confer a benefit, or raising other matters, which seek to confer a benefit. That would be to drive a coach and horses through the exceptional criterion of the exemption. The exemption is not a broad ‘public interest’ test. Members are prohibited from initiating approaches or proceedings for reward or consideration except in very narrow circumstances, regardless of whether or not they consider the cause for which they are lobbying to be in the public interest.

26. Mr Paterson has also argued in correspondence to the Commissioner that the term “incidental” in paragraph 9 simply means “as a consequence of”.<sup>11</sup> The Commissioner, in her analysis, has contrasted an incidental benefit with an intended outcome of the approach. Mr Paterson has therefore argued that the Commissioner has wrongly included an additional “financial test” when she has found that the benefit that the approach sought to confer or would have the effect of conferring, was not “incidental”.<sup>12</sup>

27. Mr Paterson is mistaken. On his reading of the word ‘incidental’, not only would the sentence have the same meaning as if ‘incidental’ were omitted altogether, but the exemption would apply even if the Member deliberately intended the approach to confer a financial or material benefit. That would be in open contradiction to the prohibition on initiating approaches or proceedings in return for reward or consideration. It would involve a Member knowingly pursuing a private interest while claiming an exemption in the public interest. We consider that our predecessor Committee intended that the serious

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10 Appendix 2, para 8.7.4

11 Written Evidence 43

12 Written Evidence 43

wrong exemption would only apply if the relationship between the resolution of the wrong and the benefit conferred was ‘merely’ incidental, that is, if it would be a mere side-effect of the resolution, rather than integral to the approach.

28. It is, in our view, a moot point whether the public policy matters to which Mr Paterson has referred in this case—antibiotics in milk, nitrites in bacon, and calibration of laboratory equipment—are “serious wrongs” or “substantial injustices”. This is not, however, to say that applying such a test might not be necessary in a future case which sought to rely on this exemption. We accept at face value that Mr Paterson thinks they are. The question we therefore have to consider is whether the relevant approaches fell wholly within the serious wrong exemption, namely, whether Mr Paterson confined himself in his approaches to providing evidence of a serious wrong or substantial injustice, and whether his approaches would only incidentally benefit the organisation for which he was a consultant.

29. In oral evidence, Mr Paterson argued that, when it was suggested to him there was a conflict of interest between his paid role and his approaches to Ministers and public officials which was prohibited by the rules, this implied that Members should not have paid outside interests:

The extension of your view is that we should have no outside interests at all. That is a perfectly logical conclusion, but that is not the current position. The current position is you are allowed to be paid by an outside interest as long as you adhere to the rules. I adhered to paragraph 9. I am absolutely clear about that.<sup>13</sup>

Mr Paterson made a similar point in relation to his approaches to the Department for International Development in relation to Radox and blood testing:

What is good about it—this is why I believe people should have outside interests—is that I was made aware of these technologies, which people working hard in Whitehall offices are not, so I brought new ideas to the Government.<sup>14</sup>

30. Mr Paterson is correct that the lobbying rules are not designed to prevent Members from holding outside interests and from being able to contribute on the basis of their outside experience and expertise. The primary way in which this is facilitated is through the provision for a Member “participating” in proceedings or approaches, which is subject to a weaker “exclusive” benefit test and a requirement that proceedings or approaches are not initiated by the person or organisation paying the Member.<sup>15</sup> So, for example, a Member may, under the rules, make a speech in a debate, make an intervention in debate, participate in an approach to a Minister, or ask a question in a select committee hearing which might confer a benefit on a paying client, so long as it does not seek to confer a benefit *exclusively* on the person or organisation paying the Member (and the proceeding or approach is not initiated by the Member or the client).<sup>16</sup> What is more strictly prohibited under the rules is initiation—of both proceedings and approaches, to avoid any perception that a paying client is able to set the parliamentary or policy agenda.

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13 Q31

14 Q18

15 Guide to the Rules, Chapter 3, para 8(b)

16 Guide to the Rules, Chapter 3, para 8(b)

### **Contact with the Food Standards Agency regarding Randox and milk testing**

31. Mr Paterson has said that he was made aware of concerns about the level of antibiotics in samples of supermarket milk analysed by Randox in November 2016. Mr Paterson called the then Deputy Chair of the Food Standards Agency (FSA) on 7 November and arranged an urgent meeting with the Chair and officials at the FSA and Randox on 15 November 2016. Mr Paterson met the FSA again on 15 November 2017. Mr Paterson also corresponded with the FSA Chair and officials at this time.

32. The Commissioner found on the evidence presented to her that the meeting on 15 November 2016 was focussed solely on alerting the FSA to the test results, and that the approach was not therefore seeking to confer, nor would have the effect of conferring, a benefit on Randox. However, the Commissioner found that Mr Paterson's email following the 15 November meeting, on 16 November 2016, his meeting on 15 November 2017 and his email of 15 November 2017 breached paragraph 11 of the 2015 Code of Conduct because they sought to confer, or had the effect of conferring, a benefit on Randox, and that the serious wrong exemption did not apply.

33. Mr Paterson does not dispute that he initiated these approaches. Mr Paterson argues that (a) no benefit could have been conferred on Randox in these approaches and (b) that he was acting within the serious wrong exemption.

34. Mr Paterson's email to FSA officials on 16 November 2016 read as follows:

Many thanks for reacting so quickly to my call to [name] last week and agreeing to meet key technicians from Randox Laboratories. It was great to meet you all again. We rapidly agreed that what Randox's superior technology has uncovered is shocking and potentially incredibly damaging to the UK Dairy Industry. It is not good that illegal products have not been detected by the current testing regime in retail milk. It is also bad that the current systems miss certain illegal products which Randox can detect. You agreed to begin an enhanced programme of testing for the illegal substances which Randox have discovered. We agreed Randox should test the same samples in parallel so results can be compared. You were interested in using the Randox technology within the FSA. You offered to help with ISO 7025 accreditation at a suitable laboratory. Once established the application of the technology could be discussed not just within the FSA but across the whole dairy industry. This could lead to a much rapider and more thorough testing regime of huge value to U.K. Dairy promotion at home and abroad in the future. You suggested discussing the revelations on antibiotics with [name redacted] the Chief Vet. In the meantime, although none of us could have reacted quicker to the information I was given 10 days ago by Randox, we agreed that you should agree defensive lines on immediately increasing testing should the news get out. Looking further ahead, [one of your FSA colleagues] mentioned the issue of mycotoxins in maize and I have long been worried about the potentially explosive danger of campylobacter in chickens. It would be good if he could liaise with Randox and discuss further how their latest technologies might help on grain and meat. Thank

you once again for agreeing to meet so quickly and for reacting in such a constructive manner to what is very unwelcome news for us all. Let's keep in touch and plan to meet again in the New Year.<sup>17</sup>

35. The Commissioner found that Mr Paterson went beyond providing evidence of a serious wrong, in going on in his email of 16 November 2016 to promote Radox products and seek benefits for Radox.<sup>18</sup> The Commissioner stated that those benefits included assistance with accreditation for the FSA to use Radox technology, and opportunities for unrelated testing on grain and meat.<sup>19</sup>

36. The former Deputy Chair of the FSA stated that Radox's testing technology was relatively new, and that accreditation would have been "required to verify the findings before taking action".<sup>20</sup> Mr Paterson has stated in evidence to the Commissioner that "having an accreditation would permit the FSA to accept Radox test results and that would benefit the FSA not Radox, as the FSA doesn't test milk."<sup>21</sup>

37. In his interview with the Commissioner, Mr Paterson clarified:

*OP:* I mean, it would be a benefit to British consumers in the dairy industry to have a more modern technology.

*PCS:* Would it be a benefit to the company to be accredited?

*OP:* Only if the technology was taken up.<sup>22</sup>

38. Mr Paterson described in his email to the Chair of the FSA that, once the Radox technology had been accredited and "established", application of it "could be discussed not just within the FSA but across the whole dairy industry".<sup>23</sup>

39. We accept Mr Paterson's argument that the immediate benefit of accreditation would have been to verify the test results Radox had produced. However, as Mr Paterson appears to acknowledge in his interview with the Commissioner and in his email to the Chair of the FSA, there would nevertheless also be greater future commercial opportunities for Radox as a supplier of an accredited technology.

40. Mr Paterson told us in written and oral evidence that the reference to testing on grain and meat in his email was included as the FSA's Chief Scientific Officer raised the issue in the meeting on 15 November 2016. Mr Paterson told us in oral evidence:

*Mr Paterson:* That was raised by Professor Poppy, who was very interested in the technology. He was interested in mycotoxins.

*Andy Carter:* Your email, as an MP being paid, to somebody who was in the FSA—

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17 Written Evidence 6i

18 Appendix 1, paras 61–62, paras 74–75

19 Appendix 1, para 69

20 Written Evidence 25xxvii

21 Written Evidence 43

22 Written Evidence 35

23 Written Evidence 6i



*Mr Paterson:* No, but he raised it. I was answering his question. I didn't raise that. As the chief scientist, he was very interested in this new technology and said could it apply to—I think he actually talked about chickens as well. [...] That, on the rules, I am clear about: they raised that with me. I cannot not answer it.<sup>24</sup>

41. The Commissioner found that, irrespective of whether the Chief Scientific Officer raised the issue in the meeting, Mr Paterson raised the issue in a separate approach. We agree. Even if an FSA official had raised the issue of grain and meat in the meeting, Mr Paterson was not permitted under the rules to seek to promote other Radox technologies in a separate approach by email.

42. Mr Paterson called a further meeting with the FSA a year later, on 15 November 2017, because he considered that the FSA had not taken adequate action. Mr Paterson maintains he was acting within the serious wrong exemption in following up his original disclosure. Mr Paterson sent an email following the meeting as follows:

We discussed illegal substances which are still being detected in retail milk by Radox's equipment at levels which are too low for other current testing technologies to detect. Several large commercial dairies are extending their use of Radox testing. It would be great if you could call a meeting with the VMD [Veterinary Medicines Directorate] to ensure that Government agencies do not fall behind. I look forward to hearing from you. Many thanks again.<sup>25</sup>

43. We asked Mr Paterson in oral evidence what he meant by the phrase “call a meeting [...] to ensure that Government agencies do not fall behind”. Mr Paterson responded:

[...] The FSA was sleepy and did not recognise the advantage of this technology. That is what happened in the course of the year—the commercial dairies did move ahead. I am obviously talking to the dairies on my patch the whole time. It was really important that the top Government agency realised that there was this equipment, which could go right down to one or two parts per billion. [...]

NML [National Milk Laboratories] was already using the equipment. What we wanted was for the FSA to pay attention to their results. A couple of years before, they were doing it. I think Ben Bartlett says in his evidence that they are doing about 70 or 80 Radox tests a week, as opposed to about 100,000 with a Delvotest, which is still going on. What I wanted to do was make sure they did use that information. That is what I mean by falling behind.<sup>26</sup>

44. We are not convinced that the phrase “do not fall behind” in testing can reasonably be taken to mean the same as “paying attention to” when it is contrasted with commercial dairies “extending their use” of Radox testing. Regardless, as the Commissioner noted, “if government agencies started to use Radox technology for testing other food substances, or organisations already using Radox technology increase their dependence on it, this

24 Qq25–26

25 Written Evidence 6iii

26 Qq23–24

could help with expanding Radox's markets and customer base".<sup>27</sup> The Commissioner accepts that "commercial uptake [...] would not immediately have followed from a single meeting with the VMD", but that it is "not necessary for these benefits to have materialised for me to make a finding of paid advocacy".<sup>28</sup>

45. The Commissioner has concluded that "paragraph 9 does not provide Members with a blanket exception or override the rule on paid advocacy", and that "Mr Paterson did not confine himself to raising the serious wrong which Radox had discovered".<sup>29</sup>

**46. The Commissioner has accepted, as we do, that Mr Paterson's initial approaches to the Food Standards Agency in respect of milk testing did not seek to confer a benefit. The Commissioner therefore found that Mr Paterson's call to the then Deputy Chair of the FSA on 7 November 2016 and the initial meeting on 15 November 2016 were not in breach of the rules.**

47. **The Commissioner found, however, that Mr Paterson went beyond presenting evidence of a serious wrong in his approaches following the initial meeting. We agree. As evidenced in his own contemporary emails, Mr Paterson's further approaches sought to promote Radox products, including their 'superior technology' and thereby sought to confer benefits on Radox. There may have been no financial benefit to Radox arising immediately from his approaches, but Mr Paterson sought assistance with accreditation for Radox's technology; he promoted other, unrelated, Radox technologies; and he sought to promote Radox testing by government agencies. These were all attempts to confer a benefit on Radox, to whom he was a paid consultant.**

48. **We therefore agree with the Commissioner that Mr Paterson breached paragraph 11 of the 2015 Code of Conduct, on paid advocacy, in his email of 16 November 2016, his meeting of 15 November 2017 and his email of 15 November 2017.**

### ***Contact with the Food Standards Agency regarding Lynn's Country Foods in 2017***

49. Mr Paterson contacted the Food Standards Agency and met with FSA representatives and with Lynn's Country Foods on 15 November 2017, after which he sent a follow-up an email to FSA officials. Mr Paterson says that he was approaching the FSA with a serious wrong, namely, that a global food producer was acting in breach of EU law by mislabelling a product.

50. The Commissioner found that Mr Paterson breached the paid advocacy rule by initiating approaches to officials at the Food Standards Agency in the meeting of 15 November 2017 and his email of 15 November 2017.

51. The Commissioner has explained why she considers that Mr Paterson's approach was initiated by him:

The meeting on 15 November 2017 was arranged at Mr Paterson's request. Mr Paterson then sent a follow up email on his own initiative. Therefore, I find that this meeting and Mr Paterson's follow up email were approaches

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27 Appendix 1, para 64

28 Appendix 1, para 66

29 Appendix 1, para 80

initiated by Mr Paterson. Mr Paterson's position is that the approach to the FSA was initiated by Lynn's because of their concerns about the global producer's product. I accept that Lynn's had approached the FSA NI in February 2017, but I view the contact by Mr Paterson in November 2017 as a fresh approach for two reasons. Firstly, nine months had passed since the original approach by Lynn's and secondly Mr Paterson approached the FSA in London and not (as Lynn's had) the FSA NI.<sup>30</sup>

52. We agree with the Commissioner that this should be considered as a separate approach by Mr Paterson. We also note that, even if the Commissioner had found that Mr Paterson had participated in an approach by Lynn's, this would be still be prohibited under paragraph 8(b) of Chapter 3 of the Guide, which provides that:

When participating in proceedings or approaches to Ministers, other Members or public officials [...] Members may lobby by participating in such proceedings or approaches which would confer a financial or material benefit on the [...] identifiable organisation from which they, or a family member, have received, are receiving or expect to receive outside reward or consideration [...] provided that that person or organisation (or their client) has not initiated the event.

Under Mr Paterson's interpretation, the approach would still have been initiated by the organisation paying him, and so Mr Paterson would not have been permitted to participate in their approach. The very fact, however, that Mr Paterson was seeking to secure a meeting that Lynn's had already failed to secure suggests that he was seeking to confer a benefit—namely a meeting with senior public officials—on Lynn's.

53. Mr Paterson maintains that he was approaching the FSA with evidence of a serious wrong, and that his approaches therefore fell under the exemption in paragraph 9 of Chapter 3 of the Guide to the Rules:

Kerry Foods, which is one of the world's largest producers of processed meats and based in Kerry in the Republic of Ireland, launched an "all naturally cured" ham that was said to be chemical free. It was tested and found to contain a concealed, prohibited by law, carcinogenic chemical, namely nitrite extracted from vegetables (celery).<sup>31</sup>

I did [...] approach the FSA with evidence of the serious harm this product would cause and as a result of my intervention the product was made safe.<sup>32</sup>

54. Mr Paterson also maintains that Lynn's could not have benefited since its product was not a direct competitor.<sup>33</sup> We address this below in considering the question of whether any benefit to Lynn's was incidental.

55. The Commissioner found that Lynn's stood to benefit from Mr Paterson's approach:

Had these approaches been successful, a competitor product would have been removed from the UK market, or relabelled, with consumer choice

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30 Appendix 1, para 127

31 Appendix 2, para 2.21

32 Appendix 2, para 2.24

33 Appendix 2, para 2.25

and sales of “clean label” bacon being directed towards Lynn’s new product. It is not necessary for these benefits to have materialised for me to make a finding of paid advocacy. The paid advocacy rule is clear that seeking to confer a financial or material benefit amounts to a breach of the rule. The financial or material benefit does not need to be achieved for a breach to have occurred.<sup>34</sup>

56. Mr Paterson has stated, supported by witness statements, that he was motivated by what he considered to be a serious wrong.<sup>35</sup> However, Mr Paterson’s own subjective motivations are not the test under the lobbying rules. Rather, the tests are whether Mr Paterson initiated an approach which sought to confer, or would have the effect of conferring, a benefit on Lynn’s; and whether Mr Paterson was approaching the FSA with evidence of a serious wrong, the resolution of which would only incidentally benefit Lynn’s.

### *Was the benefit incidental?*

57. Mr Paterson stated in his written evidence that the product about which he approached the FSA was not a competitor to Lynn’s own product:

This was of no benefit whatsoever to Lynn’s whose primary product range is bacon and sausages. The Commissioner, without any evidence whatsoever, asserts that I was seeking to clear a competitor’s product to benefit Lynn’s. Not only is there no evidence of this, it is with the greatest respect a figment of the Commissioner’s imagination and not based on any facts whatsoever.<sup>36</sup>

58. In oral evidence before us, however, Mr Paterson conceded that Kerry’s was a competitor of Lynn’s:

*Mr Paterson:* No, Lynn’s were developing a bacon at the time, as were several other companies around Europe. Kerry’s product was ham, and Kerry’s has continued to sell the ham—it is still available. It was not knocking a competitor out of the market at all. It was just making sure that the competitor properly manufactured and marketed the product.

*Chair:* So you’re saying that it was a competitor? Because your argument is that it was not a competitor.

*Mr Paterson:* Kerry’s is a great big meat company, as are Nestlé and others. They are in the world of selling meat.

*Chair:* So they are a competitor. You accept that they are a competitor?

*Mr Paterson:* Again, you’d have to ask Lynn’s exactly which products were being sold by which company. At the time, I was concerned about the carcinogenic ham being targeted at young children. The formula was changed and the marketing was changed. At the time, Lynn’s were developing a nitrite-free bacon, which is a completely separate product.<sup>37</sup>

34 Appendix 1, para 137

35 Appendix 2, 10.20, 10.33.2

36 Appendix 2, para 2.25

37 Qq66–68

59. In his later email to the FSA on 17 January 2018, Mr Paterson also appears to describe the Lynn’s product—not just Lynn’s as a firm—as a competitor to the Kerry Foods product, by virtue of both being marketed as ‘natural’ or ‘nitrite-free’:

[...] Other processors in the UK are also carrying out their own trials on products made with Vegetable derived Nitrites as a way to compete with the Finnebrogue ‘Made without Nitrite’ products. Professor [name redacted] highlighted how, in the US and Canada, customers created a backlash when they perceived they were being conned by this nitrite technology and I fear that this could also happen in the UK.

Any backlash will dilute customer confidence further. It will actually destroy the potential health benefits that the Finnebrogue products and similar future competitive products could bring to the health of the nation by removing nitrites, with their long-associated health concerns.<sup>38</sup>

60. The Technical Director of Lynn’s, in his witness statement, refers to Lynn’s concerns that consumers who were seeking nitrite free products might be “misled” into buying the Kerry’s product:

Lynn’s were extremely concerned that this product should be allowed to be marketed as “all natural” and without nitrites, when this was not at all the case. Not only were consumers being deliberately misled as to the ingredients of the product, but consumers actively trying to seek out a nitrite free product would also be misled into buying this product.<sup>39</sup>

This suggests that Lynn’s perceived that there was a distinct market for nitrite-free products.

61. In his email of 15 November 2017, Mr Paterson also sought to secure a letter from the FSA to Lynn’s or the trade press stating that the Food Safety Authority of Ireland had required Kerry Foods to relabel or reformulate their product:

You would write to Finnebrogue [a company owned by Lynn’s Country Foods] or the trade press confirming the above action. This letter could then be used to warn the multiples and other suppliers not to use this form of additive/technology in the future.<sup>40</sup>

This additional request, in particular the reference to promotion to the trade press, suggests that the approach was not solely concerned with the reformulation or relabelling of a product, but also with placing Lynn’s at an advantage in relation to their competitor.

**62. The serious wrong exemption requires that any benefit conferred is only “incidental” to the resolution of a serious wrong. Mr Paterson may have been approaching the Food Standards Agency with evidence of what he considered to be a serious wrong, but his clients, Lynn’s, did stand to benefit directly from his approach. Mr Paterson has conceded that Kerry Foods was a competitor to Lynn’s. Mr Paterson sought to have one of Lynn’s competitors forced to re-label their product so as not to**

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38 Written Evidence 6x

39 Written Evidence 25xi

40 Written Evidence 6viii

compete with Lynn’s own nitrite free products. He asked for this fact to be promoted in the press. This benefit cannot properly be regarded as incidental. Rather, the benefit to Lynn’s was integral to the approach.

63. We therefore agree with the Commissioner that Mr Paterson breached paragraph 11 of the 2015 Code of Conduct, on paid advocacy, in his approaches to officials at the Food Standards Agency in his meeting of 15 November 2017 and his email of 15 November 2017.

### ***Contact with the Food Standards Agency regarding Lynn’s Country Foods in January 2018 and July 2018***

64. Mr Paterson called the Chair of the Food Standards Agency on 8 January 2018 regarding the “Prosur” ingredient in Lynn’s own product, Finnebrogue bacon,<sup>41</sup> and followed up with an email that same day, to arrange a meeting on 15 January 2018, which he followed up with an email on 17 January 2018. Mr Paterson also arranged a further meeting on 9 July 2018 which he followed up with an email on 11 July 2018. We have considered these approaches separately, since they appear to us to be dealing with a separate issue.

65. The Commissioner found that Mr Paterson breached the paid advocacy rule by initiating approaches to public officials at the Food Standards Agency on behalf of Lynn’s Country Foods in his phone call and email on 8 January 2018, his meeting on 15 January 2018, his email of 17 January 2018, and his meeting of 9 July 2018.

66. Mr Paterson maintains that he did not breach the paid advocacy rule in his contacts with the FSA in January 2018 and July 2018 which related to the “Prosur” ingredient in Lynn’s own product because he claims this issue was initially raised by the FSA. Mr Paterson told us in oral evidence:

That was raised by the FSA, and the rules are absolutely clear: if a public authority raises an issue, you are allowed to discuss it, and I was involved in the discussions.<sup>42</sup>

Mr Paterson also said that:

All my dealings with the FSA were to do with stopping the Kerry’s product being sold and getting the FSA to talk to the Irish authorities to get the formula changed and the marketing changed, which is effectively done. [...] We then got snarled up in all this stuff on the formulation and the misunderstanding about what Lynn’s were actually doing.<sup>43</sup>

67. We agree with Mr Paterson that the rules do not prohibit a Member participating in a discussion where the Member is approached by someone else. However, we cannot accept the interpretation that the FSA had “raised the issue” with Mr Paterson, and that Mr Paterson was simply “involved” in the discussions. Mr Paterson’s own email to the Chair of the FSA on 8 January 2018 read as follows:

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41 Prosur is a company that creates and produces preservatives. Their product was used by Lynn’s to preserve bacon and ham products. See Appendix 1, Appendix 4 to the Memorandum.

42 Q66

43 Q121

Many thanks for your time on the phone just now. We agreed that we need to meet urgently with you and your technical team to discuss the FSA's interpretation of 'Nitrite Free' following [the Professor of Food Safety's] letter to me dated 3.1.18 [...] in response to [a FSA official's] letter to [Lynn's CEO] dated 24 November 17. This is even more urgent now that you have received an RASFF notification from Ireland and France about the Prosur product. This seems extraordinary as products using these Prosur natural ingredients have been approved and sold in France for over a year. Having invested £14m in a new plant and having taken on 100 new employees, [Lynn's CEO] is extremely concerned about what looks to be a concerted attack on his Nitrite Free product (which could reduce the 6500 annual deaths from colorectal cancer) by producers of processed meats which contain nitrites but who are deliberately and misleadingly selling them to the public as nitrite free [...] My office will contact to set this up as rapidly as possible.<sup>44</sup>

68. Mr Paterson's email suggests that his telephone call was prompted, in large part, by a Rapid Alert System for Food and Feed (RASFF) notification about the ingredient in Lynn's own product. The RASFF notification system is operated by the European Commission to exchange information on hazards in food. Such a notification could have resulted in regulatory action against, and reputational damage for, Lynn's. We note that Mr Paterson's email also focussed on the "attack" on Lynn's product and the need to protect Lynn's recent investment.

69. Mr Paterson's approaches appear initially to have averted regulatory action. His email to the Chair of the FSA on 11 July 2018, sent following the meeting on 9 July 2018, stated:

[...] We had a very constructive discussion and your proposal to write to all the other European agencies who have approved products using the Prosur process seems a good way forward. I would be grateful if you could send me a copy of the email that you are sending out. In the meantime, you confirmed that you had not so far referred the Finnebrogue bacon to the European agency.<sup>45</sup>

70. That Mr Paterson's approach in January 2018 was in response primarily to the RASFF notification is supported by the statement made by the Technical Director of Lynn's, which states that:

Following this [November 2017] meeting, in early January 2018, we became aware of a separate issue which had arisen. A RASFF (Rapid Alert System for Food and Feed) notice was made against the Prosur product which is the product which Lynn's were using in our own nitrite free product. [...] Mr Paterson made contact with [Chair] of the FSA on 8 January 2018 to facilitate a meeting regarding this new issue being raised by the FSA.<sup>46</sup>

This statement also confirms that the RASFF notification was not raised in a meeting, but rather occurred in "early January 2018", following the November 2017 meeting.

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44 Written Evidence 25iv

45 Written Evidence 6xiii

46 Written Evidence 25xi

71. The statement by the Legal Adviser to Lynn's Country Foods confirms this timeline of events, and stated his understanding that Mr Paterson's email on 8 January 2018 was about both the Prosur ingredient and nitrites generally:

In early January 2018, our office received a notification from LCF that a formal interagency notice had been filed by the FSAI with FSA relating to the Prosur product. From recollection, it was at this time that I had my first direct dealings with Owen Paterson in relation to these matters. [...]

I recall that on 10 January 2018 I had been copied into an email that Mr Paterson had sent to [FSA Chair] on 8 January 2018, requesting an urgent meeting with the FSA in relation to LCF's general concerns about nitrite levels in traditionally manufactured processed meats and separately about the enquiry into the Prosur ingredients.<sup>47</sup>

72. We asked Mr Paterson during oral evidence when he first heard about the RASFF notification. Mr Paterson responded that he could not remember when the RASFF notification regarding Lynn's own ingredient was raised, and invited us instead to consult the witness evidence he had provided.<sup>48</sup>

73. The fact that the FSA had previously raised with Lynn's, in a meeting at which Mr Paterson was present, the issue of the ingredients in Lynn's own product does not mean that any future contact made independently by Mr Paterson can be considered as the FSA "raising the issue". Mr Paterson called and emailed the Chair of the FSA on 8 January 2018 on his own initiative, to call an urgent meeting. The most reasonable conclusion, on the basis of Mr Paterson's email, and the statement provided by Lynn's Technical Director, is that Mr Paterson was prompted to do so having learned of the RASFF notification relating to an ingredient used in Lynn's own product. This specific issue could not have been raised in meetings with Mr Paterson, because Lynn's only learned of the notification in early January 2018. Nor can the RASFF notification itself reasonably be considered as the FSA raising an issue with Mr Paterson personally.

**74. Regardless of how the issue of the Prosur ingredient became linked with the issue of the alleged mislabelling of the Kerry Foods product, the most obvious interpretation of Mr Paterson's email of 8 January 2018, and the further approaches that followed from it, was that Mr Paterson was primarily approaching the Food Standards Agency to attempt to avert regulatory action against Lynn's arising from the RASFF notification in early January 2018. The FSA did not raise this issue with Mr Paterson. Mr Paterson raised it with them.**

**75. We therefore agree with the Commissioner that Mr Paterson breached paragraph 11 of the 2015 Code of Conduct, on paid advocacy, in his approaches to officials at the Food Standards Agency in his phone call on 8 January 2018, his email of 8 January 2018, his meeting on 15 January 2018, his email of 17 January 2018 and his meeting of 9 July 2018.**

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47 Written Evidence 25xiii

48 Qq120-121



### **Contact with the Department for International Development regarding Radox and blood testing**

76. Radox had written to the then Secretary of State for International Development, Rt Hon Priti Patel MP, on 28 July 2018 about international aid programmes and improving the reliability of laboratory results for blood testing, and seeking a meeting with Ministers.<sup>49</sup> Mr Paterson was aware of the letter, and told the Commissioner that he met the Secretary of State by chance on 12 October 2016, and wrote to her the next day requesting a meeting with him and Radox representatives. Mr Paterson subsequently met with a Radox Senior Manager and the Minister of State for International Development, Rory Stewart MP, on 12 January 2017, and sent a letter to the Minister following the meeting on 17 January 2017.<sup>50</sup>

77. The Commissioner found that Mr Paterson breached the paid advocacy rule by initiating approaches to Ministers at the Department for International Development on behalf of Radox in his approach to the Secretary of State on 12 October 2016, his letter on 13 October 2016, his meeting on 12 January 2017 and his letter on 17 January 2017.

78. Mr Paterson maintains that all his approaches to DfID Ministers fell within the serious wrong exemption.

79. Mr Paterson's letter to the Secretary of State on 13 October 2016 was written on House of Commons headed notepaper and read as follows:

Following our brief chat last night, I previously mentioned to you that I work with Radox Laboratories in Northern Ireland. They are convinced that their state of the art technologies could deliver dramatically better health outcomes with the same funds which DfID currently grant to health schemes in developing countries. [Two of my colleagues at Radox] will be in London on Monday 24th October and it would be brilliant if you could find time to meet me with them. Look forward to hearing from you.<sup>51</sup>

80. Mr Paterson claims that his approach to the Secretary of State on 12 October 2016 was a participation in Radox's approach in their letter of 28 July, which he followed up as soon as practicable given the summer parliamentary recess.<sup>52</sup> The Commissioner found that Mr Paterson initiated a new approach. As when Mr Paterson sought to secure a meeting with the FSA that Lynn's had already failed to secure (see paragraph 52 above), one benefit that Radox was seeking in writing to the Secretary of State was to make a presentation to Ministers, which they had failed to secure. This again suggests that Mr Paterson was seeking to confer a benefit on Radox. However, even if we found that Mr Paterson was participating in Radox's previous approach, this would still be prohibited under paragraph 8(b) of Chapter 3 of the Guide to the Rules, as Radox initiated an approach through their letter in July 2016.<sup>53</sup> We will therefore consider solely whether Mr Paterson's approaches to Ministers in the Department for International Development fell within the serious wrong exemption.

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49 Written Evidence 6iv

50 Appendix 1, paras 159–160

51 Written Evidence 6v

52 Appendix 2, paras 11.9–11.11

53 See paragraph 52 above.

### *What benefits were conferred?*

81. Mr Paterson has argued that the Commissioner’s finding has been made on the basis of a “caricature” of the process by which a Government contract would be awarded:

There is a sort of [...] caricature that a pretty stupid Minister sits behind a desk with a large order book, and ultimately a cheque book, with weak civil servants who do not stand up to him, and an old pal comes in, who is being paid, and he signs off an order. That is the sort of spirit of what has been laid out—that just does not happen.<sup>54</sup>

82. We note that the Commissioner states in her memorandum that she agrees that “Mr Paterson’s approaches would not have resulted in Radox receiving public funds directly”.<sup>55</sup> The Commissioner also states that she has not had to consider whether or not Radox did actually receive a financial benefit, since the benefit does not need to materialise in order for an approach to breach the rules.<sup>56</sup> We accept that Radox did not secure a contract with the Department as a result of Mr Paterson’s approaches.

83. The Commissioner found that Radox nevertheless secured other benefits by Mr Paterson’s approaches, including the opportunity to present to Ministers which they had been unable to obtain through their letter of July 2016; contacts with in-country health advisers and the King Salman Relief Fund; and information about Tier Two providers.<sup>57</sup>

### *The Department’s request*

84. In evidence to the Commissioner, Mr Paterson stated that:

DfID explicitly requested that Members of Parliament introduce companies with new technologies.<sup>58</sup>

85. In oral evidence before us, Mr Paterson suggested to us that his meeting was in response to this request:

Three witnesses present at the meeting—Rory Stewart, Mark Campbell and myself—gave incontrovertible evidence that this meeting was about presenting a new technology, as requested by the Secretary of State.<sup>59</sup>

86. We repeatedly asked Mr Paterson in oral evidence how and when he had become aware of this request, and the form in which it was made. Mr Paterson was unable to tell us. He instead referred only to the witness statement made by the then Secretary of State and suggested we ask her.<sup>60</sup> The then Secretary of State’s statement did not state that she had made an explicit request, for example, through an email. It stated only: “I encouraged MPs to bring new suppliers, technologies, and charities to the attention of the Department

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54 Q4  
 55 Appendix 1, para 198  
 56 Appendix 1, para 196  
 57 Appendix 1, para 198  
 58 Written Evidence 43  
 59 Q2  
 60 Qq55–63; Qq94–97

in order to diversify and deliver better value for money and better outcomes”.<sup>61</sup> More pertinently, however, the then Secretary of State could not reasonably be expected to tell us how and when Mr Paterson became aware of any such request.

87. In any event, we consider that a Member would not be permitted to “introduce” a company in response to a generic request if in doing so they would breach the lobbying rules because they were a paid consultant to that company.

### *Evidence from the former Minister of State*

88. The former Minister of State at the Department for International Development, Rory Stewart MP, with whom Mr Paterson met on 12 January 2017, has said in a witness statement that, in the meeting, “the arguments made for the equipment by the company were about its technical strengths and advantages for international development” but that Mr Paterson “was not in my view conducting himself in that particular meeting as a paid advocate for that product”.<sup>62</sup>

89. Mr Paterson states that the Commissioner has “rejected without challenge or explanation” Mr Stewart’s evidence, which he argues “confirms no paid advocacy took place at the meeting”.<sup>63</sup>

90. The test under the rules, however, is not whether Mr Paterson was, or appeared to be, a “paid advocate for [a] product”, but rather whether Mr Paterson initiated an approach that sought to confer, or would have the effect of conferring, a benefit on Radox. Mr Stewart says in his statement that Radox representatives promoted their product’s “technical strengths and advantages for international development”.<sup>64</sup> Mr Paterson would not need personally to have sought to confer a benefit on Radox during a meeting in order to have breached the paid advocacy rule; it is sufficient that he initiated an approach which would have the effect of conferring a benefit. To put it bluntly, it is not only a breach of the paid advocacy rule for a Member to use their access to Ministers to lobby for paying clients: it is also a breach for a Member to use their access to Ministers to secure a meeting at which somebody else lobbies for the Member’s paying client.

91. Mr Stewart also claims that “officials would not have permitted the meeting to continue if it breach [sic] the rules on Conduct of Members of the House”.<sup>65</sup> We cannot accept this. Officials at the Department for International Development could not be expected to know the detail of Mr Paterson’s financial arrangements, or the detailed provisions of the House of Commons Code and Guide (which they are not responsible for enforcing), in order to advise on whether Mr Paterson was breaching the lobbying rules.

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61 Written Evidence 40

62 Written Evidence 25xxii

63 Appendix 2, para 2.38

64 Written Evidence 25xxii

65 Written Evidence 25xxii

### *Was the meeting a “selling meeting”?*

92. Mr Paterson has stated in his evidence that the meeting with the Minister of State was not a “selling meeting” because there would have been a separate procurement process in order to secure a contract.<sup>66</sup> The Senior Manager at Radox has made the same argument in his witness statement:

Flagging an issue to the UK Government and selling something are not the same. I fully understand that the UK Government is an extremely sophisticated organisation with very well-developed procurement procedures. If the UK Government considered that what was being said was accurate and wished to remedy it, then such decisions would be formally recorded, and an open and transparent procurement process would follow.<sup>67</sup>

93. The Commissioner did not find that Mr Paterson engaged in a “selling meeting”, in the sense that the meeting sought to replace or circumvent a procurement process, and neither do we. The Commissioner has outlined the benefits that Radox secured through Mr Paterson’s approaches. The initial introduction to a product may not immediately or rapidly lead to its procurement, but the mere introduction confers a benefit not available to all. It is clear that for a company that might wish in future to go through a procurement process, it could only be advantageous to first promote the benefits of a technology among Ministers and officials and gain contacts among the Department’s stakeholders.

### *Was Mr Paterson providing evidence of a serious wrong?*

94. Mr Paterson maintains that all his approaches to the Department fall under the serious wrong exemption in paragraph 9 of Chapter 3 of the Guide (see paragraphs 17 to 27 above).

95. Throughout the Commissioner’s investigation, and in oral evidence before us, Mr Paterson referred to his approaches on some occasions as bringing evidence of a serious wrong; but on other occasions as drawing the Department’s attention to the benefits of new technology. In oral evidence, Mr Paterson said:

This was not a selling meeting; it was a meeting to bring to the attention of the Department the benefits of the technology.<sup>68</sup>

And:

This was obviously going to be a much longer process; this was introducing an idea. And [Senior Manager, Radox] is very clear about that—that this was selling an idea. And Priti, when she gave evidence to us in her statement said this would be farmed out for a year or two.<sup>69</sup>

[...] The idea is to get the technology into the minds of the officials, and then it would be over to them. It was absolutely clear that the Minister was not going to sign this off; it would have gone off for trial.<sup>70</sup>

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66 Q82

67 Written Evidence 25xiv

68 Q2

69 Q80

70 Q88

These characterisations do not appear to us to be compatible with a “whistleblowing” exemption which allows Members, in certain circumstances, to approach a responsible Minister with evidence of a serious wrong or substantial injustice.

96. The Commissioner has noted in her memorandum that she asked Mr Paterson what evidence he provided to the Department, and concluded that he did not provide what could reasonably be described as “evidence”:

Mr Paterson stated he “provided the evidence that a failure to calibrate laboratory equipment renders health outcomes unreliable, causes human suffering and loss of life and wastes the resources UK taxpayers are providing”, and referred to the earlier letter from Randox. This, however, is not evidence, but assertions. In fact, the only material Mr Paterson provided to DfID was a press release relating to a project involving Randox in the Cameroon.<sup>71</sup>

97. Mr Paterson described, in oral evidence, the serious wrong he claimed to be addressing as follows:

I think that it was wrong that the health outcomes were so bad that some of them could have been fatal, and I think that it was a serious injustice to British taxpayers, who put this generously huge amount of money into health programmes that could be so much more effective.<sup>72</sup>

98. Were we to accept and adopt Mr Paterson’s reasoning, any Member could approach a Minister or official on behalf of a paying client as long as this was accompanied by a claim of a taxpayer saving or a solution to a public policy issue. This cannot be the intention behind a ‘whistleblowing’ exemption.

**99. Mr Paterson may have been motivated by avoidable deaths due to poor calibration of laboratory equipment, but he does not appear to have provided any detailed evidence to Ministers on the subject, and even on his own account, his approaches went far beyond the issue of poor calibration. Mr Paterson is entirely open about the fact that his approaches aimed to bring to the attention of the Department the benefits of Randox’s technology. His argument that these approaches fell within a ‘whistleblowing’ exemption is, in our view, wholly unsustainable.**

**100. Regardless of whether or not Randox eventually secured a contract with the Department, it is clear that a company in their position could only have benefited by promoting their technology to Ministers and officials and gaining contacts among the Department’s stakeholders. Mr Paterson himself has described the meeting with the Minister of State as “selling an idea” and “get[ting] the technology into the minds of the officials”.**

**101. We therefore agree with the Commissioner that Mr Paterson breached paragraph 11 of the 2015 Code of Conduct, on paid advocacy, in his approach to the Secretary of State on 12 October 2016, his letter to the Secretary of State on 13 October 2016, his meeting with the Minister of State on 12 January 2017 and his letter to the Minister of State on 16 January 2017.**

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71 Appendix 1, para 206

72 Q88

### *Mr Paterson's awareness of the rules*

102. During Mr Paterson's interview with the Commissioner, he stated that he was fully aware of the lobbying rules before making his approaches:

*PCS:* [...] One interpretation is that you ensured you were aware of your obligations with respect to lobbying following the advice you that received from ACoBA<sup>73</sup> but forgot to ensure that you were aware of and adhered to the rules on lobbying for Members of Parliament.

*OP:* No, I didn't forget. I was fully aware of the obligations and I knew that on each of these three cases there was a very serious wrong or injustice, if you want, about the mis-selling of a product into the market. I was absolutely right using my position and experience in taking it forward. I'm elected for my judgment.<sup>74</sup>

103. We asked Mr Paterson in oral evidence whether he was aware, at the time he made his approaches, of the specific "serious wrong" exemption. Mr Paterson initially said he was, but then referred only to his discussions with ACoBA and his understanding that there was provision for "exceptional circumstances". Mr Paterson also made clear that he did not consult the terms of the rules before he made his approaches:

*Chair:* [...] When you engaged in these various different conversations in these meetings, did you consciously think, "I am using that exception"?

*Mr Paterson:* Yes. In my discussions with ACoBA at the beginning and the exchange of letters—they sent me the rules, and I obviously read them—I was fully aware of two things. One, always declare an interest—which I have done—and I was aware that there were exceptional circumstances. Something really serious came up. I did not go back and look at the rulebook before I rang up the FSA. I was absolutely clear, according to my judgment, and Iain Duncan Smith makes this point: we are elected for our judgment as MPs. I thought this was a really serious issue. The other two are as well, so I am very confident that I am covered by this.<sup>75</sup>

104. When we questioned Mr Paterson on whether he had considered repaying sums he had received, in order to release himself from restrictions under the lobbying rules, before making his approaches, Mr Paterson replied:

That is a possible option, but no one in ACoBA ever suggested to me that that should be suspended.<sup>76</sup>

105. ACoBA, the Advisory Committee on Business Appointments, is an advisory non-departmental public body based in the Cabinet Office. It does not advise Members on their obligations under the Code of Conduct. It advises former Ministers and Senior Civil Servants on their obligations under the Business Appointment Rules and the Ministerial Code. Mr Paterson, as a former Minister, was indeed required to follow ACoBA's advice and the applicable provisions of the Business Appointment Rules. But as a serving

73 The Advisory Committee on Business Appointments—see paragraph 105 below.

74 Written Evidence 35

75 Q9

76 Q11

Member he was also required to abide by the Code of Conduct for Members, on which the Commissioner’s office, not ACoBA, is the authoritative source of advice. We would not expect ACoBA to tender tailored advice on Members’ obligations under the House’s Code of Conduct.

106. We are concerned that Mr Paterson may have been aware of the relevant prohibitions on initiating parliamentary proceedings, but may have confused the other aspect of the lobbying rules—namely the prohibitions on approaching Ministers, Members or public officials—with his obligations under the Government’s Business Appointment Rules.

**107. Mr Paterson claims, in at least ten of the fourteen approaches where the Commissioner has found him to be in breach of the rules, that he was acting within the “serious wrong” exemption. He thereby implicitly acknowledges that his actions would, unless that exemption applies, fall within the ambit of the paid advocacy rule. Mr Paterson told the Commissioner, and us, that he was fully aware of his obligations under the rules when he acted, but was relying, having neither consulted the rules nor sought advice from the Registrar, on a recollection that the rules made provision for “exceptional circumstances”. At best, Mr Paterson was relying on an exemption he thought probably existed but of whose terms he was unsure. At worst, Mr Paterson was knowingly in breach of the lobbying rules.**

### ***Were Mr Paterson’s approaches “exceptional”?***

108. Mr Paterson told us in oral evidence:

It is extremely rare for me to raise my consultancies with the Government. I have never once raised them in Parliament. These interventions were exceptional, as there was in each case a serious wrong—as allowed by paragraph 9.<sup>77</sup>

109. We accept that Mr Paterson has not raised issues relating to his consultancies in Parliament. It also appears, however, that Mr Paterson has not previously raised any issues that did not relate to his consultancies with the FSA, the Chief Veterinary Officer or others. We asked Mr Paterson in oral evidence:

*Andy Carter:* Can you give any other examples where you have held meetings, you have raised issues with either the Food Standards Agency or the [Chief Veterinary Officer] or medical officer, where you have felt seriously concerned about an issue that has been raised with you, to demonstrate the urgency of an issue coming to you? Has anything else happened where you felt that you needed to take it forward and raise it with somebody at a senior level in those agencies?<sup>78</sup>

Mr Paterson responded:

No. Well, I can’t really think of anything. That is why these were exceptional.<sup>79</sup>

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77 Q2  
78 Q32  
79 Q32

110. By Mr Paterson's own account, he raised three separate matters, all relating to his consultancies, through multiple meetings, letters, and emails between October 2016 and December 2018. In none of the communications seen by the Commissioner did Mr Paterson make explicit reference to the "serious wrong" exemption or suggest that he would not normally approach the individuals concerned in relation to his consultancies.

111. **What might have been permissible in a single exceptional case, became Mr Paterson's standard practice. It meant he repeatedly used his position as a Member to promote the companies by whom he was paid. This fits squarely within the definition of paid advocacy, which has long been banned by the House. It stretches credulity to suggest that fourteen approaches to Ministers and public officials were all attempts to avert a serious wrong rather than to favour Radox and Lynn's, however much Mr Paterson may have persuaded himself he is in the right.**

### **Conclusion**

112. **The lobbying rules are crucial to maintaining public confidence that Members are not using their access to Ministers and public officials in order to attempt to secure benefits for themselves or their paying clients, and that the policy and parliamentary agenda cannot be set by making payments to a Member.**

113. **We do not need to decide if Mr Paterson's approaches led to good outcomes. They may well have done. But the paid advocacy rule does not distinguish between lobbying for good causes and lobbying for bad causes. It only applies to lobbying for reward or consideration. There is a strong public interest in preventing any lobbying by Members in return for reward or consideration, no matter how meritorious the Member may think it or that it would appear to be.**

114. **The fact that there was no immediate financial benefit secured by Radox or Lynn's, and that witnesses have supported Mr Paterson's claim that he was motivated by issues of public policy, appears to have misled Mr Paterson into thinking that he could not have breached the rules. But Mr Paterson's approaches could clearly have conferred significant benefits on Radox and Lynn's in the long term and even in the short term secured meetings that were not available without Mr Paterson's involvement.**

115. **With the single exception of his meeting on 15 November 2016 with the Food Standards Agency regarding milk testing, we do not accept that Mr Paterson's approaches fell within the serious wrong exemption. Even if Mr Paterson was, to an extent, approaching the FSA about a serious wrong in his follow-up approaches on milk testing and in his 2017 approaches relating to alleged mislabelling, the exemption requires an approach to fall wholly, not just partly, within its scope. If he was seeking to act within this exemption in all his approaches, we would have expected Mr Paterson to confine himself far more carefully to the sole provision of evidence of a serious wrong, and rigorously avoid any impression that he was seeking additional benefits for his clients.**

116. **Mr Paterson was the one Member who could not approach Ministers or public officials on behalf of Radox and Lynn's in this way because he was paid by them. The option was open to him to repay the sums he had received from Radox and Lynn's in the preceding six months, in order to release himself conclusively from the restrictions**



**under the rules and resolve the conflict of interest. Mr Paterson could also have advised Radox or Lynn’s that they should ask another Member, not restricted by the lobbying rules, who might have been willing to make representations on the merits of the issues; or, in relation to the calibration of laboratory equipment, could have raised the issue outside parliament, in newspapers, on television and on social media. Mr Paterson did none of these.**

**117. We agree with the Commissioner that Mr Paterson’s breaches of the paid advocacy rule are of sufficient seriousness also to have caused “significant damage to the reputation and integrity of the House of Commons as a whole”, and therefore also conclude that Mr Paterson breached paragraph 16 of the 2015 Code of Conduct.**

### **Declaration of interests**

118. The Commissioner found that Mr Paterson had breached the rules on declarations of interest in respect of emails sent to officials at the Food Standards Agency on 16 November 2016, 15 November 2017, 8 January 2018 and 17 January 2018, in which he did not declare that he was a paid consultant to Radox or Lynn’s Country Foods.<sup>80</sup>

119. Paragraph 13 of the 2015 Code of Conduct provides that:

[Members] shall always be open and frank in drawing attention to any relevant interest in any proceeding of the House or its Committees, and in any communications with Ministers, Members, public officials or public office holders.

120. Paragraph 7 of Chapter 2 of the 2015 Guide to the Rules provides that:

Members must declare a relevant interest in any communication, formal or informal, with those who are responsible for matters of public policy, public expenditure or the delivery of public services. That includes communication with [...] public officials (including the staff of government departments or agencies and public office holders). If those communications are in writing, then the declaration should be in writing too; otherwise it should be oral.

121. In oral evidence before us, Mr Paterson told us:

I think [the Commissioner’s finding] is a completely artificial device by the Commissioner to try to catch me out on the four emails confirming the meetings. Every single person there knew that I was a consultant.<sup>81</sup>

122. We do not agree with Mr Paterson’s analysis. The specific requirement in the 2015 Guide is that “if [...] communications are in writing, then the declaration should be in writing too”. We note that emails are often forwarded to further recipients or saved for future records, and that any such recipients would not have the benefit of an oral declaration in a previous meeting. We do not agree that the Commissioner has applied an “artificial device”. She has applied the most straightforward interpretation of the rules, namely, that a Member must declare relevant interests in “any communication” with Ministers,

80 Appendix 1, para 235

81 Q118

Members or public officials. The Guide does not distinguish between communications that are follow-ups to meetings or telephone calls, and those that are not. It would be artificial to treat a meeting and a follow up email as a single communication.

123. Mr Paterson stated in his written evidence that “When I approached the FSA, I made my capacity clear. That does not require me to keep stating my capacity”.<sup>82</sup> This is not the case. Members are required to make regular declarations of relevant interests, even if those with whom they are communicating are likely to be aware of their interest.

124. The witness statements provided by Mr Paterson demonstrate that he was punctilious in declaring his interests in meetings. We also accept Mr Paterson’s assurance that those with whom he was dealing in these instances were aware that he was a consultant to Radox or Lynn’s. However, Mr Paterson, on four occasions, has failed to declare a relevant interest in a separate written communication to public officials.

125. Mr Paterson’s letter to the Secretary of State for International Development dated 13 October 2016 stated that he works “with” Radox, rather than working “for” Radox as a paid consultant.<sup>83</sup> When we asked Mr Paterson about this in oral evidence, he replied that “that letter was knocked out in a real rush. [...] The key point is that I will have told—I definitely told Priti—that I was a consultant. It is an understood expression. Now perhaps I should have used “for”, “with”, or “by”, or whatever.”<sup>84</sup> We would expect more rigour in declaration on every occasion in a case such as this.

126. The Commissioner has stated that she is satisfied that “Mr Paterson’s general approach was to declare his interest and that those who had regular contact with him were well aware of these”,<sup>85</sup> and that she considers the breaches of the rule on declarations of interest “to be towards the minor end of the scale”.<sup>86</sup>

**127. We agree with the Commissioner that Mr Paterson breached paragraph 13 of the 2015 Code of Conduct in failing to declare an interest in four emails to officials at the Food Standards Agency. We accept that Mr Paterson was more punctilious in declaring his interest in meetings, and that those with whom Mr Paterson dealt were probably aware of the capacity in which he was acting. In light of this, we also agree with the Commissioner that, taken alone, this is a minor breach of the Code.**

## Use of parliamentary facilities

### *Use of Mr Paterson’s parliamentary office*

128. Paragraph 15 of the 2015 Code of Conduct provides that:

Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support

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82 Appendix 2, para 12.11

83 Written Evidence 6v

84 Q117

85 Appendix 1, para 234

86 Appendix 1, para 234

of their parliamentary duties. It should not confer any undue personal or financial benefit on themselves or anyone else, or confer undue advantage on a political organisation.

129. During the Commissioner’s investigation, Mr Paterson provided the Commissioner with a list of meetings he had had with Randox and Lynn’s, with locations and dates, between October 2016 and February 2020. This included 27 meetings, which Mr Paterson stated were held in his parliamentary office.<sup>87</sup>

130. The Commissioner found that Mr Paterson breached paragraph 15 of the 2015 Code of Conduct, on use of parliamentary facilities, by using his parliamentary office on 25 occasions for business meetings with his clients. The Commissioner found that a brief social visit, and a meeting to plan the Life Sciences reception, did not breach the rules.

### *How many meetings took place?*

131. Mr Paterson restated in his initial written evidence to us that 25 meetings, in addition to the two the Commissioner did not find in breach, took place in his parliamentary office.<sup>88</sup>

132. In correspondence to us shortly before giving oral evidence, Mr Paterson stated that only five of these meetings were not pre-meetings or other events which he did not consider to be full meetings.<sup>89</sup> Mr Paterson stated that he had provided the Commissioner with “details of all contacts at my office, which extend beyond consultancy meetings”.<sup>90</sup>

133. Following his oral evidence, Mr Paterson provided further written evidence to us in which he said that the initial list he had provided to the Commissioner overstated the true number, and that “I can now state that some of the ‘meetings’ didn’t take place as in my diary, either at all, or not in my office”.<sup>91</sup>

134. Mr Paterson’s most recent written evidence suggests that five meetings were listed as taking place in his parliamentary office but did not do so; that two meetings, on 17 July 2018 and 18 December 2018, were not in fact attended by any Randox representatives; and that there were two meetings held with Randox in relation to the Life Sciences Reception, not one.<sup>92</sup> Mr Paterson further contends that meetings at which he claims to have provided evidence of a serious wrong should not be considered to be breaches.<sup>93</sup> We accept this in respect of the meeting with the FSA on 15 November 2016, as we explain in paragraph 32 above, but cannot do so in respect of meetings at which we have found Mr Paterson breached the paid advocacy rule. We do not accept either that Mr Paterson’s monthly meetings with Lynn’s Communications Director can be considered as purely social, if they involved discussing “what Lynn’s were doing”.<sup>94</sup>

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87 Appendix 1, para 242

88 Appendix 2, para 13.9

89 Written Evidence 49, Letter from Mr Paterson to the Committee, dated 20 September 2021.

90 Written Evidence 49, Letter from Mr Paterson to the Committee, dated 20 September 2021.

91 Written Evidence 50, Letter from Mr Paterson to the Chair dated 30 September 2021

92 Written Evidence 50, Letter from Mr Paterson to the Chair dated 30 September 2021

93 Written Evidence 50, Letter from Mr Paterson to the Chair dated 30 September 2021

94 Written Evidence 50, Letter from Mr Paterson to the Chair dated 30 September 2021

135. Overall, in light of Mr Paterson’s additional written evidence, we consider that the number of meetings in question is 16, rather than 25. We do not understand, however, why Mr Paterson could not have made this further evidence available to the Commissioner during her investigation.

### *Analysis*

136. Mr Paterson does not contest that the meetings were not part of his parliamentary activities. He maintains that he has not breached the rules on use of facilities because the use of his office was occasional; and because whips had encouraged Members to remain on the estate during the relevant period since parliamentary business at the time was highly unpredictable.

137. We accept that parliamentary business at the time Mr Paterson held the meetings was very unpredictable. We cannot accept, however, that a request from whips to remain on the parliamentary estate provides an exemption from the requirement that Members’ use of public resources must be in support of their parliamentary duties. Mr Paterson could have conducted phone calls instead of meetings, or could have sought to arrange meetings very close to the Parliamentary estate, in order to comply with his whips’ request.

138. Mr Paterson also maintained that statements from current and serving Members served to “[confirm that] I did not breach the rules in clear terms”.<sup>95</sup> Mr Paterson does not dispute that a parliamentary office is a facility provided out of public resources. Paragraph 15 of the 2015 Code therefore requires that its use should be “always in support of [a Member’s] parliamentary duties”. We do, however, endorse the longstanding position of successive Commissioners that the rules on use of offices should be operated with a “sense of proportion”.

139. We note that two of the witness statements provided by Mr Paterson stated only that Members regularly and properly meet a wide variety of people or organisations, such as Trades Unions or journalists, in their offices.<sup>96</sup> The Commissioner has not found to the contrary, and neither do we. A further two of the statements noted that Members sometimes use their offices for writing books, articles, and speeches for outside organisations, for undertaking surveys, and so on.<sup>97</sup>

140. We consider that Mr Paterson’s use of his parliamentary office went beyond the latitude normally afforded under the rules. Members’ roles are complex and multifaceted and the distinction between what is a parliamentary activity, and what is not, is not always a clear one. In this case, however, Mr Paterson has urged upon us that he kept his business interests entirely separate from his role as a Member.<sup>98</sup>

141. Mr Paterson acknowledges that he should not have used other parliamentary facilities provided out of the public purse, such as headed notepaper, for his outside commercial work. Despite this, Mr Paterson regularly used his parliamentary office for business meetings with his paying clients.

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95 Appendix 2, para 2.51

96 Written Evidence 25xxiv; Written Evidence 25xxv

97 Written Evidence 25xxiii; Written Evidence 25xxvi

98 Appendix 2, paras 13.6–13.8

142. In a previous case, in the 2017–19 Session, a Member was found to have breached the Code (among other breaches) for using their parliamentary office on 20 occasions to conduct a review for the GLA, for which they received payment. We considered as aggravating factors, in that case, the fact that she had received payment, and that 20 was a large number of meetings.<sup>99</sup>

### *Further arguments adduced by Mr Paterson*

143. Mr Paterson told us in oral evidence that he considered the Commissioner had applied a test which was not in the rules:

The Commissioner has then effectively created a new rule on page 65. She creates something called, “Nonetheless, other than in very rare and exceptional circumstances”. That is not actually in the rules, and she has a tendency to do this, which is to create new rules.<sup>100</sup>

The Commissioner, in making this qualification, was applying a degree of latitude which her predecessors, and ours, have endorsed, which allows that there may be circumstances in which use of a parliamentary office for non-parliamentary activities may be permitted. We also note that the Commissioner’s application of a degree of latitude was, in principle, to Mr Paterson’s advantage.

144. In further written evidence to us following his oral evidence, Mr Paterson argued:

It is to be noted that the rules permit me to book a room for a meeting where tea and coffee is served, without declaring an interest. That should be no different to using my room. It would be odd that I could book a room for such meetings, but not use my own office.<sup>101</sup>

This is not correct. The current room booking rules, available on the parliamentary intranet, state that meeting rooms on the parliamentary estate may not be booked for “events of a commercial nature or any other non-parliamentary purpose. For such activities the commercial private dining facilities should be used.” The overriding requirement on the use of facilities provided out of the public purse—whether offices or meeting rooms—is set out in paragraph 15 of the 2015 Code, that such use must be “always in support of [a Member’s] parliamentary duties”.

145. Mr Paterson also told us in oral evidence that he was not aware of the restrictions on the use of Members’ parliamentary offices, and that the issue had not been raised with him:

*Mr Paterson:* [...] The public view of this is very important, but it is also important to stress that nobody had raised the issue of meetings in an office before until the Commissioner did. The meetings that I have are pretty spare.

*Mrs Dexter:* Nobody has raised it with you personally, maybe.

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99 Committee on Standards, Dame Margaret Hodge, First Report of Session 2017–19 (HC 591)

100 Q101

101 Written Evidence 50, Letter from Mr Paterson to the Chair dated 30 September 2021

*Mr Paterson:* No, and it was never raised by ACoBA, or in discussions with the Registrar.<sup>102</sup>

We would not expect the Registrar to offer tailored, unsolicited advice on the use of a Member's parliamentary office unless a potential misuse was drawn to her attention; and we would certainly not expect ACoBA to offer tailored advice on House of Commons matters. The onus is on Members to ensure that they are aware of the rules, and to seek advice if they are unsure.

**146. We agree with our predecessors that the rules on the use of parliamentary offices should be operated with a 'sense of proportion'. In this case, however, Mr Paterson stated that he kept his commercial interests entirely separate from his parliamentary activities but used his parliamentary office to conduct business meetings with his paying clients. We therefore agree with the Commissioner that Mr Paterson breached paragraph 15 of the 2015 Code of Conduct in holding 16 meetings relating to his outside business interests in his parliamentary office between October 2016 and February 2020.**

### *Use of House of Commons headed notepaper*

147. Paragraph 3 of the stationery rules provides that:

House-provided stationery and pre-paid envelopes are provided only for the performance of a Member's parliamentary functions. In particular, this excludes using stationery or postage: [...] (ii) for business purposes;

148. The Commissioner found that Mr Paterson breached the rules of the House on the use of stationery in writing to the Secretary of State for International Development regarding Radox and blood testing on 13 October 2016, and in writing to the Minister of State on 16 January 2017.

149. Mr Paterson acknowledged that he breached the rules of the House relating to the use of stationery in his letter to the Commissioner on 16 January 2020 and apologised to the Commissioner for doing so. Mr Paterson repeated his apology in oral evidence before us.<sup>103</sup>

150. The Commissioner has said in her memorandum that:

Mr Paterson said he had located the two letters he had sent using House of Commons paper, for which he apologised. He said a long-term member of staff had been on leave and he had had a temporary member of staff at the relevant time. He told me that the use of House-provided stationery had been "an unfortunate oversight on [his] part" for which he took full responsibility. Mr Paterson told me that he had been an MP since 1997 and this was the first occasion that he had breached a House of Commons rule.<sup>104</sup>

**151. We agree with the Commissioner that Mr Paterson breached paragraph 15 of the 2015 Code of Conduct in sending two letters relating to his business interests on House**

102 Qq115–116

103 Q2

104 Appendix 1, paras 239–240

of Commons headed notepaper on 13 October 2016 and 16 January 2017. We note that Mr Paterson promptly acknowledged this breach and apologised to the Commissioner and to us. Taken alone, we regard this as a very minor breach of the rules.

## Mr Paterson's arguments relating to the process of investigation and adjudication

### *Role of the Commissioner and the inquisitorial procedure*

152. The Commissioner is an independent Officer of the House, appointed to advise this Committee, and Members generally, on the House's Code of Conduct, and to undertake investigations into alleged breaches of the Code, under Standing Order No. 150.

153. The Commissioner's status is as an independent and impartial office holder. She follows an inquisitorial process in her investigations, in which she gathers evidence she considers to be relevant to her investigation, weighs it in order to come to a conclusion, and reports on her findings. As part of the inquisitorial process, Members are given an opportunity to respond fully to the alleged breaches and to provide any material to the Commissioner that they consider to be relevant. It is open to the Commissioner, having opened an investigation, to find that no breach has occurred, and she regularly does so.<sup>105</sup>

154. As an independent officer, the Commissioner has no personal interest in whether a breach is found or not. She is not akin to a 'prosecutor', making the best case for the finding of a breach. Rather, she acts as an adviser to this Committee, advising impartially on whether she considers there has been a breach of the Code. We are grateful for the Commissioner's advice, but are not bound by it, and determine on the basis of the evidence before us, including any further written or oral evidence provided by the Member, whether we agree with her findings.

155. Mr Paterson has had extensive opportunities to provide evidence and to respond fully to the allegations against him, which we now outline below.

156. Following the 2019 General Election, Mr Paterson responded to the Commissioner's initiation letter on 16 January 2020. Mr Paterson was provided with the Registrar's advice, sought by the Commissioner, on 25 February 2020, and was asked additional questions by the Commissioner. Mr Paterson responded on 19 March 2020. Having reviewed additional material provided by Mr Paterson, the Commissioner wrote to him with additional questions on 29 May 2020. Mr Paterson responded on 18 June 2020.<sup>106</sup>

157. The Commissioner then suspended the inquiry on compassionate grounds following the death of Mr Paterson's wife on 24 June 2020. She did not resume it until Mr Paterson's solicitor signified that he was happy to continue.<sup>107</sup> Having resumed the inquiry, the Commissioner asked a single point of clarification and, following Mr Paterson's response, she sent him a draft memorandum on 1 December 2020 with a two-week deadline for comments, in particular on factual accuracy. The Commissioner agreed to Mr Paterson's

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105 In the past five years, the Commissioner and her immediate predecessor have not upheld 16 allegations into which they have initiated an investigation. Details of allegations not upheld are published on her website at the conclusion of her investigation.

106 Appendix 1, Appendix 3 to the Memorandum

107 Written Evidence 16

request for an extension, to 13 January 2021, later extended to 27 January 2021. Mr Paterson responded on 15 January 2021. On 4 February 2021 Mr Paterson requested a meeting with the Commissioner, which she agreed to. The meeting took place on 11 February 2021.<sup>108</sup>

158. On 24 February, Mr Paterson requested a further meeting with the Commissioner. Mr Paterson subsequently asked for two to three weeks to complete his own enquiries prior to the meeting, and asked that the meeting be in person, which the Commissioner was unable to offer, due to the House's COVID-19 working practices. The Commissioner set a deadline for any further material to be provided by 26 March 2021. The Commissioner interviewed Mr Paterson at his request on 26 March 2021. The Commissioner wrote to Mr Paterson asking further questions which could not be put to him in the interview on 30 March 2021, to which Mr Paterson responded on 9 April 2021.<sup>109</sup>

159. The Commissioner substantially revised her initial memorandum in the light of witness evidence and further information supplied by Mr Paterson. She sent a second draft of the memorandum to him on 11 June 2021 for a further factual accuracy check. Mr Paterson replied on 2 July 2021, and his reply is published alongside the other written evidence in this case.<sup>110</sup>

160. We received the Commissioner's completed memorandum on 16 July 2021. We invited Mr Paterson to submit any written evidence by 23 July 2021, and informed Mr Paterson that we would normally agree to a request by a Member to give oral evidence. We agreed to a request by Mr Paterson to extend the deadline for written evidence to 11 August 2021.

161. Mr Paterson wrote to us on 23 July 2021 and also provided further written evidence in the form of a statement on 10 August 2021.<sup>111</sup> Mr Paterson gave oral evidence before us on 21 September 2021. At his request, we gave Mr Paterson the opportunity to make a fifteen-minute opening statement. We also acceded to a request from Mr Paterson that he be accompanied by his legal advisers.

### *Length of investigation and broadening of scope*

162. Mr Paterson has stated:

I was accused [...] on 30 September 2019, of undertaking paid lobbying, which I flatly deny. The Commissioner wrote to me on 30 October 2019, a few days before Parliament was dissolved, before the election on 12 December 2019, to advise that an investigation was being commenced and at the same time that it would be suspended whilst Parliament was dissolved. [...]

The Commissioner then wrote to me on several further occasions with additional questions in what was an ever-expanding inquiry. I answered all the Commissioner's questions. The Commissioner did not respond to the answers I gave and expanded the issues under investigation way beyond the original accusations.

108 Appendix 1, Appendix 3 to the Memorandum

109 Appendix 1, Appendix 3 to the Memorandum

110 Written evidence is published on the Committee's webpages.

111 Mr Paterson's principal written evidence to the Committee, in the form of a statement, is published as Appendix 2 to this report. All other written evidence provided by Mr Paterson is published on the Committee's website.



The Commissioner has stated that this is an inquisitorial process and that the scope and work undertaken are entirely matters for her and not for disclosure to or discussion with me. I was left in the dark for long periods. There is no formal process and no right of redress.<sup>112</sup>

163. The Commissioner has provided a timeline of the investigation in Appendix 3 to her memorandum. This timeline shows that the only lengthy delay caused by the Commissioner's office was between March and May 2020, due to the COVID-19 pandemic.<sup>113</sup> The Commissioner has noted that most of the delays to the investigation have been to allow Mr Paterson extra time to produce evidence.<sup>114</sup>

164. Mr Paterson has also argued that he was given insufficient time to gather evidence following the receipt of the Commissioner's draft memorandum in December 2020.<sup>115</sup> The Commissioner has responded:

The draft Memorandum was sent to Mr Paterson for a factual accuracy check on 1 December 2020. This was not intended to be the stage at which Mr Paterson began to collect evidence and submit his case. Mr Paterson had originally been informed of the nature of the allegations in October 2019 and had been asked a number of questions since, so the Commissioner believed Mr Paterson had had sufficient opportunity to become acquainted with the nature of the allegations and present any evidence he thought relevant.

[...] As the inquiry had been delayed already and the Commissioner did not expect Mr Paterson to bring additional evidence at this stage, he was asked to respond in 2 weeks, on 15 December, well before Christmas, however, at Mr Paterson's request this time has been extended more than once to enable Mr Paterson to submit additional evidence.<sup>116</sup>

**165. Long investigations are undesirable. They can place the Member concerned under considerable strain. They should be conducted as expeditiously as possible, so long as rigour and fairness are not compromised. In this case the length of the investigation was primarily due to Mr Paterson's understandable requests for additional time to gather and submit evidence. Only one delay, between March 2020 and May 2020, was due to the Commissioner's office—and that was as a result of the COVID-19 lockdown. We will analyse in further detail the length of recent investigations and adjudications as part of our inquiry into the Code of Conduct, and will consider if any further steps can be taken to ensure that investigations and disciplinary cases are conducted as expeditiously as possible. Separately from this investigation, the Commissioner has informed us that since March 2021 she has routinely conducted an initiation interview with the Member concerned in investigations that involve serious allegations, to assure herself that the Member is fully appraised of the detail of the allegations and the process at the earliest possible stage. We hope that this step will help to reduce the length of investigations into the most serious allegations.**

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112 Appendix 2, paras 5.1–5.4

113 Appendix 1, Appendix 3 to the memorandum, para 8(b)

114 Appendix 1, Appendix 3 to the memorandum, para 8(b)

115 Written Evidence 43

116 Appendix 1, Appendix 2 to the Memorandum

166. In relation to broadening the scope of the inquiry, the Commissioner has stated:

During the course of the inquiry, it became apparent there might have been additional breaches of the rules of conduct. My inquiry was extended in response to this, and [Mr Paterson was] notified in accordance with natural justice.<sup>117</sup>

167. It is normal practice for the Commissioner to adjust the scope of her investigation as evidence is disclosed to her which indicates or closes relevant avenues of inquiry. We acknowledge that it will always be unwelcome news for a Member under investigation to be informed by the Commissioner that she has broadened the scope of her investigation to include consideration of additional possible breaches. However, where this is based on evidence disclosed to her, and the Member is notified and given an opportunity to respond, as is routinely the case, we see no reason why this should be regarded as incompatible with natural justice.

### **Witness evidence**

168. Mr Paterson has stated that:

At the heart of this case is a substantial factual dispute. I do not believe that anyone can fairly determine such a dispute without a proper investigation. That requires engagement with witnesses and the consideration of contemporaneous documents, knowing their source, who the author was and their state of knowledge. This is common sense and in accordance with natural justice but none of this has happened in my case.<sup>118</sup>

And:

It cannot be right or fair to seek to find facts on what was said at meetings which were not recorded without speaking to people who were present. On any basis, that is contrary to fairness and natural justice.<sup>119</sup>

169. We do not agree that there is a substantial factual dispute at the heart of this case. In most instances, Mr Paterson does not dispute the factual basis used by the Commissioner. At the heart of this case, rather, is a disagreement over the Commissioner's judgment as to whether the outcomes sought by Mr Paterson could reasonably be considered to confer a benefit on Radox or Lynn's and whether Mr Paterson's approaches can be considered properly to fall under the serious wrong exemption.

170. Mr Paterson does challenge the weight that the Commissioner has placed on FSA briefing notes and readouts as opposed to witness statements provided by Mr Paterson, in respect of his approaches to the FSA in respect of Radox and Lynn's. The Commissioner has had the benefit of Mr Paterson's witness statements and has considered and weighed them as she has other evidence provided to her. Her initial draft memorandum was revised extensively in light of the witness statements subsequently provided by Mr Paterson. It seems to us fair, in any event, to place reasonable weight on contemporary records made

117 Written Evidence 44, Letter from the Parliamentary Commissioner for Standards to Mr Owen Paterson dated 16 July 2021

118 Written Evidence 45, Letter from Mr Paterson to the Clerk dated 23 July 2021

119 Q2

at the time of the meeting rather than recollections over two years later, as well as to take into account the perception of FSA officials of what Mr Paterson’s clients were seeking from his approaches. Having weighed the evidence ourselves, we have relied extensively on Mr Paterson’s own emails and the witness statements provided by him. We consider that, even were the FSA internal emails, briefing notes and readouts to be set aside, this would not materially alter our findings in this case.

171. Every meeting that the Commissioner found to have breached the lobbying rules was also the subject of a follow-up email by Mr Paterson which has been seen by the Commissioner, emails which Mr Paterson characterises as summarising and confirming the outcomes of a meeting. As the Commissioner notes, it is therefore reasonable—by Mr Paterson’s own lights—to consider the follow-up email as reflective of what was discussed in the respective meeting.<sup>120</sup>

172. Mr Paterson has also stated that:

[...] if a witness statement is not challenged, it should stand. Yet the memorandum sets greater store by anonymous contributors at the FSA than by signed witness statements that would be subject to perjury laws.<sup>121</sup>

173. We do not agree that the Commissioner’s processes require that witness statements be challenged. This might be required in an adversarial process. But investigations of alleged breaches of the Code are subject to an inquisitorial process undertaken by an independent and impartial investigator. Under such a process, the Commissioner weighs the evidence presented to her before making a finding. She does not need to ‘challenge’ any individuals concerned if she decides that parts of their evidence are not relevant or are outweighed by other relevant evidence.

174. The Commissioner has stated:

The case of *Browne v Dunn* [to which Mr Paterson refers in respect of challenging witnesses] concerns how evidence must be challenged in an adversarial court hearing in England and Wales. This inquiry is not an adversarial court hearing but an internal House proceeding seeking to determine whether [Mr Paterson has] breached the code of conduct for Members of Parliament. The common law and the case of *Browne v Dunn* do not apply to this inquiry as it is not an adversarial court hearing, but an internal inquisitorial inquiry conducted under Standing Orders in the House of Commons. I apply a process that I am satisfied is fair and efficient in relation to all evidence produced.<sup>122</sup>

175. Mr Paterson repeatedly invited us, in oral evidence before us, to “get the witnesses in”.<sup>123</sup> He supplied us with details of 17 witnesses from whom he wished the Committee to take oral evidence.<sup>124</sup> We, like the Commissioner, have had the benefit of the written statements provided by the witnesses to which Mr Paterson refers. We do not see what

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120 Appendix 1, para 58

121 Q2

122 Written Evidence 44, Letter from the Commissioner to Mr Paterson dated 16 July 2021

123 Q82, Q88, Q127

124 Written Evidence 45, Letter from Mr Paterson to the Clerk dated 23 July 2021

further relevant information could usefully be gleaned by inviting oral evidence from the witnesses concerned. We have relied extensively upon the witness evidence provided by Mr Paterson in coming to our conclusions.

176. Mr Paterson believes that the witness evidence he has provided establishes his innocence because he and other witnesses purport to testify that he did not breach the rules.<sup>125</sup> However, the witnesses to which Mr Paterson refers testify, in this regard, about their perception of Mr Paterson’s motivations. As Mr Paterson himself states:

The witnesses confirm my motivations were genuine.<sup>126</sup>

And:

My sole motivation was milk safety as the witnesses testify. Their evidence must be accepted.<sup>127</sup>

But subjective motivation is not the test under the lobbying rules. The test under the rules is whether Mr Paterson initiated an approach which sought to confer, or would have the effect of conferring, a benefit on the organisation from which he was receiving outside reward or consideration. Paid advocacy does not require that the Member is personally motivated by the conferral of a benefit.

177. The witness statements also testify that Mr Paterson was diligent in declaring his interests in meetings, and that those with whom Mr Paterson was dealing generally knew the capacity in which he was acting. The Commissioner has not made any finding of fact to the contrary, nor have we. The only finding made in relation to declarations relates to four emails sent by Mr Paterson (and we have indicated that we regard that as a minor breach).<sup>128</sup>

178. Lastly, but most significantly, seven of the fourteen approaches that the Commissioner found to be in breach of the paid advocacy rule were emails or letters from Mr Paterson which have been seen by the Commissioner. It is difficult to see what witness evidence could materially alter the Commissioner’s findings as to whether these letters or emails breached the paid advocacy rule.

### ***Disclosure of information***

179. In accordance with our normal practice, Mr Paterson was provided with all written material submitted by the Commissioner to the Committee in this case, including correspondence to the Committee following receipt of the memorandum.

180. Mr Paterson’s solicitor had previously requested, in August 2021, that the Commissioner “now leaves this matter to the Committee and there is no further engagement between the Commissioner and any Committee members”, and argued that it “would not be transparent for the Commissioner to meet in a closed session with the Committee”.<sup>129</sup> Following receipt of correspondence between the Commissioner and the

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125 Appendix 2, para 4.6

126 Appendix 2, para 8.7.3

127 Appendix 2, para 9.24

128 See paragraph 127 above.

129 Written Evidence 46, Letter from Mr Paterson’s solicitor to the Clerk, dated 25 August 2021

Committee in September 2021, Mr Paterson then asked the Committee to disclose to him the content of its deliberations at its meeting on Tuesday 7 September 2021, at which the Commissioner was present.<sup>130</sup>

181. Select Committees of the House deliberate in private; and, as, noted above, the Commissioner’s status in relation to the Committee is as an adviser, as set out in Standing Order No. 150(2)(c). She attends private meetings of the Committee pursuant to that Standing Order, in accordance with the established practice of the Committee in disciplinary cases. The request from Mr Paterson’s solicitors did not, in our view, take proper account of this formal relationship between the Commissioner and the Committee under Standing Orders. We did not, therefore, consider there was any reason to vary our established practice in response to the request by Mr Paterson’s solicitors that the Commissioner have no further contact with the Committee; and we did not disclose the private deliberations of the meeting to Mr Paterson.

### *Disclosure of material by the Commissioner*

182. Mr Paterson stated in his written evidence:

One question I have asked the Commissioner several times is to disclose all information received from third parties, not just the documentation provided in response to the Freedom of Information Requests, but the requests themselves and all and any other requests and emails. The Commissioner has refused to do this. So the investigation is not transparent.

[...] It may be that those behind this investigation and who are supplying documentary evidence, did interview witnesses who supported my case and so that material has been filtered out. It may be that documents have been obtained and not passed to the Commissioner. I am entitled to know all of this and can only do so by having proper disclosure of all third-party material sent to the Commissioner and to see all email communications etc.<sup>131</sup>

183. The Commissioner has responded that she is “unsure why Mr Paterson considers this to be relevant” and that she “was not provided with the FOI material; it was publicly available on the FSA website, and was referred to in the article published by the Guardian in September 2019”.<sup>132</sup>

184. The Commissioner has not, contrary to Mr Paterson’s claims, been “supplied” with documentary evidence by those “behind this investigation”. She has only relied on material which has been disclosed to Mr Paterson.

185. In further written evidence to us following his oral evidence, Mr Paterson alleged that some emails, and the details of who sent them, referred to in the oral evidence session had not been disclosed to him by the Commissioner:

In January 2021 the Commissioner provided me with redacted Annexes C and D to the FSA FOI. I then carried out my own search of the FSA FOIs

130 Written Evidence 49, Letter from Mr Paterson to the Clerk, dated 20 September 2021.

131 Appendix 2, 2.55–2.56

132 Written Evidence 47, Letter from the Commissioner to the Clerk dated 2 September 2021

and uncovered the email relating to “clearing the market” which fell within Annex A. This is I believe the email to which Professor Maguire referred [ie. in oral evidence]. This email had not been disclosed by the Commissioner.

[Mr Paterson’s solicitors] asked [a member of the Commissioner’s office] for an explanation and were told this email was not relevant and that is why it was not disclosed. So it is not part of the case I am to answer.

It is important to note that documents were being selectively disclosed to me. I did not receive the entire file as I was told would be the case.

The Commissioner provided further documents from the FSA with her letter dated 30 March 2021. The “clearing the market” email was still not disclosed.<sup>133</sup>

186. The Commissioner has responded:

All documents referred to in the memorandum have been disclosed in the written evidence bundle, and we gave Mr Paterson the full unredacted material from the FSA. Mr Paterson refers to Annex A, but actually the email he refers to is FOI material provided by the FSA directly to the Commissioner (WE 39ii).<sup>134</sup> This material was provided to Mr Paterson in its full unredacted form alongside the memorandum. Annex A simply repeats the FOI request, which is why [Mr Paterson’s solicitors] were told it was not relevant. Mr Paterson refers to the email not being included in the Commissioner’s letter of 30 March. The material from the FSA was provided on 23 April.<sup>135</sup>

187. We are satisfied that Mr Paterson has had the material on which the Commissioner has relied disclosed to him, including in unredacted form.

### ***Interviewing Mr Paterson, and communication of the Commissioner’s findings in her draft memorandum***

188. Mr Paterson stated in his written evidence that one of the grounds on which he objects to the process followed by the Commissioner is that the Commissioner “fail[ed] to interview me before [she] made her initial findings of fact in the first draft memorandum.”<sup>136</sup>

189. We drew Mr Paterson’s attention in oral evidence to terms used by the Commissioner in her initiation letter:

While I do not, at this stage, know whether it will be necessary to interview you about this matter, it would be open to you to be accompanied at any interview. I am, of course, very happy to meet with you at any stage if you would find that helpful.<sup>137</sup>

133 Written Evidence 50, Letter from Mr Paterson to the Chair, dated 30 September 2021

134 The Commissioner’s request to the FSA for further FOI material is published as Written Evidence 34

135 Written Evidence 51, Email from the Commissioner to the Clerk, dated 4 October 2021

136 Appendix 2, para 6.3.1

137 Written Evidence 3

190. Mr Paterson responded:

It is not for me to direct her inquiry. She kept telling me that. I made it very clear in my letter that if you wish to interview me, I would be pleased to meet you. I had no idea how this was going to go.

[...] She has frequently said and made it very clear, “Mr Paterson, I run my own inquiry. It is inquisitorial,” etc., so it is not for me to, bluntly, antagonise her, and we had quite a battle.<sup>138</sup>

191. Mr Paterson has also suggested that the matter could have been addressed by a “simple phone call” by the Commissioner at the beginning of the investigation:

Why on earth didn’t she ring me and put the questions you are putting to me now—“You are accused by The Guardian of: boom, boom and boom”? I could have answered on the phone or we could have had a quick meeting.<sup>139</sup>

192. Mr Paterson also told us in oral evidence that he considered the Commissioner should have spoken to him prior to issuing her draft memorandum:

[...] by the disastrous final [letter from the Commissioner] on 18 June, we were miles away from the original [...] accusations, and she still hadn’t talked to me. Then to send in the draft memorandum, which was riddled with errors and misinterpretations, without ever having talked to me [...] was utterly extraordinary.<sup>140</sup>

193. We note that, in her email to Mr Paterson of 23 November 2020, the Commissioner asked Mr Paterson how he would like her to communicate her decision:

With that in mind, I would like to ask how you would like me to communicate my decision. I would be happy to call you first to give you an overview of my decision before sending you the document, if that would be helpful. And it would be helpful to know if you would prefer me to send it to you direct, or via your solicitor.<sup>141</sup>

Mr Paterson replied on 24 November 2020:

[...] Please ring my solicitor, [redacted], when you are ready to communicate your draft decision.<sup>142</sup>

194. When the Commissioner’s office called Mr Paterson’s solicitor as requested, on 26 November 2020, Mr Paterson’s solicitor informed them that Mr Paterson did not wish the Commissioner to call him and would instead prefer to receive the draft memorandum by email.

195. We acknowledge that Mr Paterson had expected that, were the Commissioner to make an adverse finding, she would have first asked to interview him. However, this expectation cannot have been formed on the basis of the Commissioner’s Information

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138 Qq39–41

139 Q36

140 Q33

141 Written evidence 17

142 Written Evidence 18

Note, which is approved by this Committee and provided to Members at the start of an investigation, nor on the Commissioner’s previous practice, where the Commissioner has regularly completed inquiries, including those which make an adverse finding, without having needed to interview the Member concerned. As the Commissioner has stated, her investigations are generally conducted in writing in order to allow Members the time to formulate their best evidence.<sup>143</sup> Mr Paterson claims that the matters raised in the investigation could have been addressed by a “simple phone call”. An informal phone call would not be amenable to maintaining a formal written record. It is also difficult to see what Mr Paterson could have provided to the Commissioner on the telephone that he could not provide in a written response to her initiation letter. If a Member feels that they are better able to represent themselves to the Commissioner in a meeting, the Commissioner’s Information Note makes clear that she will agree to a request for a meeting at any stage in the investigation. We note that the Commissioner did so in this case.

196. The situation that Mr Paterson describes as “extraordinary”—namely, the Commissioner sending a draft memorandum without having spoken to him—was the situation opted for by Mr Paterson himself, the Commissioner having offered both to Mr Paterson and to Mr Paterson’s solicitor to speak to him in order to outline her draft decision before sending a copy of the memorandum, and both having declined.

### ***Allegations about the integrity of the Commissioner***

197. During the course of the investigation, in written evidence, and in oral evidence before us, Mr Paterson has made serious and personal allegations reflecting on the integrity of the Commissioner and her staff.

198. In evidence to the Commissioner, Mr Paterson stated:

You ignore unchallenged witness evidence so you can reach adverse findings, which conflict with witness evidence. This shows you have not followed a fair process and appear biased against me.<sup>144</sup>

199. Mr Paterson has also stated in correspondence to us:

It is obvious that the Commissioner decided at an early stage that she believed The Guardian’s allegations, and this may explain why she did not seek witness evidence. The evidence I subsequently produced has been largely ignored, or wrongly disregarded as irrelevant.<sup>145</sup>

And that:

I am driven to believe that the Commissioner determined my guilt long before her inquiry finished, and probably as early as November/December 2020.<sup>146</sup>

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143 Appendix 1, Appendix 3 to the Memorandum, para 6(a)

144 Written Evidence 43

145 Written Evidence 45, Letter from Mr Paterson to the Clerk dated 23 July 2021

146 Written Evidence 45, Letter from Mr Paterson to the Clerk dated 23 July 2021



200. Most seriously, Mr Paterson said in oral evidence before us that:

[M]y family and I have no doubt that the manner in which this inquiry has been conducted played a massive role in creating the extreme anxiety that led to [Mr Paterson’s wife’s] suicide.<sup>147</sup>

201. Mr Paterson’s allegations are extremely serious ones. They are made against an independent Officer of the House who has been appointed by the House to carry out impartial investigations under Standing Orders. They extend, by implication, to her staff, who are employees of the House Service. Mr Paterson is free to disagree with the Commissioner’s interpretation of the rules, and has done so. He is also free to argue that the Commissioner should have placed greater weight on particular evidence, circumstances, or aspects of the case, and has done so. This is not the same as making direct allegations of bias, prejudice, and predetermination against the Commissioner. In considering this case, we have not seen any evidence that the Commissioner has deviated from her normal process, has treated Mr Paterson any differently from any other Member, or has displayed any evidence of bias or predetermination. Indeed, Mr Paterson has had extensive opportunities to provide evidence that he considers relevant to the Commissioner, as we outline in paragraphs 156 to 161 above.

**202. Mr Paterson’s allegations seem to us to spring from incomprehension that the Commissioner could place an interpretation on the rules and the evidence which differed from his own. A Member is entitled to contest, even vigorously contest, the Commissioner’s interpretation of the rules and her findings. We do not mark down any Member for doing so. It is, however, completely unacceptable to make unsubstantiated, serious, and personal allegations against the integrity of the Commissioner and her team, who cannot respond publicly.**

### ***Confidentiality of the investigation***

203. The Commissioner’s investigations are protected by parliamentary privilege and are conducted in confidence. Members are permitted to seek advice and support during an investigation. Some Members obtain formal legal assistance, as Mr Paterson has done; some are supported by their whip or by a close colleague. We do not wish in any way to discourage or prevent Members from seeking and obtaining advice and support in this way during a process which, however sensitively conducted, can be difficult and stressful.

204. We have gained the impression, however, that an unusually large number of Members were aware of the details of this investigation prior to the publication of our report. We are therefore concerned that those from whom advice or support may have been sought have not maintained the confidentiality of the process.

205. We remind all Members that the Commissioner is an independent Officer of the House, and her investigations are undertaken by the authority of the House. We would treat deliberate breaches of the confidentiality of her investigations as a very serious matter. We also note the requirement set out in the Guide that “Members must [...] not lobby the Committee or the Commissioner in a manner calculated to influence their consideration of [an inquiry into a Member’s conduct]”<sup>148</sup>

147 Q2

148 Guide to the Rules, Chapter 4, paragraph 13

206. On the morning when the Committee met to consider its report, 19 October 2021, the Daily Mail claimed that it had received a leaked copy of Mr Paterson's statement to the Committee and proceeded to relay a series of allegations that Mr Paterson had made. As we pointed out to Mr Paterson at the time, we believe these allegations to be potentially actionable. The only people who had access to the transcript were the Committee members (apart from one Member who has recused himself), House of Commons staff and Mr Paterson and his legal advisers. Every member of the Committee and every House staff member who has had access to the transcript has stated on record that they did not leak the transcript. We wholly deprecate this leak, which appears to be an attempt to bounce the Committee or seek parliamentary privilege for potentially actionable comments. We cannot be definitive about how this occurred, or precisely what material the Daily Mail was given access to, but such action in itself would constitute a serious breach of the rules and a contempt of Parliament, and similar leaks of select committee material have in the past led to a suspension from the House.

## Conclusion

207. **Mr Paterson has an evident passion for dairy and farming matters, based on his undoubted expertise. We do not doubt that he sincerely believes that he has acted properly. Mr Paterson is clearly convinced in his own mind that there could be no conflict between his private interest and the public interest in his actions in this case. But it is this same conviction that meant that Mr Paterson failed to establish the proper boundaries between his private commercial work and his parliamentary activities, as set out in the Guide to the Rules. Mr Paterson told us multiple times in oral evidence before us that he was elected for his judgment, and that he judged that he was right to make the approaches he did. But no matter how far a Member considers that the private interest of a paying client coincides with the public interest, the lobbying rules rightly prohibit Members from initiating approaches or proceedings which could benefit that client. If such approaches were routinely permitted, the lobbying rules would be of little value. In failing to see the evident conflict of interest between his commercial work and his actions in this case, Mr Paterson has in turn convinced himself that he is the victim of an injustice in being investigated by the Commissioner. That does not exculpate him. Being able to judge the difference between one's private, personal interest and the public interest is at the very heart of public service and a senior member of the House with many years standing should be able to make that distinction more clearly.**

208. In accordance with our normal practice, we have considered if there are aggravating or mitigating factors in relation to these breaches.

209. We consider the following to be aggravating factors:

- Mr Paterson is a senior and long-serving Member of the House, having been elected in 1997, and is a former Cabinet Minister.
- Mr Paterson has maintained he was aware of the lobbying rules at the time he acted, but he failed to seek advice about whether his approaches would breach the rules. He also failed to seek advice about the use of his parliamentary office for business meetings.

- The breaches, taken together, reflect a pattern of behaviour where Mr Paterson failed to observe a clear boundary between his outside commercial work and his parliamentary activities. No previous case of paid advocacy has seen so many breaches or such a clear pattern of confusion between the private and public interest.
- Mr Paterson’s remuneration from Radox and Lynn’s amounted to nearly three times his annual parliamentary salary.
- Mr Paterson’s actions demonstrate a failure to uphold the Seven Principles of Public Life, in particular the requirements that Members “should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties” and to “to take steps to resolve any conflicts arising in a way that protects the public interest”.
- Mr Paterson has shown no insight into the fact that there might have been a conflict of interest that he needed to resolve, and has said he would take the same course of action in similar circumstances.
- Mr Paterson has made serious, personal, and unsubstantiated allegations against the integrity of the Commissioner and her team.

210. We consider the following to be mitigating factors:

- Mr Paterson’s wife took her own life in June 2020. We consider it very possible that grief and distress caused by this event has affected the way in which Mr Paterson approached the Commissioner’s investigation thereafter (see paragraph 5 above).
- In respect of the breaches relating to use of his parliamentary office, Mr Paterson had suffered a period of ill health which made him less able easily to leave the parliamentary estate.<sup>149</sup>
- In respect of the breaches relating to paid advocacy, Mr Paterson has an evident passion for and expertise in food and farming matters which, in itself, is admirable, as long as it is channelled within the rules of the House.

**211. Were we considering Mr Paterson’s breaches of the rules on declaration of interests and use of headed notepaper alone, these would have been only minor breaches, and we would have recommended a sanction at the lesser end of the scale. They might, indeed, have been dealt with under the Commissioner’s ‘rectification’ powers, without any need for a reference to the Committee. This is less true, however, of the breaches relating to Mr Paterson’s use of his office. It is certainly not true of Mr Paterson’s breaches of the paid advocacy rule. Any such breach is a serious matter, and multiple breaches even more so. In consequence we must recommend a sanction of commensurate severity, taking into account the aggravating and mitigating factors set out above.**

*212. This is an egregious case of paid advocacy. Previous instances have led to suspensions of 18 days, 30 days and six months. Each of Mr Paterson's several instances of paid advocacy would merit a suspension of several days, but the fact that he has repeatedly failed to perceive his conflict of interest and used his privileged position as a Member of Parliament to secure benefits for two companies for whom he was a paid consultant, is even more concerning. He has brought the House into disrepute. We therefore recommend that Mr Paterson be suspended from the service of the House for 30 sitting days.*

*213. As the Government Deputy Chief Whip confirmed on 9 September 2021, it is the usual practice for the relevant motions to be tabled by the Government and debated as soon as possible.<sup>150</sup> We would expect this to be within five sitting days.*

# Appendix 1: Memorandum from the Parliamentary Commissioner for Standards—Rt Hon Owen Paterson MP

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## Summary

This memorandum reports on the inquiry that I began on my own initiative on 30 October 2019, following a media report that alleged Mr Paterson had lobbied government officials and Ministers on behalf of two companies which retained him as a consultant: Radox Laboratories Ltd (Radox) and Lynn's Country Foods (Lynn's).

I investigated whether Mr Paterson had breached the House's rules on paid advocacy, and its rules on the use of parliamentary resources and on the declaration of interests. These are set out in paragraphs 11, 13 and 15 of the 2015 Code of Conduct for Members. Because I found serious breaches of these rules, I also had to consider whether his actions would cause significant damage to the reputation and integrity of the House, which would be against paragraph 16 of the 2015 Code.

The House of Commons allows Members to undertake outside paid work and recognises the advantages this brings to scrutiny and debate. However, the rules do not allow Members to initiate an approach to Ministers or public officials which seeks to confer, or would have the effect of conferring, a financial or material benefit on a company from which they or a family member receive, have received or expect to receive payment.

Mr Paterson approached senior public officials in the Food Standards Agency (FSA) about the contamination of milk with antibiotic residues, about the mislabelling of a ham product containing nitrites, and about a product used by Lynn's to cure bacon. He approached the Secretary of State for International Development and the Minister for International Development at the Department for International Development (DfID) about laboratory calibration in developing countries. Mr Paterson has claimed that on each occasion he was bringing evidence of a serious wrong, and that the rules forbidding paid advocacy therefore did not apply.

In my view there was only one occasion on which Mr Paterson was entitled to rely on the 'whistle-blowing' exemption which allowed him to bring evidence of a serious wrong to Ministers or officials. This was his initial meeting with the FSA and his client Radox about the contamination of milk with illegal antibiotics. The exemption allowed him to approach the FSA with evidence of this serious wrong, provided that any benefit to the organisation paying him (in this case, Radox) was incidental. I found that Mr Paterson's later approaches to the FSA about milk did not meet the conditions for this exemption and were therefore in breach of the rules on paid advocacy.

I also found that Mr Paterson's approaches to the FSA on behalf of Lynn's about the mislabelling of a global food producer's ham product containing nitrites and about a product used by Lynn's to cure bacon; and the Minister of State (DfID) about laboratory calibration in developing countries did not meet the conditions for this exemption and were therefore in breach of the rules on paid advocacy.

Mr Paterson has provided me with a substantial body of scientific material about each of the public health concerns he has said he was addressing. I do not dispute the seriousness of these. However, my inquiry has focussed on Mr Paterson's conduct.

I found that Mr Paterson had used resources provided by Parliament to support his work for Randox and for Lynn's. I found that he had held some 25 business meetings with his clients on the parliamentary estate. Some of these meetings involved lobbying, and others were monthly meetings. These 25 meetings were a sustained and at times regular misuse of parliamentary resources. Mr Paterson also used parliamentary stationery bearing the crowned portcullis for two letters which he sent on behalf of his paying clients, for which he has apologised.

The House of Commons rules require a Member to declare their interests, such as outside employment, on any occasion when others might reasonably consider those interests to influence them. I considered whether Mr Paterson had declared his interests when he was required to do so and found that he had omitted to do so in several communications with the FSA.

Mr Paterson's breaches of the lobbying were serious and numerous. They create the impression that companies with money at their disposal can pay Members of Parliament to lobby for their benefit. They were such as to cause significant damage to the reputation of the House and of other Members. I therefore find that Mr Paterson has also breached paragraph 16 of the 2015 Code.

Mr Paterson is an experienced Member and former Minister and has not shown the integrity and selflessness<sup>151</sup> expected of him. Mr Paterson's breaches are too serious for the rectification procedure to be appropriate. Therefore, I must refer this memorandum to the Committee on Standards.

## Background

1. On 30 September 2019 an on-line article was published by The Guardian in which it was alleged that Mr Paterson had "*participated in lobbying campaigns for two firms to promote their products*". The article alleged that Mr Paterson had had "*several meetings with officials and another with a Minister*" and had written "*asking them to take steps which would benefit*" Lynn's and Randox.<sup>152</sup> He was, at the relevant time, paid for consultancy work by both firms.

2. Mr Paterson is an experienced Member. He has represented his constituency of North Shropshire since 1997. From May 2010 to September 2012 he served as Secretary of State for Northern Ireland, and from September 2012 to July 2014 as Secretary of State for the Environment Food and Rural Affairs.

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151 General principles of conduct, part IV of [The Code of Conduct together with The Guide to the Rules relating to the Conduct of Members](#), HC 1882

152 WE 2

3. The evidence quoted by the Guardian included documents from the Food Standards Agency (FSA) and the then Department for International Development (DfID), which the Guardian had obtained in response to requests under Freedom of Information legislation. These concerned meetings Mr Paterson had had with officials and ministers. This material informed my decision to begin an inquiry and is reproduced in the evidence pack.<sup>153</sup>

### The scope of my inquiry

4. My inquiry focused on the following allegations concerning Mr Paterson's actions in the years 2016, 2017 and 2018:

- (1) That Mr Paterson had acted in breach of paragraph 11 of the 2015 Code of Conduct by initiating approaches to Ministers and other public officials which would have the effect of conferring a financial or material benefit on his clients.
- (2) That Mr Paterson had acted in breach of paragraph 13 of the 2015 Code of Conduct by omitting to make necessary declarations of interest.
- (3) That Mr Paterson had misused House-provided resources when communicating with the FSA and DfID, and that this was a breach of paragraph 15 of the 2015 Code of Conduct for Members.

The allegations are sufficiently serious that I have considered whether Mr Paterson has acted in breach of paragraph 16 of the 2015 Code of Conduct for Members.<sup>154</sup>

### Mr Paterson's role at Randox and Lynn's

5. Mr Paterson had registered that he was a consultant for both Randox and Lynn's. The relevant parts of his entry in the Register of Members' interests in November 2019 were as follows:

*From 1 August 2015 until further notice, Consultant to Randox Laboratories Ltd, a clinical diagnostics company, of 55 Diamond Road, Crumlin BT29 4QY. I consulted the Advisory Committee on Business Appointments about this role. From 20 April 2017, I expect to receive £8,333 a month for a monthly commitment of 16 hours. (Registered 07 October 2015; updated 26 April 2017)*

*From 14 December 2016, consultant to Lynn's Country Foods Ltd, a processor and distributor of sausages in the United Kingdom, of Down Business Park, 46 Belfast Road, Downpatrick BT30 9UP. Until further notice I expect to receive £2,000 for 4 hrs every other month (24 hrs a year) to a total of £12,000 per annum. First payment received on 25 January 2017. (Registered 27 January 2017; updated 22 February 2017).*

6. Mr Paterson's consultancy with Randox began on 1 August 2015, he received his first payment on 9 September 2015, and he registered it on 7 October 2015. On 20 April 2017 Mr Paterson's pay was increased from £4,166 to £8,333 a month and his hours from 8 to 16 hours a month. He registered these changes on 26 April 2017.

153 WE 3 enclosures

154 [The Code of Conduct together with The Guide to the Rules relating to the Conduct of Members](#), HC 1882

7. Mr Paterson has stated that he did not have written contracts with Radox or Lynn's and that the increase in his fees from Radox in April 2017 was dealt with orally. He said he had no letters or emails relating to this.<sup>155</sup> I have expressed my surprise to Mr Paterson that he does not hold contracts for these consultancies. I would have expected Mr Paterson to have a written contract for these roles, which generated an income in excess of his parliamentary salary.<sup>156</sup> It also has meant that it is not clear to me what duties were expected of Mr Paterson after the initial phase of his work for Radox, or in his work for Lynn's.

8. Mr Paterson stated that he had never been advised to obtain a written contract and queried why the Registrar had not asked whether he had a written contract, given that the consultancies had been in the Register since 2015.<sup>157</sup> However, since May 2015 the Registrar has not been required to keep copies of Members' written contracts with the companies who retain them, or to check that these exist.

9. Mr Paterson provided a statement from a Senior Manager at Radox responsible for Government Affairs. He stated that Mr Paterson was appointed, "*on a consultancy basis to fulfil an ambassador and advisory role at Radox*". He elaborated that Mr Paterson "*has no responsibility for, or visibility of, sales or contracts. He is not, unless by exception, an interface with UK Governmental departments and agencies, as Radox engages with such bodies entirely independently from Mr Paterson.*"<sup>158</sup>

10. Mr Paterson stated his role at Radox remained advisory, and the approaches subject to investigation were two exceptional matters.<sup>159</sup> This was supported by the Senior Manager at Radox.<sup>160</sup>

11. Mr Paterson supplied a letter from the Advisory Committee on Business Appointments (ACoBA), the body which advises former Ministers and others on employment opportunities in the two years after they leave office. This letter appears to refer to a role description which Mr Paterson had provided when seeking their authorisation to begin work for the company. In this he said that he would be advising on "*long term strategy*" and that engagement with government would not be part of his role.<sup>161</sup>

12. Mr Paterson told me that ACoBA had been content with his proposed appointment with Radox, provided he did not draw on privileged government information, and that he did not become personally involved in lobbying the government on their behalf for two years from his last day in ministerial office. (His last day in ministerial office, as Secretary of State for Environment, Food and Rural Affairs, had been 15 July 2014.) Mr Paterson told me he had always abided by these conditions.<sup>162</sup> I do not dispute this. My inquiry, however, focussed on whether Mr Paterson has breached the Code of Conduct for Members.

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155 WE13

156 See: [Pay and Expenses for MPs](http://Parliament.uk) (Parliament.uk)

157 WE25

158 WE25 xiv

159 WE25

160 WE25 xiv

161 WE11 i

162 WE6



## **Allegation 1: Mr Paterson breached the rule on paid advocacy**

13. This allegation relates to Mr Paterson's contact with the FSA about the contamination of milk with antibiotic residues, the mislabelling of a ham product containing nitrites, and a product used by Lynn's to cure bacon; and his contact with DfID about laboratory calibration in developing countries. I shall deal with each matter separately.

### **Relevant rules of the House: paragraph 11 of the 2015 Code of Conduct and chapter 3 of the Guide to the Rules relating to the conduct of Members**

14. Paragraph 11 of the Rules of Conduct prohibits paid advocacy:

*11. No Member shall act as a paid advocate in any proceeding of the House.*

15. Chapter 3 of the Guide to the Rules amplifies this. Paragraph 4 of that chapter explains the purpose of the rules.

*4. The rules on lobbying are intended to avoid the perception that outside individuals may reward Members, through payment or in other ways in the expectation that their actions in the House will benefit that outside individual or organisation, even if they do not fall within the strict definition of paid advocacy. They prevent a Member initiating proceedings or approaches to Ministers or other public officials which would confer a financial or material benefit on such a person or organisation. These rules are intended to provide the right balance between enabling Members to bring to bear their experience outside the House on matters of public policy while avoiding any suggestion that the parliamentary or policy agenda can be set by an outside individual or organisation making payments to Members.*

16. Paragraph 8 of chapter 3 says:

*8. The rules place the following restrictions on Members:*

*a) When initiating proceedings or approaches to Ministers, other Members or public officials. Subject to paragraph 10 below, Members must not engage in lobbying by initiating a proceeding or approach which seeks to confer, or would have the effect of conferring, any financial or material benefit on an identifiable person from whom or an identifiable organisation from which they, or a family member, have received, are receiving, or expect to receive outside reward or consideration, or on a registrable client of such a person or organisation;*

*b) When participating in proceedings or approaches to Ministers, other Members or public officials. Members may lobby by participating in such proceedings or approaches which would confer a financial or material benefit on the identifiable person from whom or identifiable organisation from which they, or a family member, have received, are receiving or expect to receive outside reward or consideration (or on a registrable client of such a person or organisation) provided that they have not initiated those proceedings or approaches and that their approach or participation does not seek to confer*

*benefit exclusively on that person or organisation (or on their client) and provided that that person or organisation (or their client) has not initiated the event.*

17. The 2015 rules restricting MPs who wish to initiate approaches to government were introduced following a review by one of my predecessors. In proposing these rules, he commented:

*Any Member who seeks to [initiate proceedings or approaches to Ministers, other Members or public officials] should in my judgement be seen to act only in the public interest. There should be no suspicion or suggestion that a private interest—of an employer or anyone else—might be involved. The Member should initiate no action, therefore, which could reasonably be thought by others to confer any financial or material benefit on an individual or organisation from which he or she has received, is receiving or expects to receive reward or consideration.<sup>163</sup>*

18. Paragraph 9 of chapter 3 of the Guide sets out an exception to these rules.

*9. Exceptionally, a Member may approach the responsible Minister or public official with evidence of a serious wrong or substantial injustice even if the resolution of any such wrong or injustice would have the incidental effect of conferring a financial or material benefit on an identifiable person from whom or an identifiable organisation from which the Member, or a member of his or her family, has received, is receiving or expects to receive, outside reward or remuneration (or on a registrable client of that person or organisation).*

19. The Standards and Privileges Committee explained this exception as follows:

*We have inserted a “whistle-blowing” provision to make clear that in exceptional cases, where there is some serious wrong or substantial injustice a Member may approach the responsible Minister or public official even if doing so might incidentally benefit a paying client.<sup>164</sup>*

20. When deciding whether Mr Paterson has observed these rules on paid advocacy, I considered the following questions:

- a) Did Mr Paterson initiate these approaches? (This would determine whether the approaches fell under paragraph 8(a) or 8(b) of the rules)
- b) Was it an approach which sought to confer, or would have the effect of conferring, any financial or material benefit on either Radox or Lynn’s?
- c) If the answer to the first two questions was yes, was Mr Paterson acting under the exception in paragraph 9 of chapter 3 of the Guide to the Rules? In other words, was he approaching the responsible Minister or public official with evidence of a serious wrong or substantial injustice, where the resolution of that wrong or injustice would confer an incidental benefit on either Radox or Lynn’s?

<sup>163</sup> Committee on Standards and Privileges, Third Report of Session 2012–13, [Proposed Revisions to the Guide to the Rules relating to the conduct of Members](#), HC 636, para 162

<sup>164</sup> Committee on Standards and Privileges, Third Report of Session 2012–13, [Proposed Revisions to the Guide to the Rules relating to the conduct of Members](#), HC 636, para 25

21. When establishing whether Mr Paterson’s actions are covered by paragraph 9, I have considered the following issues:

- a) Whether Mr Paterson’s behaviour indicated that his purpose in approaching DfID and the FSA was to provide evidence of a serious wrong or substantial injustice;
- b) Whether Mr Paterson limited his actions to providing evidence of a serious wrong or substantial injustice; and
- c) Whether Mr Paterson’s actions would make any benefit to Randox or Lynn’s other than incidental, as required by the exception in paragraph 9.

22. This exemption was inserted as a “*whistle-blowing provision*”,<sup>165</sup> and is only to be used “*exceptionally*”, which suggests an expectation that the action must be very uncommon, where alternative actions would not address the issue effectively and or in time, rather than to address a general concern.

### Mr Paterson’s contact with the FSA about the contamination of milk with antibiotic residues

23. Mr Paterson contacted the FSA and met with FSA representatives and Randox on 15 November 2016, 15 November 2017, and 18 December 2018. During this time, Mr Paterson also corresponded with the FSA Chair and officials. I will consider whether, in these meetings or in correspondence, Mr Paterson has breached the rule on paid advocacy.

24. Mr Paterson has asserted that, as a former Secretary of State for the Environment, Food and Rural Affairs, and a Member for a rural constituency where dairy farming is a major industry, he realised the seriousness of Randox’s findings. He said that he therefore approached the FSA with evidence of a serious wrong as allowed by paragraph 9 of chapter 3 of the Guide; and that this approach neither sought to confer, nor had the effect of conferring, a benefit to Randox.

### Timeline<sup>166</sup>

#### 2015

1 August Mr Paterson begins work as a consultant for Randox.

#### 2016

July National Milk Laboratories (NML) acquire demonstration Randox testing instruments and start to purchase Infiniplex kits.

w/c 1 Nov Mr Paterson becomes aware of Randox milk testing results.

w/c 7 Nov Mr Paterson approaches FSA about milk testing.

165 Committee on Standards and Privileges, Third Report of Session 2012–13, [Proposed Revisions to the Guide to the Rules relating to the conduct of Members](#), HC 636, para 25

166 Dates are drawn from evidence set out below

15 Nov Randox and Mr Paterson meet about milk testing at 14.00. Randox, FSA and Mr Paterson meet at 15.00.

16 Nov Mr Paterson sends a follow up email to FSA about milk testing; FSA send a holding reply to him.

30 Nov FSA reply substantively, saying contamination of milk was at a low level but agreeing further testing required. FSA say Randox technology is not accredited.

## 2017

20 April Randox increases Mr Paterson's salary from £4,166 to £8,333 a month and his hours from 8 to 16 hours a month.

15 Nov Mr Paterson meets FSA about milk testing and sends a follow up email.

## 2018

17 Jan Mr Paterson emails FSA.

18 Dec Mr Paterson meets FSA on the parliamentary estate to discuss milk testing.

## 2019

July Meetings for the Milk Quality Forum commenced.

## Evidence

25. Mr Paterson stated that he was made aware of concerns about the level of antibiotics in milk samples analysed by Randox in November 2016. (These samples were from supermarket milk in the UK and the Republic of Ireland.) He said that during the week commencing 7 November 2016 he called the (then) Deputy Chair at the FSA and explained what Randox had discovered. He stated that an urgent meeting was then convened with the Chair and officials of the FSA (including the FSA Chair) and Randox on 15 November 2016, which he attended.<sup>167</sup>

26. Mr Paterson accepted that he initiated contact with the FSA.<sup>168</sup>

27. Mr Paterson provided a statement from the (then) Deputy Chair of the FSA, who stated that he was first contacted by Mr Paterson in respect of the issue of contaminants in milk in early November 2016. He stated that Mr Paterson requested a meeting to share with the FSA, as the regulator for food standards, test results from point-of-sale milk which caused him serious concern.<sup>169</sup>

28. The Deputy Chair stated that at the meeting, they discussed Randox's findings and the concerns in respect of the antibiotic florfenicol which Randox had found in milk. He said that Randox were present at this meeting only to explain their tests and findings. He

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recalled being aware that Randox's tests were new and not accredited, and that therefore further accredited tests by the agency or other government agencies would be required to verify the findings before taking action.<sup>170</sup>

29. The Deputy Chair stated that he understood it had been suggested that this meeting may have been a forum to promote Randox. He stated that any such suggestion was quite wrong, that this meeting was set up solely to disclose to the FSA, as the appropriate body, the test results. He stated that the Chair and he would not have attended a commercial meeting and would play no part in any procurement process. Further, he advised that the FSA's Chief Scientific Advisor attended as this was a meeting solely about the test results. The Deputy Chair stated that he could not recall any discussion about purchasing testing equipment.<sup>171</sup>

30. The Deputy Chair stated that as a regulatory body, it is of utmost importance that the FSA is apprised of intelligence such as this. He stated it did not matter who was presenting the intelligence, whether this was a consumer or an MP, and providing there was good evidence this would be inputted into the system in the same way to ensure the appropriate action was taken. He said the FSA should always be the first point of contact, and that once the FSA had this information, the appropriate organisation could be informed, whether this was the Veterinary Medicines Directorate (VMD) or otherwise. The FSA were responsible for dairy farm inspections and so the FSA was the correct body to raise concerns relating to possible contaminants in dairy products. The Deputy Chair stated he welcomed Mr Paterson bringing this information to their attention.<sup>172</sup>

31. The next day Mr Paterson emailed the Chair and others about the meeting. In the email he said:

*Many thanks for reacting so quickly to my call to [the FSA Deputy Chair] last week and agreeing to meet key technicians from Randox Laboratories. It was great to meet you all again. We rapidly agreed that what Randox's superior technology has uncovered is shocking and potentially incredibly damaging to the UK Dairy Industry. It is not good that illegal products have not been detected by the current testing regime in retail milk. It is also bad that the current systems miss certain illegal products which Randox can detect.*

*You agreed to begin an enhanced programme of testing for the illegal substances which Randox have discovered. We agreed Randox should test the same samples in parallel so results can be compared. You were interested in using the Randox technology within the FSA. You offered to help with ISO 7025 accreditation at a suitable laboratory. Once established the application of the technology could be discussed not just within the FSA but across the whole dairy industry. This could lead to a much rapider and more thorough testing regime of huge value to U.K. Dairy promotion at home and abroad in the future. You suggested discussing the revelations on antibiotics with [named redacted] the Chief Vet.*

*... Looking further ahead, [one of your FSA colleagues] mentioned the issue of mycotoxins in maize and I have long been worried about the potentially*

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*explosive danger of campylobacter in chickens. It would be good if he could liaise with Radox and discuss further how their latest technologies might help on grain and meat.*<sup>173</sup>

32. Mr Paterson told me that his email on 16 November 2016 was to confirm discussions already held, next steps already agreed, and the test result disclosed at the meeting. He stated that this was not a promotional email, but a summary of matters already agreed.<sup>174</sup>

33. Mr Paterson stated that he mentioned mycotoxins because the Chief Scientific Advisor to the FSA had raised the issue during the meeting. Mr Paterson said that he (Mr Paterson) had responded to this by suggesting that the advisor liaise with Radox. Mr Paterson stated he had longstanding concerns about campylobacter and that, “... *the rules are absolutely clear that this was not lobbying*”.

34. Mr Paterson said that his statements as to the potential for Radox technology were in line with the breadth and seriousness of the issues, and the FSA’s suggestions of wider points of dissemination. He stated that his reference to Radox’s superior technology might read like a promotion of a specific product, but that it was actually a factual statement as Radox tests milk to a higher standard. He said that, as far as he knew, there were no other companies that had this sophisticated testing technology and capability.<sup>175</sup>

35. The Chair of the FSA wrote to Mr Paterson on 30 November 2016 to set out the follow up actions which had been taken. She told him the FSA had conducted an initial risk assessment for the protection of public health. She had been advised that the antibiotic contamination was low and that there was no risk to food safety. However, she accepted that florfenicol was not regularly tested for and that FSA had limited information about it. The Chair told Mr Paterson the FSA intended to conduct a targeted on-farm raw milk surveillance programme with the VMD.<sup>176</sup>

36. Following the email from the Chair of the FSA, there was a gap of one year before any further contact between Mr Paterson and the FSA on this matter.

37. Mr Paterson told me that Radox continued to test and to detect the presence of regulated and unauthorised substances in milk. He stated that he raised the matter again with FSA in November 2017, a year after he had first alerted them, and met the Chair on 15 November 2017.<sup>177</sup>

38. Mr Paterson explained that there was a one-year gap between his approaches to the FSA, to allow the FSA to investigate and address the matter, having notified him of credible plans to do so. Mr Paterson stated the further approaches were because of inadequate action taken by the FSA.<sup>178</sup>

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39. Mr Paterson sent a follow up email to the FSA Chair on 15 November 2017 after the meeting, in which he stated that:

*We discussed illegal substances which are still being detected in retail milk by Randox's equipment at levels which are too low for other current testing technologies to detect. Several large commercial dairies are extending their use of Randox testing. It would be great if you could call a meeting with the VMD to ensure that Government agencies do not fall behind.*<sup>179</sup>

40. Mr Paterson met with Randox and the FSA Chair on 18 December 2018. An internal FSA briefing note for the meeting on 18 December 2018 set out the recent history concerning Randox and milk testing, and discussed FSA's strategy for the meeting, which Mr Paterson was to attend:

- *In 2016, Randox Laboratories approached the FSA having developed a new technology (Infiniplex) for multi-platform screening of veterinary residues. Randox used the technology to identify low levels of antibiotics (florfenicol) in milk and wanted FSA to adopt this new technology for routine testing.*
- *Samples tested by Randox could not be traced back to source as appropriate traceability information was not provided. FSA risk assessments indicated that the levels of antibiotics reported by Randox were low and that there was no risk to food safety.*
- *VMD (Veterinary Medicines Directorate) increased their testing regime under their approved procedures to include florfenicol. There have been no further developments on this issue since April 2017.*

...

- *Randox Laboratories believe that only limited surveillance is conducted against the number of drugs that are regulated within the EU leaving a gap in surveillance and therefore increased risk, and that Infiniplex offers technology to resolve this.*
- *Randox have previously indicated their wish to work in parallel with the FSA on a review of antibiotic residues in milk.*

...

- *As a paid consultant to Randox, Owen Paterson has previously supported this view.*

...

*The FSA have previously provided Randox with advice on how to go about accreditation but have made it clear that we are unable to provide opinion on the suitability of the new methodology for enforcement purposes.*

*Please see attached previous briefing note by [Section 40] produced on 24 October for [name redacted]*<sup>180</sup>

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41. After the meeting on 18 December 2018, the FSA Chair sent an internal email which included the following:

*Randox - I explained yet again to Mr Paterson that we do not have policy responsibility for milk testing equipment and monitoring et cetera. I again advised he needed to contact Defra and Daera, (since a lot of the issue he is talking about appears to be in Ireland) to take this forward. I could cast no light on why Defra had decided not to pursue it. He is going to get in touch with [names redacted], the Permanent Secretary at Daera and the relevant chief vets.*<sup>181</sup>

42. Mr Paterson said that, following the meetings with the FSA about contaminated milk, he set up the Milk Quality Forum. He said this was because he remained very concerned about the substances in milk and dairy, and the lack of action by the FSA. Mr Paterson stated he engaged with the Chief Vet and National Milk Laboratories (NML), and that as a result milk safety has improved. Mr Paterson provided a note from a meeting in July 2019 with the Chief Vet, VMD, the FSA and the NML.<sup>182</sup> He also provided statements from the Director of NML and a veterinary advisor from the NML, who confirmed they had been present at meetings of the Milk Quality Forum, which began in July 2019.<sup>183184</sup>

43. Mr Paterson provided a statement from the Chief Vet, who confirmed they were first contacted by Mr Paterson in May 2019.<sup>185</sup>

44. Mr Paterson told me that the FSA was the correct body to approach, as it is charged with the protection of food safety, has direct management of milk testing and line manages testing by the NML. He said that, whilst the FSA line manage milk testing, they do not have any contracts for testing. He argued that therefore there was no prospect of his approach to the FSA providing any benefit to Randox. Mr Paterson stated that the testing body was the NML, which already had Randox technology.<sup>186</sup>

45. The Senior Manager at Randox stated that as far as he was aware, the UK Government was not involved in the technical provision of broad milk testing services, and there was therefore no active government contract to be secured. He stated that volume testing is undertaken by dairies and the NML, with whom Randox were already engaged, and privately owned companies who conduct independent, private procurement processes.<sup>187</sup>

46. Mr Paterson provided a statement from the NML Director. He explained, *“The FSA is the body that is ultimately responsible for the statutory obligation to test milk to certain standards, they have management over the statutory surveillance of milk. Work that NML is doing for primary processors within the industry supplements the statutory surveillance programmes which are carried out through government laboratories and run by the FSA.”*<sup>188</sup>

47. The NML director described the NML’s role as identifying the farms responsible for contamination where contaminants are identified in a consignment, by testing milk

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samples taken from farms associated with the consignment. He confirmed that they had used Randox technology from around 2016. He said that in July 2016 they had acquired demonstration Randox testing instruments and started to purchase Randox's Infiniplex kits. By November 2016 (the time of Mr Paterson's initial approach to the FSA) they were buying these kits on a monthly basis, although Randox were not and are not their primary kit provider.<sup>189</sup>

48. Randox's Annual Report for 2017 stated:

*We also actively seek new markets. By its nature Biochip Array Technology is ideally suited, by way of example, to the Food Safety and Forensic Toxicology markets. In the Food Safety area we can detect multiple drug residues, administered to animals but that may remain within the associated foodstuffs prepared for human consumption; this can be harmful and has provided access to related import/ export markets and large-scale producers ...*<sup>190</sup>

49. In 2016–17, the VMD's main responsibilities, as listed in its Annual Report, were:

*1. To lead on the UK government policy for the regulation of veterinary medicines and antimicrobial resistance in animals*

...

*6. Surveillance for residues of veterinary medicines and illegal substances in animals and animal products.*<sup>191</sup>

50. When I asked Mr Paterson whether he had considered raising his concerns in any other ways with Government and regulatory authorities, he told me that "*FSA and DfID were approached as they are the relevant bodies. [ ... ] The FSA is the correct body to which issues of milk testing and nitrites in bacon/mislabelling should be referred. The FSA acted on these matters and did not suggest that another body should be notified.*"

51. Mr Paterson stated that the serious harm he was addressing when approaching the FSA about milk contamination was that "*prohibited and dangerous antibiotic residues were in 12.5% of randomly sampled milk. Whereas UK consumers are told that 99.9% of milk samples are contaminant free*". He explained that the milk sampled by Randox contained florfenicol, a totally prohibited antibiotic residue,<sup>192</sup> that he had been advised it was a "*dangerous substance*" and very harmful to infants. He stated that, since his intervention, florfenicol had been included in the national surveillance plan for UK milk, improving product safety.<sup>193</sup>

52. Mr Paterson told me he considered it polite, sensible, and good form to write follow up letters after meetings, to summarise and hopefully keep up the urgency. He said this has always been his custom, to confirm the outcome of meetings and relevant next steps in writing following a meeting.<sup>194</sup>

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190 Randox Annual Report 2017

191 Veterinary Medicines Directorate, [Annual Report & Accounts 2016/17](#)

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## Analysis

53. I will examine each contact to establish whether it constituted an approach by either Radox or Mr Paterson, and, if so, if the approach was initiated by Mr Paterson. In such cases the approaches initiated by Mr Paterson would be subject to the restrictions set out in paragraph 8(a) of chapter 3 of the Guide.

54. The meetings on 15 November 2016 and 15 November 2017 were arranged at Mr Paterson's request. Mr Paterson then sent follow up emails on his own initiative. Therefore, I find that these meetings and follow up emails were approaches initiated by Mr Paterson. I will consider whether in these approaches Mr Paterson's actions sought to confer, or would have the effect of conferring, a material or financial benefit on Radox.

55. The meeting on 18 December 2018 held in Mr Paterson's parliamentary office, was to discuss both Radox and Lynn's products. Mr Paterson described this meeting to me as a "*wrap up*" meeting with the Chair. I have no evidence as to who organised this meeting and cannot make a finding as to whether this was an approach initiated by Mr Paterson or Radox. I will therefore not consider whether Mr Paterson's actions in this meeting breached the rules on paid advocacy.

56. I shall, therefore, examine the following approaches initiated by Mr Paterson:

- Meeting with the FSA on 15 November 2016;
- Mr Paterson's email of 16 November 2016;
- Meeting with the FSA on 15 November 2017; and
- Mr Paterson's email of 15 November 2017.

To consider whether Mr Paterson's actions sought to confer, or would have the effect of conferring, a material or financial benefit on Radox.

57. I do not have any minutes or notes from the meeting of 15 November 2016. The evidence I have to consider is the statements of Mr Paterson and the Deputy Chair of the FSA, the correspondence sent by Mr Paterson and the Chair to follow up the meeting, and the briefing note from 2018 which references the 2016 meeting.

58. The briefing note refers to Radox's identification of low levels of antibiotics in milk, but then goes on to state that Radox wanted FSA to adopt this new technology for routine testing. Mr Paterson's email of 16 November 2016 also references the FSA being interested in using Radox technology and help with accreditation. Mr Paterson has said his follow up letters or emails are to summarise and confirm the outcome in writing following a meeting. It follows that the email can be considered as reflective of what was discussed in the meeting. This would suggest Mr Paterson's actions sought to confer, or would have the effect of conferring a benefit for Radox.

59. However, this is disputed by Mr Paterson, and at odds with the former Deputy Chair's statement, which supports Mr Paterson's view. The former Chair stated that this meeting was solely to disclose the test results to the FSA.

60. From this evidence I consider, on the balance of probabilities, that this meeting focussed on alerting the FSA to the test results. I therefore do not find that, during this meeting, Mr Paterson's actions sought to confer, or would have the effect of conferring, a material or financial benefit to Randox.

61. Mr Paterson's email of 16 November 2016 starts by focussing on the test results. He then goes on say that the FSA was interested in using Randox's technologies and had offered help with accreditation. Accreditation would provide a financial and material benefit for Randox as the commercial supplier of that technology. The commercial opportunities for accredited testing technology would be greater than for unaccredited technology.

62. Mr Paterson in his email then suggests opportunities for Randox in relation to the testing of other food products, grain and meat, and suggests the FSA could liaise with Randox on this. This would provide a further financial and material benefit for Randox as the commercial supplier of that technology. In short, Mr Paterson's email was seeking various sorts of commercial benefit for Randox. Mr Paterson has stated this inclusion was a result of the FSA's Chief Scientific officer having raised the issue during the meeting. This does not alter my finding as this email is a separate approach initiated by Mr Paterson.

63. The email sent by Mr Paterson on 15 November 2017 appears consistent with his assertion that he called for the meeting about his continuing concerns about the substances in milk. However, in the same email he then appears to request the intervention of the FSA Chair to ensure that public sector agencies do not "*fall behind*" the private sector in the use of Randox technology.

64. I am satisfied that Mr Paterson was seeking to confer a financial and material benefit on Randox as the commercial supplier of that technology. If government agencies started to use Randox technology for testing further food substances, or organisations already using Randox technology increased their dependence on it, this could help with expanding Randox's markets and customer base.

65. I accept that the commercial uptake of Randox technology in the public sector would not have immediately followed from a single meeting with the VMD, and that new purchases of the technology would likely have needed to follow the usual public sector procurement rules.

66. It is not necessary for these benefits to have materialised for me to make a finding of paid advocacy. The paid advocacy rule is clear that seeking to confer a financial or material benefit amounts to a breach of the rule. The financial or material benefit does not need to be achieved for a breach to have occurred.

67. The briefing note provided by FSA officials to the FSA Chair prior to the meeting in 2018 is useful in assessing whether the earlier approaches sought to confer a benefit on Randox. The briefing makes reference to Randox wanting the FSA to adopt Randox technology for routine testing of milk and of Randox wishing to work in parallel with the FSA on a review of antibiotic residues in milk. This joint working would have been of benefit to Randox, contrary to Mr Paterson's assertion that the FSA were not in a position to confer a benefit on Randox.

68. As with the meeting in 2016, I do not have any notes or minutes from the meeting held on 15 November 2017. However, Mr Paterson has said that his follow up letters or emails

are to summarise and confirm the outcome in writing following a meeting. It follows that the email can be considered as reflective of what was discussed in the meeting. I am therefore satisfied that the meeting of 15 November 2017 and subsequent email sent by Mr Paterson sought to confer a benefit on Radox.

69. I do not accept Mr Paterson's argument that there was no prospect of his approaches to the FSA providing any benefit to Radox. The evidence reflects that Mr Paterson sought the following benefits through the approaches initiated by him:

- The FSA's assistance with gaining accreditation for Radox technologies;
- For the FSA to use the Radox technology;
- The adoption of Radox unrelated technology for testing grain and meat; and
- Increased use of Radox testing equipment by government agencies. (Mr Paterson asked the FSA to call a meeting with the VMD to ensure government agencies did not 'fall behind' commercial dairies in their use of Radox testing)

70. I am therefore satisfied that the following approaches were in breach of paragraph 8(a) of the Guide to the Rules:

- Mr Paterson's email of 16 November 2016;
- The meeting of 15 November 2017; and
- Mr Paterson's email of 15 November 2017.

71. I will now consider whether Mr Paterson's actions fell under the whistle-blowing exemption which would allow him to approach the FSA with evidence of a serious wrong, provided that any benefit to Radox was incidental.

72. In his evidence, Mr Paterson has set out in detail the risks associated with antimicrobial residues, both to individuals and to the dairy industry. Mr Paterson has also provided significant evidence that Radox had identified unauthorised antibiotic residues in milk.

73. Mr Paterson told me he became aware of the testing results in the first week of November 2016, he contacted FSA in the week beginning 7 November 2016, and the meeting took place on 15 November 2016. It is clear that in November 2016 he regarded the matter as urgent and the FSA also responded with urgency. This is consistent with Mr Paterson's assertion that he was providing evidence of a serious wrong. This interpretation is supported by the evidence of the meeting provided by the Deputy Chair of the FSA, in which he stated that the meeting was solely to disclose the test results to the FSA. I therefore accept that Mr Paterson approached the FSA in November 2016 in order to provide evidence of a serious wrong.

74. Mr Paterson's follow up email to the FSA Chair on 16 November 2016 initially supports his assertion that he was seeking to address a serious wrong, particularly his reference to what has been discovered as "*shocking and potentially incredibly damaging to the UK Dairy Industry.*"

75. However, as I have set out above, Mr Paterson then goes on to seek various benefits for Radox. I accept that, since Radox had discovered the substance in the milk samples, it

follows that their diagnostic equipment was referred to. However, the rules did not permit Mr Paterson, having raised a serious wrong, to use the opening to draw attention to the virtues of Radox products. In those circumstances any benefit to Radox would not be ‘incidental’ but an intended outcome of the approach.

76. If, as Mr Paterson says he “*remained concerned*” after November 2016, I would also have expected him to approach others, and quickly. While the FSA was the natural place to report a food safety issue, VMD was the obvious place to approach about veterinary medicines and antimicrobial residues. This is reflected by the responsibilities listed in their Annual Report from 2016–2017 including leading on the UK government policy for the regulation of veterinary medicines and antimicrobial resistance in animals, and surveillance for residues of veterinary medicines and illegal substances in animal products.

77. Mr Paterson has stated that the FSA was the correct body to approach, which is supported by the statement of the Deputy Chair of the FSA. Mr Paterson has also said that the FSA acted on these matters and did not suggest that another body should be notified.

78. Mr Paterson is mistaken about this. In his email to the FSA Chair of 16 November 2016, Mr Paterson refers to the Chair’s suggestion he discuss the revelations on antibiotics with the Chief Vet. The Chair of the FSA herself contacted VMD about his concerns in November 2016. Mr Paterson stated that he engaged with the Chief Vet and the NML, setting up the Milk Quality Forum. This is supported by statements from the Director of NML and a veterinary advisor from the NML, and the Chief Vet. However, these statements all reflect that this did not occur until 2019.

79. I am of the view that Mr Paterson’s actions in initially raising this issue with the FSA in November 2016 are consistent with seeking to address a serious wrong. In making this decision I have considered the manner in which Mr Paterson approached the FSA, his other actions with regard to the Milk Quality Forum, and the evidence provided by the Deputy Chair of the FSA about the initial meeting with the FSA.

80. However, paragraph 9 does not provide Members with a blanket exception or override the rule on paid advocacy. Mr Paterson did not confine himself to raising the serious wrong which Radox had discovered. I have seen his follow up emails to the meetings of 15 November 2016 and 15 November 2017, and the FSA’s internal briefing for the meeting of 18 December 2018. In these emails and at the meeting of November 2017, he advocated for a range of Radox products, and requested or suggested actions from the FSA. These actions would have benefited Radox in the medium to longer term by providing access to possible new markets or enabling better penetration of existing markets; reflecting that any benefit to Radox would not be ‘incidental’ but an intended outcome of the approach. Therefore, Mr Paterson’s approaches after the meeting on 15 November 2016 do not meet the conditions for the whistle-blowing exemption in paragraph 9.

## Conclusion

81. Mr Paterson breached the rule on paid advocacy during his approaches to the FSA on behalf of Radox on the following occasions:

- The email Mr Paterson sent on 16 November 2016;
- The meeting of 15 November 2017; and

- The email sent by Mr Paterson on 15 November 2017.

### Mr Paterson's contact with the FSA about food additives

82. Mr Paterson contacted the FSA and met FSA representatives and Lynn's on 15 November 2017, and on 15 January, 24 May, 9 July and 18 December 2018. During this time Mr Paterson also corresponded with the Chair of the FSA.

83. I considered whether, in these meetings or in correspondence, Mr Paterson breached the rule on paid advocacy.

84. Mr Paterson asserted that he was approaching the FSA with a serious wrong as allowed by paragraph 9 of chapter 3 of the Guide, that a global food producer was acting in breach of EU law by mislabelling a product. He has also said that this approach neither sought to confer, nor had the effect of conferring a benefit on Lynn's.

### *Timeline*<sup>195</sup>

#### 2016

14 Dec Mr Paterson begins work as a consultant for Lynn's.

#### 2017

Feb Lynn's write to the FSA NI regarding the global food producer.

11 Aug The Grocer publishes an article about the global food producer's use of nitrates.

Nov Mr Paterson contacts the Chair of the FSA in London regarding the global food producer's product.

15 Nov Mr Paterson meets the FSA about the global food producer's product, and later emails the FSA Chair.

24 Nov FSA writes to Lynn's saying that Lynn's proposals amounted to using additives, and to say that the other company had agreed to relabelling.

#### 2018

Jan Lynn's 'Naked' Products launches in the UK.

8 Jan Mr Paterson calls and emails the FSA Chair to arrange a meeting with the FSA and Lynn's.

15 Jan Mr Paterson meets FSA with Lynn's and others about reclassification of ingredients.

16 Jan Mr Paterson emails the FSA Chair regarding the meeting the previous day.

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195 Dates are drawn from evidence set out below

24 May Mr Paterson meets with the FSA, Lynn's and legal advisers about Lynn's Country Food's products.

9 Jul Mr Paterson meets with the FSA Chair and a Lynn's representative about Lynn's products.

18 Dec Meeting between the FSA, Mr Paterson and Lynn's regarding Lynn's product.

### Evidence

85. Mr Paterson said that Lynn's approached the FSA in February 2017 "*well before I was asked to assist*" about the ham produced by another company (the global food producer) which was being sold in the UK as an "*all natural*" product, when it contained nitrates from vegetable extracts. Mr Paterson said that Lynn's was "*frustrated by the lack of response of the FSA in the UK to a clear and serious breach of EU law*".<sup>196</sup>

86. Mr Paterson stated that Lynn's had initiated the approach to the FSA (NI), and when Lynn's had not received a satisfactory response, he followed up with the FSA Chair.<sup>197</sup>

87. Mr Paterson provided a statement from the Technical Director of Lynn's, who said that Lynn's were extremely concerned that the global producer's product was marketed as 'all natural' and without nitrates when this was not the case, and when the curing agent they were using was banned under EU regulations. The Technical Director stated they raised this with the FSA (NI) who told them that they could not deal with the matter directly as the manufacturing company was based in a different jurisdiction.<sup>198</sup>

88. The Technical Director confirmed that Lynn's approached Mr Paterson in 2017, "*... as a consultant to Lynn's with prior experience of the workings of governmental organisations and EU regulation, for advice on how this should be dealt with*", after Lynn's approaches to the FSA (NI) had been unsuccessful. He said that Lynn's was 'exasperated' as the product was on the market, actively breaching EU legislation and misleading consumers. The Technical Director said that Mr Paterson contacted the Chair of the FSA, and he set up a meeting between Lynn's and the FSA, which took place on 15 November 2017.<sup>199</sup>

89. The Technical Director continued that:

*Lynn's were extremely concerned that this product should be allowed to be marketed as "all natural" and without nitrates... consumers actively trying to seek out a nitrate free product would also be misled into buying this product.*<sup>200</sup>

90. Mr Paterson provided a statement from the Communications Director of Lynn's, who stated Lynn's brought the matter to Mr Paterson's attention, and Mr Paterson then raised it with the FSA at a senior level, after Lynn's had been dissatisfied with the response they had received from the FSA (NI).<sup>201</sup>

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196 WE6

197 WE25

198 WE25 xi

199 WE25 xi

200 WE25 xi

201 WE25 xii

91. Mr Paterson provided a statement from a legal adviser to Lynn's, who commented that the global producer's product:

*... would create an obvious confusion for any consumers of processed meats who were actively seeking products produced without nitrates, such as the [Lynn's] bacon and ham products. In other words, consumers could easily make the mistake in thinking that [the other product] was nitrate free ...*<sup>202</sup>

92. I have not seen a formal note of the meeting on 15 November 2017, but I have seen correspondence sent to follow up the meeting. An FSA official's internal email, sent on 16 November 2017, included the following:

*FSA confirmed once more that use of "natural" extracts / flavourings etc to perform additive functions in products is only permitted where they are authorised food additives and properly labelled as such ...*

*OP and the company were pleased with the progress made by FSA NI via their interactions with FSAI<sup>203</sup> [Section 31]. The need for continued good relations with FSAI was fully appreciated and acknowledged by OP and the company ...*

*During the meeting the company described their own "innovative" bacon product(s) which are being prepared for launch in the new year and apparently use [Section 43] and a mixture of flavourings which are already on the market to achieve natural antioxidant and preservative functions, without involving nitrates. I challenged the company to explain how this was different to what their competitor is currently doing in terms of the additives legislation ...*<sup>204</sup>

93. Mr Paterson's email to the FSA Chair of 15 November 2017 stated:

*Many thanks for your time today. It was good to meet you again with [names]. It was very encouraging to learn of your work with the Irish FSA agreeing that [the global food producer's product] uses a material that is not approved and that they must change it. We agreed that you would write to [Lynn's] confirming this and that this letter could be used to warn the multiples and other suppliers not to use this material. Many thanks for your help on this.*<sup>205</sup>

94. An internal email, sent from an FSA employee on 24 January 2018 but referring to Mr Paterson's email of 15 November 2017 recorded:

*As you know, I attended the first meeting on 15 November 2017 with [FSA Chair and FSA official]. As [FSA Chair] says, we did not agree what OP is suggesting at that meeting. The points in his e-mail are more akin to what [Lynn's] originally hoped to get out of the meeting.*<sup>206</sup>

95. The Technical Director of Lynn's stated that this meeting was entirely focused on the other company's mislabelled product and that during this meeting "the FSA advised that

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202 WE25 xiii

203 Food Standards Authority Ireland

204 WE3 vi

205 WE6 viii

206 WE39 i



they were working with the Irish FSA to investigate the matter”. The Technical Director said that, following the meeting, the FSA agreed that this use of nitrates was not permitted and that the global food producer had agreed to reformulate and relabel the products in question.<sup>207</sup>

96. The FSA wrote to Lynn’s on 24 November 2017, an extract of which stated:

*You raised a particular case with the Food Standards Agency about a Republic of Ireland company and their use of celery extract for additive purposes. As explained at your meeting with my colleagues, the Food Safety Authority in Ireland (FSAI) has confirmed to us that they looked into this matter afresh, together with officials from the Department of Agriculture, Food and the Marine, taking into account more recent developments within the European Commission and in other EU Member States. FSAI also discussed the matter with the food business operator and the company has agreed to reformulate and relabel the products in question. FSAI is currently in discussions around the timing of these actions but expects matters to be resolved in the short term and will be monitoring the situation closely.*

*As advised at the meeting, you will wish to assure yourself of the status of your new products under food law, with particular regard to the provisions of the food additives legislation discussed above, to ensure their compliance prior to placing them on the market ... I recommend that you contact your local District Council’s Environmental Health department for further information as the enforcement authority for your premises.<sup>208</sup>*

97. In an internal FSA email on 24 November 2017, it was recorded:

*I personally felt that as the meeting revealed that (a) the issue was essentially all about the NI company trying to clear the market for the launch of its own product(s) and... A significant part of the meeting was devoted to the NI company trying portray a “David versus Goliath” battle and to promote their product(s) as healthier/safer than others (the [global food producer] in particular) because the pomegranate/[Section 43] flavouring blend they use does not (apparently) contain nitrates/nitrites, whilst sidestepping the key issue of explaining how this blend is not a food additive by definition.<sup>209</sup>*

98. On 8 January 2018 Mr Paterson emailed the FSA Chair, writing as follows:

*Many thanks for your time on the phone just now. We agreed that we need to meet urgently with you and your technical team to discuss the FSA’s interpretation of ‘Nitrite Free’ following [the Professor of Food Safety’s] letter to me dated 3.1.18 ... in response to [a FSA official’s] letter to [Lynn’s] CEO] dated 24 November 17. This is even more urgent now that you have received an RASFF<sup>210</sup> notification from Ireland and France about the Prosur product.<sup>211</sup> This seems extraordinary as products using these Prosur natural ingredients*

207 WE25 xi

208 WE6 ix

209 WE39 ii

210 Rapid Alert System for Food and Feed

211 The substance used to cure Lynn’s bacon

*have been approved and sold in France for over a year. Having invested £14m in a new plant and having taken on 100 new employees, [Lynn's CEO] is extremely concerned about what looks to be a concerted attack on his Nitrite Free product (which could reduce the 6500 annual deaths from colorectal cancer) by producers of processed meats which contain nitrites but who are deliberately and misleadingly selling them to the public as nitrite free ... My office will contact to set this up as rapidly as possible.*<sup>212</sup>

99. Mr Paterson, Lynn's and the FSA duly met on 15 January 2018 in his office on the parliamentary estate. In the FSA's note of the meeting it was recorded that the reports of action against Prosur's product were discussed first. It was recorded:

*[The CEO of Lynn's] ... commented that he was looking to the FSA to protect him and his investment [in Lynn's] and that it was misleading to the public for [Section 31] to say that a product was natural or nitrite free when it is not.*<sup>213</sup>

100. Discussion then turned to the global company's product:

*[An FSA official] assured [the CEO] he would ask FSA NI to seek clarification from FSAI on what action had been taken on reformulation/re-labelling— [Mr Paterson] commented that FSA NI has already written to [Section 31] suggesting they reformulate their product.*

*Action 4: [an official] to contact FSA NI regarding the [Section 31] bacon product in question.*<sup>214</sup>

101. Mr Paterson provided a statement from a Professor of Food Safety, who described the meeting of 15 January 2018 as “... an extremely difficult meeting”, as in his opinion the FSA did not understand or appreciate the significance of the link between nitrites and colorectal cancer and that the global producer's product contained nitrites which was a banned additive. The Professor of Food Safety stated that the FSA did not accept that Lynn's used an entirely different curing technology that did not contain nitrite. He stated that the FSA focused on the labelling of Lynn's' bacon, and not the removal of the global producer's product, which he and Mr Paterson wished to discuss. The Professor stated that the meeting did not relate to the sale of Lynn's products.<sup>215</sup>

102. The Technical Director of Lynn's described the meeting as 'frustrating', stating that the FSA had not proactively taken action regarding the global food producer's product but had decided incorrectly that Lynn's were using additives to cure meats. He stated that in January 2018, when the FSA alleged Prosur's product contained nitrite, “the FSA then changed their approach from co-operating to resolve the issues with [the global food producer] to initiating their own attack on Lynn's product”. The Technical Director stated, “Mr Paterson's primary concern was that of consumer confidence in bacon products and that they were as safe as could be.”<sup>216</sup>

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212 WE25 iv

213 WE25 iv

214 WE25 iv

215 WE25 vii

216 WE25 xi

103. Mr Paterson sent an email to the FSA Chair (who had not been present at the meeting) on 17 January 2018. In this email, Mr Paterson set out the points covered during the meeting. In brief, he said:

- It had been agreed the FSA would send Lynn’s further questions about the natural flavourings being used in their bacon and hams, which should settle the remaining questions around the labelling of these products.
- It was disappointing that the global food producer had continued to sell their Natural Ham range, referring to celery containing ‘naturally occurring nitrites’. Mr Paterson recorded, “*the products continue to be misleading to consumers*”.<sup>217</sup>

104. Mr Paterson went on to state that during the meeting of 15 November 2017 it had been agreed that:

- The global food producer would reformulate their products to adhere to FSA and EU guidance on nitrates/nitrites;
- The FSA NI would inform the FSA of the changes before the product was released to the UK market; and
- The FSA would write to Lynn’s to confirm the above action, a letter which would be used to warn other suppliers not to use this form of additive.<sup>218</sup>

105. An internal FSA email on 22 January 2018 recorded:

*OP read from his ‘notes’ of the 15th Nov meeting but I don’t recall his playback being as definitive as his mail below suggests. At the most recent meeting [Lynn’s] asked what FSA would do to ‘protect me’ but when I played this back in terms of competition the move to ‘nitrate free’ became more altruistic in terms of public health.*<sup>219</sup>

106. The Chair responded on 10 February 2018 to correct this list of outcomes. She said that the FSA did not - and could not - require that the Republic of Ireland company reformulate its products. She stated that the FSAI had confirmed they had looked into the matter. The Chair went on to say, “*as there is no evidence to suggest that the products are ‘unsafe’ under food law, we are not in a position to remove the products from, or prevent them being placed on the UK market on that basis*”. The Chair’s email then focussed on the need for the FSA to work with Lynn’s to resolve some technical questions regarding the Prosur product.<sup>220</sup>

107. An internal FSA email sent on 24 January 2018 stated that “*The reason [Lynn’s] own compliance came under scrutiny is because they chose to use the remainder of the meeting to “sell” their product.*”<sup>221</sup>

108. The Chair’s email of 10 February 2018 appears to be the last mention of the global company’s product. After that the discussions focussed on Lynn’s Country Food’s product.

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217 WE6 x

218 WE6 x

219 WE39 i

220 WE6 xi

221 WE39 i

According to the Technical Director of Lynn's, these discussions continued until a meeting was proposed for 24 May 2018. He stated that Mr Paterson had no real involvement in this discussion, but just facilitated it.<sup>222</sup>

109. Mr Paterson, Lynn's and Prosur met the FSA on 24 May 2018. An FSA note from the meeting stated, "*The FSA explained the aim of the meeting was to better understand the nature of ... . Prosur [s product], and how it was used in [Lynn's] products*".<sup>223</sup>

110. Mr Paterson met the FSA Chair on 9 July 2018. To arrange this meeting, Mr Paterson's parliamentary office and FSA exchanged a series of emails between 29 June 2018 and 2 July 2018.<sup>224</sup> The final email from Mr Paterson's office was as follows:

*... Thank you for confirming 6pm next Monday.<sup>225</sup> This will be in Owen's office at 1 Parliament Street.*

111. FSA officials prepared a briefing note for that meeting, between Mr Paterson, a representative of Lynn's, and the FSA. (It had been planned to include more representatives of Lynn's and also FSA officials.) It set out a series of lines for the FSA Chair to take and provided a background note.

*The FSA has been unable to determine whether the use of the Prosur natural flavouring in [Lynn's] nitrite-free meat products falls within the regulatory framework. This is due to Prosur and [Lynn's] not providing sufficient information (despite numerous requests) to establish whether it is a food additive or not ...*

#### *Background*

*The FSA met with [Lynn's] and Prosur on three occasions, on 15 November 2017, 15 January 2018 and 24 May 2018. Mr Paterson also attended the meetings.*

*Eight months on from the initial meeting, despite numerous exchanges between the FSA and [Lynn's] and Prosur (and their lawyers), no progress has been made. The FSA has devoted considerable resources to explaining the EU requirements concerning food additives and flavourings.*

*... There is a perceived premium associated with 'clean label' products. Products that do not contain additives are perceived as 'healthier' or 'more natural'.<sup>226</sup>*

112. On 11 July 2018 Mr Paterson wrote to the Chair of the FSA, as follows:

*Many thanks for meeting me on Monday ... We had a very constructive discussion and your proposal to write to all the other European agencies who have approved products using the Prosur process seems a good way forward.*

222 WE25 xi

223 WE6 xii

224 WE3 xxvi

225 9 July 2018

226 WE3 xiv

*I would be grateful if you could send me a copy of the email that you are sending out. In the meantime, you confirmed that you had not so far referred the [Lynn's] bacon to the European agency.*<sup>227</sup>

113. Another meeting took place on 18 December 2018. The FSA's briefing note for the Chair included the following:

*We welcome [Lynn's'] assurances that it will amend labels to declare the presence of ascorbic acid and to remove the 'no E number' claims. We hope to see these changes reflected on their own and third-party websites, as well as on other marketing information (including packaging) as soon as practicable ...*

#### *Handling*

*The FSA has been in discussion with the company since November 2017 over the legal status of the extracts they use in the production of their bacon. They currently state these are natural flavourings. Following a Commission statement in September 2018 on the use of plant extracts in foods, we were informed [Lynn's] intend to change the label of their bacon to indicate the presence of food additives. We would like to see these changes made without delay ...*

#### *Background*

*[Lynn's] have been very vocal about the impacts the delays in obtaining export certificates are having on their company and UK trade in general, however, they have not provided adequate reasons for the delays in changing the labelling of their bacon ...*<sup>228</sup>

114. After this meeting, the FSA Chair circulated her "readout" of the meeting. It included the following paragraph relating to [Lynn's]:

*[Lynn's] - he has not heard back from [Lynn's] in recent weeks. I reiterated that, I set out in my letter, there was no evidence received by the FSA that the Prosur product has been approved by other EU member states. Also, that I was pleased to see the company did now intend to follow the advice provided by the local authority, e.g. on labelling. If that happens, then there would be no further action on this issue. I confirmed that in our approaches to EU partners, we had concentrated on approvals of the product not the [Lynn's] bacon by name.*<sup>229</sup>

115. Mr Paterson said that, after the FSA was approached about the global food producer's mislabelled product, the FSA subsequently raised issues about Lynn's nitrite-free bacon. He said he was involved in these discussions because of his prior involvement with the FSA, and his response falls outside the lobbying rules. He said he had "helped explain to the FSA that natural flavourings used in nitrite-free bacon and ham had been used in France for over a year and were gaining worldwide traction".<sup>230</sup>

227 WE6 xiii

228 WE3 xvii

229 WE3 xviii

230 WE6

116. Mr Paterson stated that Lynn's did not approach the FSA in order to promote their own products, and that these were only discussed because the FSA's response to being appraised of the problems with the other product was to "*turn their fire on Lynn's and say, essentially, your product is no different to [the global food producer's product]*". Mr Paterson stated Lynn's had nothing to be gained by discussing their product with the FSA.<sup>231</sup>

117. Mr Paterson said that after he had raised his concerns about labelling of the global food producer's product, contacts with the FSA "*sought to resolve the issue of whether or not natural food additives can be used as preservatives in bacon and ham and so avoiding nitrites*". He said, "*This was a technical issue and not a financial one conferring any benefit*".<sup>232</sup> A director at Lynn's stated that their primary objective was to bring the serious harm of mislabelling a carcinogenic product to the FSA in the hope that the EU regulation would be enforced.<sup>233</sup>

118. The legal adviser to Lynn's described the meeting as 'incredibly frustrating' as the FSA were unwilling to discuss whether traditional bacon and ham products posed health risks, and instead their "*sole focus*" was concerned with the labelling of the Lynn's product.<sup>234</sup>

119. Mr Paterson said that in pursuing the issue with the FSA, he was supporting the report of a serious wrong, namely that the global food producer was acting in breach of EU law, misleading the public and concealing that its product contained carcinogenic nitrites.<sup>235</sup>

120. Mr Paterson stated that nitrites have been directly linked to colorectal cancer,<sup>236</sup> which kills about 16,000 people in the UK each year.<sup>237</sup> Mr Paterson said that it was in the interests of the nation as a whole and of his constituents that nitrite-free bacon and ham should be widely available. Mr Paterson said that it would have been a serious wrong not to seek to reduce the incidence of bowel cancer by encouraging the further adoption of nitritefree alternatives and ensuring that, where companies incorrectly labelled a product and particularly where that concealed a carcinogenic additive, it was drawn to the attention of the relevant authorities. He said it was also in the interests of national health that food products are correctly labelled especially where additives may cause significant health issues.

121. The Professor of Food Safety stated that, in his opinion, the method of curing meats without nitrates marketed by Prosur and adopted by Lynn's was "*a much safer means of preserving meat compared with nitrates*". The Professor stated that he became aware through Lynn's CEO that a company based in Ireland was marketing its product as a naturally cured product in 2017. He referred to an advert used to promote their product, which stated it was naturally cured, 'chemical free and safe'. The Professor stated, "*I did not believe this to be the case. It was cured with nitrite obtained from celery and in my opinion this practice breached EU law.*"<sup>238</sup>

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231 WE25

232 WE6

233 WE25 xii

234 WE25xiii

235 WE6

236 WE6

237 WE25

238 WE25 vii

122. The Professor stated that he had “several meetings with Mr Paterson, who was a consultant to Lynn’s Country Foods about the issues of nitrites in processed meats. Mr Paterson’s concern was entirely focused on protecting the UK public, as a dangerous and mislabelled food was being widely sold in UK and this contained an additive banned by the EU”. The Professor enclosed a paper on the health implications of nitrites used in processed meats, and specifically the link between nitrites and the development of colorectal cancer.<sup>239</sup>

123. I asked Mr Paterson what evidence he brought to the FSA. Mr Paterson’s response to this was to reiterate that Lynn’s discovered that the global producer’s product contained a banned curing agent, and that he approached the FSA. Mr Paterson stated that Lynn’s was hoping to protect customers from eating a concealed carcinogen, and he was acting to protect his constituents and the general public.

124. When Mr Paterson met the FSA on 15 November 2017, the authorities in Northern Ireland and FSA were already aware of the global food producer’s product. Lynn’s had contacted the FSA about the additives used in this ham in February 2017;<sup>240</sup> and the trade press had published an article about this issue in August 2017.<sup>241</sup> Mr Paterson has argued that the fact the FSA were already aware of this wrong was immaterial, since this remained an unresolved serious wrong.

125. The Registrar told me that it seemed likely to her that:

*[Mr Paterson] approached the FSA on behalf of [Lynn’s] because the company wanted to stop another from selling products which they believed to be mislabelled, as well as to promote [Lynn’s]’s own products. These things would have resulted in a business advantage and in the end a financial benefit to the companies.<sup>242</sup>*

## Analysis

126. I will examine each contact to establish whether it constituted an approach by either Lynn’s or Mr Paterson, and, if so, if the approach was initiated by Mr Paterson. In such cases the approaches initiated by Mr Paterson would be subject to the restrictions set out in paragraph 8(a) of chapter 3 of the Guide.

127. The meeting on 15 November 2017 was arranged at Mr Paterson’s request. Mr Paterson then sent a follow up email on his own initiative. Therefore, I find that this meeting and Mr Paterson’s follow up email were approaches initiated by Mr Paterson. Mr Paterson’s position is that the approach to the FSA was initiated by Lynn’s because of their concerns about the global producer’s product. I accept that Lynn’s had approached the FSA NI in February 2017, but I view the contact by Mr Paterson in November 2017 as a fresh approach for two reasons. Firstly, nine months had passed since the original approach by Lynn’s and secondly Mr Paterson approached the FSA in London and not (as Lynn’s had) the FSA NI.

128. Mr Paterson’s email reflects that he contacted the FSA urgently on 8 January 2018 following the letter sent to Lynn’s in November 2017, a letter Mr Paterson had received

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239 WE25 vii

240 WE6

241 WE1

242 WE9

from the Professor of Food Safety, and after receiving reports of enforcement action via the Rapid Alert System for Food and Feed (RASFF). I have seen no evidence that the FSA requested a meeting with Lynn's at this point. Mr Paterson spoke with the FSA Chair, apparently on Lynn's behalf, and arranged the meeting that took place on 15 January 2018. This phone call, email, subsequent meeting, and Mr Paterson's email of 17 January 2018 are therefore approaches initiated by Mr Paterson.

129. The note of the meeting of 24 May 2018 suggests it was called by the FSA, and therefore was not an approach by Mr Paterson or Lynn's.

130. The correspondence between Mr Paterson's office and the FSA indicates that the meeting on 9 July 2018 was initiated by Mr Paterson. Mr Paterson then sent a follow up email on his own initiative. Therefore, I find that this meeting and follow up email were approaches initiated by Mr Paterson.

131. The meeting on 18 December 2018 was to discuss both Radox and Lynn's products at Mr Paterson's offices. Mr Paterson described this meeting to me as a "wrap up" meeting with the Chair. I have no evidence as to who organised this meeting and cannot make a finding as to whether this was an approach initiated by Mr Paterson or Lynn's. I will therefore not consider whether Mr Paterson's actions in this meeting breached the rules on paid advocacy.

132. I shall therefore examine the following approaches initiated by Mr Paterson:

- Meeting with the FSA on 15 November 2017;
- Mr Paterson's email of 15 November 2017;
- Mr Paterson's phone call and email of 8 January 2018;
- The meeting of 15 January 2018;
- Mr Paterson's email of 17 January 2018;
- The meeting of 9 July 2018; and
- Mr Paterson's email of 11 July 2018.

To consider whether Mr Paterson's actions sought to confer, or would have the effect of conferring, a material or financial benefit on Lynn's.

133. The evidence provided by Mr Paterson and the Technical Director at Lynn's reflects that in November 2017 Mr Paterson and Lynn's raised concerns about the global food producer's product. There is, however, a difference of view about motivations and outcomes.

134. In Mr Paterson's email to the Chair of the FSA on 15 November 2017, he referred to the global food producer being required to change the material they used, and to a letter from the FSA to Lynn's which Lynn's could use to 'warn' other suppliers not to use this material. An email from an FSA official, sent in January 2018 but referring to Mr Paterson's email, stated this was not what had been discussed but rather what Lynn's hoped to get out the meeting. The action taken by the FSA (including the Chair's letter of 24 November 2017 which does not reflect Mr Paterson's email) after this meeting supports this view.



135. The Registrar told me that it seemed to her that Mr Paterson approached the FSA on Lynn's behalf in order to stop the selling of products and to promote Lynn's own products. This is supported by:

- the internal FSA email sent on 24 November 2017, which refers to the writer's view that Lynn's was "*trying to clear the market for the launch of its own product(s)*".
- The evidence of the Technical Director who referred to Lynn's concerns that consumers trying to seek out a nitrate free product being misled into buying this product. This was echoed in the legal adviser to Lynn's statement in which he remarked that the global producer's product would create confusion for customers seeking products without nitrates. This suggests that in 2017–18 Lynn's was trying to avoid or minimise possible damage to what they hoped would be their market.
- The FSA briefing note for Mr Paterson's meeting with the FSA on 9 July 2018, which summarised the outcome of previous meetings, also referenced the potential commercial benefit of Lynn's being able to label their product as "*additive free*", and referred to a "*perceived premium associated with 'clean label' products*".

136. Mr Paterson has argued that this was a technical issue and not a financial one conferring any benefit. I have considered his assertion that his contacts with the FSA simply sought to resolve the issue of whether natural food additives can be used as preservatives in bacon and ham, so avoiding nitrites. This is not consistent with the evidence.

137. Had these approaches been successful, a competitor product would have been removed from the UK market, or relabelled, with consumer choice and sales of "*clean label*" bacon being directed towards Lynn's new product. It is not necessary for these benefits to have materialised for me to make a finding of paid advocacy. The paid advocacy rule is clear that seeking to confer a financial or material benefit amounts to a breach of the rule. The financial or material benefit does not need to be achieved for a breach to have occurred.

138. I am therefore satisfied that the meeting of 15 November 2017 and subsequent email sent by Mr Paterson sought to confer a benefit on Lynn's.

139. Moving to the approaches relating to Lynn's use of Prosur's product. Mr Paterson's email to the FSA of 8 January 2018, reflects that he was seeking to protect Lynn's investment, referring to a £14m new plant and 100 new employees.

140. The FSA's note of the meeting on 15 January 2018, and the email sent from an FSA official on 22 January 2018 also refer to Lynn's CEO looking to the FSA to protect him and his investment. The briefing note of the meeting on 9 July 2018 and Mr Paterson's follow up email reflect that the purpose of this meeting was to continue the discussions about Lynn's use of Prosur's product. At further meetings during 2018 Lynn's highlighted the impact of reports of an investigation, and of an alert under the RASFF, on their ability to obtain export certificates.

141. Mr Paterson's follow up email of 11 July 2018 refers to actions the FSA Chair had proposed and requests a copy of the letter the FSA Chair proposed to send to European agencies. I have no meeting minutes or other evidence against which to assess this email. I therefore do not consider this email sought to confer a benefit on Lynn's.

142. Had Mr Paterson's approaches been successful, Lynn's would not have needed to relabel their product and could have continued to describe it as "additive free", allowing the product to attract the premium referred to by the FSA. Lynn's would have also avoided any reputational damage or costs arising from the relabelling of the product; the export certificate delays, which had the potential to damage sales, would have been resolved at an early stage; and there would have been an early end of the regulatory action which prompted the meeting of 15 January 2018, reducing the risk of reputational damage from that action.

143. It is not necessary for these benefits to have materialised for me to make a finding of paid advocacy. The paid advocacy rule is clear that seeking to confer a financial or material benefit amounts to a breach of the rule. The financial or material benefit does not need to be achieved for a breach to have occurred.

144. I am satisfied that Mr Paterson's phone call and email of 8 January 2018; the meeting on 15 January 2018; Mr Paterson's email of 17 January 2018 and the meeting on 9 July 2018 sought to confer a benefit on Lynn's.

145. The evidence reflects that Mr Paterson's approaches to the FSA sought to confer the following benefits on Lynn's:

- A competitor product would have been removed from the UK market, or relabelled, with consumer choice and sales of "clean label" bacon being directed towards Lynn's new product;
- Lynn's would not have needed to relabel their product and could have continued to describe it as "additive free";
- Lynn's would have avoided any reputational damage or costs arising from the relabelling of the product;
- The export certificate delays, which had the potential to damage sales, would have been resolved at an early stage; and
- There would have been an early end of the regulatory action which prompted the meeting of 15 January 2018, reducing the risk of reputational damage from that action.

146. I am therefore satisfied that the following approaches were in breach of paragraph 8(a) of the Guide to the Rules:

- The meeting on 15 November 2017;
- Mr Paterson's email of 15 November 2017;
- Mr Paterson's phone call and email of 8 January 2018;
- The meeting on 15 January 2018;

- Mr Paterson's email of 17 January 2018; and
- The meeting on 9 July 2018.

147. I will now consider whether Mr Paterson's actions fell under the whistle-blowing exemption which would allow him to approach the FSA with evidence of this serious wrong, provided that any benefit to Lynn's was incidental.

148. The FSA were aware of the global producer's product prior to the approaches initiated by Mr Paterson, as Lynn's had contacted them and the trade press had published an article in August 2017. Mr Paterson has argued that the fact the FSA were already aware of this wrong was immaterial, since this remained an unresolved serious wrong. Paragraph 9 makes no explicit mention of approaches about serious wrongs which were previously notified to Ministers and public officials. I think it would be interpreting the rule too narrowly if these were always ruled out. It is significant (although not in itself conclusive) that Mr Paterson did not bring evidence to the FSA in 2017. The rule allows Members to bring evidence to Ministers and officials, not to press for action whenever they feel that the action already taken on a particular issue is insufficient.

149. The FSA's notes from 16 November 2017 recorded that "*OP and the company were pleased with the progress made by FSA NI via their interactions with FSAI*". But I do not think that actions taken by the FSA either before or after the meeting is, in itself, evidence of a serious wrong. It would have been possible to take action on a minor issue.

150. The evidence of those who attended the meeting in November 2017 is not consistent. The Professor of Food Safety's evidence supports Mr Paterson's assertion that he was focused on addressing the serious wrong, and that the FSA changed the focus of the meeting to the use of Prosur's product by Lynn's foods. The internal FSA emails which followed that meeting, however, do not suggest that the officials present perceived Mr Paterson's approach as drawing attention to a serious wrong.

151. I do not contest that Mr Paterson was, when he approached the FSA, concerned by the harm caused by nitrites in bacon. However, in November 2017 he was not addressing the issue of nitrites in bacon generally but the mislabelling of a particular ham product. This was sold by a competitor of Lynn's and could have reduced the market for a new product which Lynn's would shortly launch. And the reason for his contacting the FSA again in January 2018 lay in reported enforcement action which threatened Lynn's investment in their new bacon product.

152. I have considered whether, if Mr Paterson's approaches to the FSA had produced, or would have produced, financial or material benefit for Lynn's, that the benefit could be said to be incidental. I do not think it could. Mr Paterson's first meeting with the FSA and Lynn's on these matters on 15 November 2017 was arranged following Lynn's request for his help. The first part of that meeting focussed on a rival product from a competitor and the second on Lynn's' new bacon product and the substances used in it. It appears from the meeting note that Lynn's raised the second issue. The second meeting was in response to reports of enforcement action against Prosur's product, the ingredient used by Lynn's. In my view, these discussions relating to Lynn's product could not reasonably be considered part of an effort to address a serious wrong.

153. These approaches were intended to help Lynn's by removing or reducing competition and removing business obstacles. I do not consider that any benefit to Lynn's could reasonably be regarded as incidental.

154. Therefore, Mr Paterson's approaches do not meet the conditions for the whistle-blowing exemption in paragraph 9.

### **Conclusion**

155. Mr Paterson breached the rule on paid advocacy in his approaches to the FSA on behalf of Lynn's from November 2017 to December 2018, both in relation to the global food producer's product and in relation to Lynn's own new product. Those approaches were made on the following occasions:

- at a meeting on 15 November 2017;
- in his email of 15 November 2017;
- in his phone call and email of 8 January 2018;
- at the meeting of 15 January 2018; and
- in his email of 17 January 2018; and
- at the meeting of 9 July 2018.

### **Mr Paterson's contact with DfID about laboratory calibration in developing countries**

156. Mr Paterson met the [then] Secretary of State for International Development in the House of Commons on 12 October 2016 and then wrote to her the next day requesting a meeting with Radox representatives. This followed an unsuccessful approach by Radox in July 2016. Mr Paterson met with the [then] Policing Minister on 31 October 2016 and the [then] Minister of State (DfID) and Radox in January 2017. Mr Paterson and the Minister exchanged follow up correspondence after the meeting.

157. I have considered whether, in these meetings or in correspondence, Mr Paterson has breached the rule on paid advocacy.

158. Mr Paterson has asserted that the initial approach to DfID was made by Radox; that he was drawing the attention of Ministers to a serious wrong as allowed by paragraph 9 of chapter 3 of the Guide; and that this approach neither sought to confer, nor had the effect of conferring a benefit to Radox.

### **Timeline<sup>243</sup>**

#### **2015**

1 August Mr Paterson begins work as a consultant for Radox.

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243 Dates are drawn from evidence set out below

## 2016

28 July The Senior Manager at Radox wrote to the Secretary of State for International Development, requesting a meeting to discuss applications for Radox technology.

12 Oct Mr Paterson met the Secretary of State for International Development and mentioned Radox.

13 Oct Mr Paterson wrote to the Secretary of State for International Development requesting a meeting with her and Radox.

31 Oct Mr Paterson met with the Minister of Policing regarding Blood testing.

## 2017

12 Jan Mr Paterson and Radox met the Minister of State (DfID).

16 Jan Mr Paterson sent a follow up email.

1 Feb Minister of State (DfID) responded to Mr Paterson's email.

## Evidence

159. On 28 July 2016 the Senior Manager at Radox wrote to the Secretary of State for International Development.<sup>244</sup> He requested a meeting about DfID Overseas Aid programmes and improving the reliability of laboratory results. The letter stated that Radox was certain that its technology “*could deliver dramatically better health outcomes*” for the same cost. Radox did not receive a reply.

160. Mr Paterson said that, on 12 October 2016, he met the Secretary of State for International Development by chance in the House of Commons and wrote to her the next day asking for a meeting. He reminded her that he had previously told her that he was a consultant for Radox.<sup>245</sup> He met the Minister of State (DfID) in January 2017 in the company of the Radox Senior manager. Afterwards he and the Minister of State (DfID) exchanged follow up letters.

161. The letter from the Senior Manager at Radox to the Secretary of State for International Development (DfID) on 28 July 2016 began:

*I am writing to highlight a valuable opportunity for the DFID Overseas Aid programme, and to request a meeting to discuss the matter further. The issue in question is one of healthcare ‘diagnostics’ and the implications for developing economies, and their healthcare systems, of poor laboratory quality management. This is a significant problem and aligns with the Department’s priority of tackling extreme poverty and helping the world’s most vulnerable.*<sup>246</sup>

162. Radox’s letter went on to set out the company’s assessment of its own strengths in the field. For example:

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246 WE6 iv

*Radox, a UK company, is a world leader with considerable experience in both IQC and EQA laboratory capabilities - our IQC materials are highly stable and accurate and are used globally. Our EQA scheme (RIQAS) is the largest global scheme with over 40,000 participants. Importantly, we fully understand the importance of education and support in these matters, and we provide both educational and on-going technical support to users.*

*By way of further background, Radox is the largest life sciences company from the UK and has been active in developing blood-science diagnostic capabilities, including quality control systems, for some 34 years. We have over 1300 staff, including 300 research scientists and engineers, and currently export to 145 countries. This includes significant experience in the developing world, including activities in the majority of the 28 countries upon which DFID focus.*

[ ... ]

*With Radox's considerable expertise in this area - in IQC/EQA development, establishment of schemes at individual sites and up to national level, and in education, global distribution and support - we believe we have much to offer.*

*We would welcome the opportunity to discuss these matters further with you - both laboratory quality management and, if of interest, the development of diagnostics against new and emerging infectious disease threats. There are real unmet needs here. We believe there is clear potential for DFID, with only a limited resource commitment from the Overseas Aid budget, to make a significant, real and lasting impact on healthcare in developing economies.*

163. The Senior Manager stated that he wrote the letter, highlighting that quality control is “a cost-effective bed-rock upon which improved health, for the world’s most vulnerable could be developed”, but did not receive a reply. He stated that he mentioned to Mr Paterson his concern at the failure to support laboratories in developing countries, and the reduction in serious harm that could be achieved through use of UK aid to support laboratory quality control.<sup>247</sup>

164. Mr Paterson later clarified that as soon as the Senior Manager made him aware of his letter and the serious wrong it detailed, he made it his business to talk to the DfID Secretary of State and so purposely looked out for her rather than meeting her by chance. He stated it was clearly not as urgent an issue as milk contamination but was nevertheless a serious wrong and it was important DfID was aware of this wasted resource resulting in poor health outcomes.<sup>248</sup>

165. The Secretary of State for International Development said that she encouraged Members to bring new suppliers to the attention of the Department to diversify and deliver better value for money and better outcomes. She recalled Mr Paterson approaching her to, “draw my attention to harmful medical practices resulting from a lack of calibration of laboratory equipment in medical centres in the developing world”.

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247 WE25 xiv

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166. The Secretary of State for International Development said Mr Paterson told her that he was a paid consultant to Radox, who had written to her regarding technologies for laboratory calibration but had not received a reply. She said she had not seen this letter, and she informed him she would speak to officials to check if a reply had been sent. She said the matter was picked up by the Minister.

167. The Secretary of State for International Development said she did not believe there was impropriety in Mr Paterson's approach to DfID.<sup>249</sup>

168. Mr Paterson wrote to the Secretary of State for International Development on 13 October 2016, stating:

*Following our brief chat last night, I previously mentioned to you that I work with Radox Laboratories in Northern Ireland. They are convinced that their state of the art technologies could deliver dramatically better health outcomes with the same funds which DfID currently grant to health schemes in developing countries.*

*[Two of my colleagues at Radox] will be in London on Monday 24th October and it would be brilliant if you could find time to meet me with them.*<sup>250</sup>

169. Mr Paterson he told me he met the Policing Minister about blood testing on 31 October 2016. He said the meeting was to discuss Home Office Policy on forensic testing, as the Home Office were considering a single supplier arrangement. Mr Paterson stated that the meeting clarified that there was no intention to go to a single supplier. Mr Paterson could not recall who organised or requested this meeting.<sup>251</sup>

170. Mr Paterson told me he met the Minister of State (DfID) on 12 January 2017 with a representative of Radox.<sup>252</sup> The Senior Manager at Radox said that the meeting was also attended by senior officials within DfID and, "noting that Radox are a private company and a provider of services, DfID procurement officials also attended the meeting by video link". He stated that no one indicated in any way that what was happening was improper, and he was sure that had it been the meeting would have been halted.<sup>253</sup>

171. The Senior Manager stated that flagging an issue to the UK Government and selling something was not the same, and that had the UK Government considered that what was being said was accurate and wished to remedy it, such decisions would be formally recorded and an open and transparent procurement process would follow, with Radox competing with others for any possible contract.<sup>254</sup>

172. Mr Paterson provided in his support an email from the Minister of State (DfID), in which he described the issues around laboratory testing as "a relevant issue for DfID since the department invests hundreds of millions a year of government money in Health programmes in developing countries". The former Minister stated that it was clear Mr Paterson was a consultant to the company, and that "the arguments made for the equipment by the company were about its technical strengths and advantages for international development".

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The Minister stated that, in his view, Mr Paterson was not advocating specifically for this company but approached the meeting with concern for UK tax-funded programs, lab testing, and an interest in improving healthcare.<sup>255</sup>

173. The Minister of State (DfID) stated that officials were present at the meeting, and that they would not have permitted the meeting to continue if it breached the rules of conduct. He said “... *we listened carefully to the description of the problem and the proposed solution*”.<sup>256</sup>

174. On 16 January 2017, Mr Paterson sent a letter to the Minister of State (DfID), listing the actions which he said had been agreed at the meeting. This letter, like that of 13 October 2016, was on House of Commons paper bearing the crowned portcullis.<sup>257</sup> With it he enclosed a copy of a press release detailing a joint project between Randox and a small charity in the Cameroon.

175. Mr Paterson sent me a copy of this letter, in which he stated that he was “*a consultant to Randox*”. He echoed the Senior Manager in describing Randox’s offer as “*not so much a ‘Laboratory Project’ as a proposal that should be viewed as securing the ‘bedrock’ of healthcare - as a reliable blood tests are the core of clinical decision-making.*” Mr Paterson told me “*that is something any politician would promote. I saw this as addressing a genuine health concern.*”<sup>258</sup>

176. Mr Paterson’s letter to the Minister of State (DfID) continued:

*... Randox’s request is not to look at their ‘ensuring quality’ proposal as a niche part of some laboratory project, but rather as a capacity building project worthy of active consideration in its own right. This would appear to be an excellent use of UK Aid resources.*<sup>259</sup>

177. Mr Paterson then listed what he called “key follow ups” from the meeting as:

*That the Department would facilitate contact between Randox and the DFID personnel within the King Salman Relief Fund, for their laboratory projects.*

*You would discuss and review internally the Randox proposal and how it may complement UK Aid programmes.*

*The Department would facilitate a Randox presentation to your in country health advisors in London.*

*Up to date information on DFID Tier 2 providers would be forwarded to Randox.*

*The Department would work with Public Health England on the matter of laboratory quality, with Randox as required.*

178. Mr Paterson told me that he did not dispute he was speaking highly of Randox in his follow up letter to the Minister of State (DfID) dated 16 January 2017, but he did not

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257 WE6 vi and WE6 v

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see how the two could reasonably be separated. He said it would have made no sense to obscure mention of the company that had identified the serious wrong. Mr Paterson stated it had always been his custom to write follow up letters after meetings to summarise and keep up the urgency.<sup>260</sup>

179. The Minister of State (DfID) responded on 1 February as follows.

*Thank you for your letter of 16 January, following up on our meeting with [name redacted] to discuss the work of Randox on laboratory quality assurance.*

*It was very interesting to meet with Randox and hear about their work to improve health systems and services by strengthening the quality of laboratory diagnosis. I was especially interested to learn about the global contribution of a British company as a leader in this field.*

*My officials are following up on the points you raise in your letter:*

*The King Salman Relief funding mechanisms are at an early stage of development. DFID's representative in Riyadh is [details redacted], whom Randox may wish to contact to explore whether there may be suitable funding opportunities.*

*DFID's health teams have discussed Randox's work and where this may complement UK-funded health programmes in developing countries and have also raised Randox with colleagues at the Department of Health and Public Health England. The Fleming Fund, a major UK aid programme that is managed by the Department of Health, aims to improve laboratory capacity and diagnosis as well as data and surveillance of antimicrobial resistance in low and middle-income countries. This programme will include investments in laboratory capacity and quality assurance, as part of a large portfolio of country and regional level grants (to be designed and delivered by a Management Agent, [name redacted]). Randox may wish to discuss potential opportunities as a commercial supplier with the Fleming Fund Programme Director, [details redacted].*

*As we discussed, DFID support for health does not typically include direct funding for laboratories or associated quality assurance. DFID health advisers in London would be pleased to meet with Randox to explain DFID's approach to improving health for poor people in developing countries in greater detail; and hear more about Randox's work. [Randox] can contact the head of our Health Services team, [name redacted], to arrange this.*

*DFID's Procurement and Commercial Department (PCD) is currently collating analysis on bidding behaviour of Tier 2 suppliers, which has not yet been finalised. PCD officials would be happy to meet with Randox to explain our supply chains, how we buy, and who we work with. [name redacted] will be happy to arrange a meeting.*

*Radox may also be interested in the work of Healthcare UK. This is a joint initiative of the Department of Health, NHS England and the Department of International Trade that promotes the British healthcare sector internationally, and drives export opportunities to win more business overseas. Dr [name redacted] is their Deputy Director of Futures, International Development and Investment (email address redacted).*

*Thank you again for bringing Radox's work to my attention. I trust that this progress update and further points of contact are helpful.<sup>261</sup>*

180. In the email which he provided to Mr Paterson in 2021, the Minister of State (DfID) stated that, “Following on from the meeting civil servants subjected the idea to the standard procedures, to which we would submit any idea or application presented to the department. ... In the event, we concluded—regardless of the strengths and weaknesses of this particular product - that DfID did not have a strategic requirement for such a product. We, therefore, took the idea no further. This was only ever an idea.” He went on to state that had DfID decided there was a requirement for such equipment, they would have gone through an open and transparent public tender process.<sup>262</sup>

181. Mr Paterson told me that he had been seeking to improve health care worldwide. He said that in his view, as a matter of fact, Radox had had no financial benefit, nor had he been in a position to seek to confer a financial benefit on Radox. Mr Paterson said that it was entirely a matter for DfID whether they undertook any testing of Radox diagnostic services or materials. He added that only if testing happened and proved successful could consideration of the services or materials begin. Then numerous factors would have to be considered before there could be any financial benefit.<sup>263</sup>

182. Mr Paterson stated that, whilst Radox was referred by the Minister of State (DfID) to a procurement opportunity, that was not the aim of the approach and highlighted that public procurement rules would have to be followed.<sup>264</sup>

183. Mr Paterson stated that the letter from Radox on 28 July 2016, even if focused on the value of its control systems, was predominantly trained on the serious wrong to which these systems offered some remedy. He also highlighted that Radox's focus did not mean he was not motivated by the serious wrong. He stated that he did not want his constituents' taxes wasted on machines that did not do their job due to improper calibration. He said that the Radox product was a good opportunity for DfID.<sup>265</sup>

184. Mr Paterson said that Radox's evidence of poor or non-existent quality control systems within healthcare laboratories in some developing countries was a serious wrong compelling him to act.<sup>266</sup> He said these failings meant that the associated blood tests could not be relied upon, with a significant associated cost in human lives and wasted healthcare resources in societies of greatest need. He said the UK Government had been investing millions of pounds for years in international development projects and is committed to better global public health, which includes working to combat diseases such as malaria,

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Ebola and drug resistant infections. This could be helped by implementing effective quality control systems; Radox was one of a number of companies providing quality control systems.<sup>267</sup>

185. I asked Mr Paterson what evidence he provided to DfID. Mr Paterson stated he “*provided the evidence that a failure to calibrate laboratory equipment renders health outcomes unreliable, causes human suffering and loss of life and wastes the resources UK taxpayers are providing*”,<sup>268</sup> and referred to the earlier letter from Radox.

186. Mr Paterson stated that he raised the issue with the correct Government department so they could take action, that 2017–2019 had been extraordinarily busy and that since October 2019 he had had to deal with this inquiry so had not been able to pursue the matter further.<sup>269</sup>

187. Mr Paterson highlighted that DfID was “*seeking new suppliers and new technologies; it positively encouraged companies to come forward*”. He stated that Radox’s motivation was to inform DfID of the existence of this technology, which is not exclusive to Radox.<sup>270</sup>

### Analysis

188. I will examine each contact to establish whether it constituted an approach by either Radox or Mr Paterson, and, if so, if the approach was initiated by Mr Paterson. In such cases the approaches initiated by Mr Paterson would be subject to the restrictions set out in paragraph 8(a) of chapter 3 of the Guide.

189. Mr Paterson stated the initial approach to DfID was made by the Senior Manager at Radox, and that he participated thereafter.<sup>271</sup> I accept that Radox approached the Secretary of State for International Development in a letter of 28 July 2016. I do not, however, accept that in following up this approach Mr Paterson was participating in the approach made by Radox and therefore exempt from the House’s advocacy rule. Three months had elapsed since Radox’s approach. I therefore consider Mr Paterson initiated the approach to the Secretary of State for International Development on 12 October 2016.

190. Mr Paterson sent the Secretary of State for International Development a letter the next day on his own initiative. Therefore, I find this letter was an approach initiated by Mr Paterson.

191. Whilst the meeting with the Minister for Policing on 31 October 2016 was regarding blood testing, I have no evidence as to who organised this meeting. Therefore I cannot make a finding as to whether this was an approach initiated by Mr Paterson or Radox. I will therefore not consider whether Mr Paterson’s actions in this meeting breached the rules on paid advocacy.

192. The meeting on 12 January 2017 was arranged at Mr Paterson’s request, Mr Paterson then sent a follow up email on his own initiative. Therefore, I find that this meeting and Mr Paterson’s follow up email were approaches initiated by Mr Paterson.

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193. I shall therefore examine the following approaches initiated by Mr Paterson:

- Mr Paterson’s approach to the Secretary of State for International Development on 12 October 2016;
- Mr Paterson’s letter of 13 October 2016;
- The meeting on 12 January 2017; and
- Mr Paterson’s letter to the Minister of State (DfID) on 16 January 2017.

To consider whether Mr Paterson’s actions sought to confer, or would have the effect of conferring, a material or financial benefit on Randox.

194. In his letter of 13 October 2016 Mr Paterson referred to Randox being convinced their technology could deliver dramatically better health outcomes with the same funds. In his letter of 16 January 2017 Mr Paterson set out clearly the “follow ups” he wanted to see after the meeting earlier that month. These included DfID facilitating contact between Randox and DfID personnel within a relief fund for laboratory projects; reviewing internally Randox’s proposal, facilitating a Randox presentation to DfID’s incountry health advisors, and providing details of their Tier Two providers.

195. Mr Paterson was over-optimistic and the promises in the Minister’s reply of 1 February 2017 to him were more limited. But Mr Paterson’s letter provides insight into his broad objectives. I am satisfied that this was not a “neutral” meeting solely to discuss poor health outcomes in developing countries, and the general importance of IQC and EQA mechanisms,<sup>272</sup> but designed to benefit Randox.

196. Mr Paterson has told me that Randox received no financial benefit. This does not influence my consideration of whether Mr Paterson engaged in paid advocacy. Paid advocacy is against the rules, whether it is successful or not.

197. Mr Paterson told me that he had not been in a position to seek to confer a financial benefit on Randox. Mr Paterson said it was entirely a matter for DfID whether they undertook any testing of Randox diagnostic services or materials, adding that only if testing happened and proved successful could consideration of the services or materials begin.

198. I agree that Mr Paterson’s approaches would not have resulted in Randox receiving public funds directly. But they brought other benefits. His initial discussion with the Secretary of State for International Development and subsequent email secured a meeting for Randox with DfID which they had not previously been able to obtain. That meeting would have benefited Randox by securing contacts with in-country health advisers and the King Salman Relief Fund, as well as obtaining information about Tier Two providers. This was reiterated in his follow up email. I am satisfied that Mr Paterson’s actions sought to confer, or would have the effect of conferring, a financial and material benefit on Randox.

199. I am therefore satisfied that the following approaches were in breach of paragraph 8(a) of the Guide to the Rules:

- Mr Paterson’s approach to the Secretary of State for International Development on 12 October 2016;
- Mr Paterson’s letter of 13 October 2016;
- The meeting on 12 January 2017; and
- Mr Paterson’s letter to the Minister of State (DfID) on 16 January 2017.

200. The former Secretary of State referred to DfID encouraging MPs to bring new suppliers to their attention. This does not mean that the rules on lobbying did not apply.

201. The rules on paid advocacy prevent Members from initiating approaches to Ministers or public officials which seek to confer, or would have the effect of conferring a financial or material benefit on their employers or clients. They are there to prevent outside organisations buying the services of Members to lobby for them - and to guard against the perception that such lobbying has taken place. I am particularly concerned that in this instance when a company who paid Mr Paterson found it hard to arrange a meeting with a Minister, he secured a meeting for them.

202. I will now consider whether Mr Paterson’s actions fell under the whistle-blowing exemption which would allow him to approach the FSA with evidence of this serious wrong, provided that any benefit to Randox was incidental.

203. Randox themselves first approached DfID on 28 July 2016 about blood testing. This was before Mr Paterson became involved. Their letter began by referring to a valuable opportunity for the DfID Overseas Aid programme. Mr Paterson has said the letter from Randox was predominantly trained on the serious wrong to which their systems offered some remedy. I do not agree, their letter does not suggest that they were writing to raise a serious wrong.

204. I accept Mr Paterson’s assertion that Randox’s focus does not mean he was not motivated by the serious wrong. However, Mr Paterson’s own actions also do not suggest that he felt compelled to address a serious wrong. When DfID did not reply to Randox, Mr Paterson made an approach to the Secretary of State for International Development in October 2016, by his account, “*by chance*”, although he later stated that he was specifically looking out for her to ensure DfID was aware of this wasted resource. When Mr Paterson followed up his chance meeting with by sending an email to the Secretary of State the next day, he made no mention of a serious wrong or substantial injustice. Rather, he said Randox “*are convinced that their state of the art technologies could deliver dramatically better health outcomes with the same funds which DfID currently grant to health schemes in developing countries.*”

205. Again, when Mr Paterson wrote to the Minister on 16 January 2017, after their meeting, he made no reference to any serious wrong or substantial injustice. In his letter, he argued that Randox’s proposal would complement the UK aid programme and improve value for money for UK aid.

206. If Mr Paterson *was* addressing the serious wrong of poor or non-existent laboratory controls, the rules permitted him to approach Ministers with evidence of this serious wrong. I asked Mr Paterson what evidence he provided to DfID. Mr Paterson stated he “*provided the evidence that a failure to calibrate laboratory equipment renders health*

*outcomes unreliable, causes human suffering and loss of life and wastes the resources UK taxpayers are providing*”, and referred to the earlier letter from Radox. This, however, is not evidence, but assertions. In fact, the only material Mr Paterson provided to DfID was a press release relating to a project involving Radox in the Cameroon.

207. Mr Paterson highlighted that DfID was “*seeking new suppliers and new technologies; it positively encouraged companies to come forward*”. He stated that Radox’s motivation was to inform DfID of the existence of this technology, which is not exclusive to Radox. His correspondence, however, does not mention other products. The Minister of State (DfID) stated that he concluded that DfID did not have the requirement for such a product. This again reflects that the meeting was a ‘pitch’ for a specific Radox product, rather than raising a serious wrong.

208. If he was raising a serious wrong with DfID, I would have expected Mr Paterson to return to it at a later date. But Mr Paterson did not raise this matter with DfID again. Mr Paterson stated that he raised the issue with the correct Government department so they could take action, that 2017–2019 had been extraordinarily busy and that since October 2019 he had had to deal with this inquiry so had not been able to pursue the matter further.

209. If Mr Paterson had raised a serious wrong, the rules did not permit him to use the opening to make approaches which either sought to confer or would have the effect of conferring a benefit on Radox. They would not permit him to promote Radox’s technology as he has done. In those circumstances any benefit to his client would not be ‘incidental’ but an intended outcome of the approach.

210. Therefore, Mr Paterson’s approaches do not meet the conditions for the whistle-blowing exemption in paragraph 9.

## **Conclusion**

211. Mr Paterson breached the rule on paid advocacy in his approaches to DfID on behalf of Radox from October 2016 to January 2017. Those approaches were made on the following occasions:

- to the Secretary of State for International Development on 12 and 13 October 2016;
- at a meeting with the Minister of State (DfID) on 12 January 2017; and
- in his follow up letter of 16 January 2017.

## **Allegation 2: Mr Paterson omitted to make necessary declarations of interest**

### ***The relevant rules of the House: paragraph 13 of the Code of Conduct and chapter 2 of the Guide to the Rules***

212. Paragraph 13 of the 2015 Code of Conduct for Members (paragraph 14 of the current Code) states:

*... . [Members] shall always be open and frank in drawing attention to any relevant interest in any proceeding of the House or its Committees, and in any communications with Ministers, Members, public officials or public office holders.*

213. Chapter 2 of the Guide the Rules expands on the rule in respect of declaration of Members' interests. Paragraph 4 begins:

*Members are required, subject to the paragraphs below, to declare any financial interests which satisfy the test of relevance ... .*

214. Paragraph 5 states

*The test of relevance is whether those interests might reasonably be thought by others to influence his or her actions or words as a Member.*

215. Paragraph 7 lists the circumstances in which declarations are required. These include

*7(e) When approaching others*

*Members must declare a relevant interest in any communication, formal or informal, with those who are responsible for matters of public policy, public expenditure or the delivery of public services. That includes communications with Ministers, either alone or as part of a delegation: with other Members; with public officials (including the staff of government departments or agencies and public office holders). If those communications are in writing, then the declaration should be in writing too; otherwise it should be oral.*

## **Evidence**

216. Mr Paterson told me that, although he could no longer recall all the conversations he had had, he “*invariably inform[ed] those [he] spoke to regarding either company that [he] was a consultant to them*”. He said he did not recall the detail of his brief conversation with the Secretary of State for International Development on 12 October 2016 but, in his letter the following day, he had stated, “*Following our brief chat last night I previously mentioned to you that I work with Radox Laboratories in Northern Ireland.*” He also did not recall his call with a named FSA official in the week commencing 7 November 2016 but said he was “*certain*” he had mentioned being a consultant to Radox.

217. Mr Paterson told me that he frequently made oral disclosures, and in support of this referred to his letter to the Minister of State (DfID) dated 16 January 2017 and FSA's meeting notes dated 24 May 2018 and 18 December 2018.<sup>273</sup> He stated that “*Everyone with whom I dealt, on behalf of either company, was on notice and aware that I was acting as a consultant.*”<sup>274</sup>

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218. In the note of the meeting between Mr Paterson, Randox and the FSA on 18 December 2018, it was recorded that, “As a paid consultant to Randox, Owen Paterson ...”<sup>275</sup> It was also recorded in an internal FSA email sent on 22 January 2018 that Mr Paterson declared his interest as a consultant to Lynn’s during an earlier meeting.<sup>276</sup>

219. Mr Paterson provided a statement from the Veterinary Advisor of the NML, who stated that Mr Paterson declared that he was a paid consultant for Randox.<sup>277</sup>

220. The Technical Director of Lynn’s stated that Mr Paterson always stated he was a consultant to Lynn’s at the outset of each meeting with the FSA.<sup>278</sup>

221. The Professor of Food Safety stated that at the meeting with the FSA in January 2018, “Mr Paterson was clear that he was present in his capacity as a consultant to Lynn’s.”<sup>279</sup>

222. The legal adviser to Lynn’s stated he had noted that Mr Paterson was attending in his capacity as a consultant from Lynn’s. He stated, “Mr Paterson was always transparent in the FSA dealings that I was involved with and there was never any question of the capacity he was acting in”.<sup>280</sup>

223. The Senior Manager at Randox stated he was certain Mr Paterson introduced himself as a paid consultant during the meeting held with DfID. He described Mr Paterson as fastidious in starting each meeting by saying he is a paid consultant to Randox and, “I have often thought that this was a very unnatural way to start a meeting but I understand that this was necessary to ensure Mr Paterson remained within the Parliamentary rules”.<sup>281</sup>

224. Mr Paterson provided statements from his office manager and his Senior Parliamentary Assistant, who both stated that they often heard Mr Paterson introducing himself as a paid consultant.<sup>282</sup>

225. Mr Paterson identified himself as a consultant to Randox in his letter to the DfID Minister on 16 January 2017. The Secretary of State for International Development said that Mr Paterson told her he was a consultant for Randox when approaching her.<sup>283</sup>

226. There are instances where Mr Paterson has communicated with FSA officials and not stated in that communication that he is a consultant. This includes, his email to the FSA Chair on 16 November 2016<sup>284</sup> (copying in other officials), 15 November 2017,<sup>285</sup> 8 January 2018<sup>286</sup> and 17 January 2018.<sup>287</sup>

227. I sought advice from the Registrar, who said that she had seen that Mr Paterson declared his outside employment with Randox when he approached DfID ministers, and that he declared his interests at a meeting between FSA and Randox in late 2017 or early

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275 WE3 xxiii

276 WE39 i

277 WE25 xvii

278 WE25 xi

279 WE25 vii

280 WE25 xiii

281 WE25 xiv

282 WE25 xx

283 WE40

284 WE6 i

285 WE6 iii

286 WE25 iv

287 WE6 x



2018. The Registrar noted that the internal FSA briefing for the meeting on 18 December 2018 shows that FSA officials knew Mr Paterson was a paid consultant to Randox. She said that Mr Paterson was right to disclose his business interests to DfID and FSA when he did.

228. The Registrar noted that the Guide to the Rules requires MPs to disclose interests not just in their initial communication with a Minister or agency, but in “*any communication, formal or informal*”. Noting that his communication with FSA about milk testing spanned three years, the Registrar told me that she would have advised Mr Paterson to make frequent declarations in emails and at meetings, and to make sure these were included in any minutes of meetings.<sup>288</sup>

### Analysis

229. Mr Paterson has stated that he invariably informed those he spoke to regarding either company that he was a consultant, and regularly drew attention to his interests.

230. This is supported by the FSA meeting notes of May 2018 and December 2018. Internal documents provided to me also show that the relevant FSA officials were aware of his financial interest arising from his role as a consultant to Randox and to Lynn’s.

231. This is also supported by Mr Paterson’s declarations of his interests in his two letters to DfID Ministers. The first declaration, in his letter of 13 October 2016, was in terms that suggested that he recognised that he had not made a declaration in his chance conversation with the Secretary of State for International Development, “*Following our brief chat last night, I previously mentioned to you that I work with Randox Laboratories in Northern Ireland*”. However, the Secretary of State for International Development has stated that Mr Paterson did notify her of his role when he approached her.

232. Mr Paterson has provided a number of statements which refer to him declaring his interest as a consultant to Randox and to Lynn’s regularly and often.

233. In Mr Paterson’s emails to the Chair to the FSA on 16 November 2016 (copying in other officials), 15 November 2017, 8 January 2018 and 17 January 2018, he did not state he was a consultant. The rules clearly require relevant financial interests to be declared in any communication, formal or informal when approaching others. I have already set out why I consider these emails to be approaches by Mr Paterson.

234. I am satisfied that Mr Paterson’s general approach was to declare his interests and that those who had regular contact with him were well aware of these. However, the fact remains that I have seen emails from Mr Paterson to FSA officials which did not include a declaration as required by the rules. Therefore I find that Mr Paterson has breached the rules on declarations. I consider this breach to be towards the minor end of the scale.

### Conclusion

235. I find that Mr Paterson has breached the rules on declarations in respect of emails sent to the Chair of the FSA on 16 November 2016, 15 November 2017, 8 January 2018 and 17 January 2018, in which he did not declare he was a consultant to Randox or Lynn’s.

### Allegation 3: Mr Paterson misused House-provided resources

#### Relevant rules of the House: paragraph 15 of the Code of Conduct

236. Paragraph 15 of the 2015 Code of Conduct stated:

*Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their parliamentary duties. It should not confer any undue personal or financial benefit on themselves or anyone else, or confer undue advantage on a political organisation.*

237. Specific rules apply to the use of House-provided stationery. Paragraph 3 of Rules for the use of stationery and postage-paid envelopes provided by the House of Commons, and for the use of the Crowned Portcullis states:

*House-provided stationery and pre-paid envelopes are provided only for the performance of a Member's parliamentary functions. In particular, this excludes using stationery or postage:*

...

*(ii) for business purposes; ...*

#### Evidence

238. Mr Paterson told me that the vast majority of communications relating to his consultancies had been by email and he had used his private email account. He said that some letters had been sent to him at his parliamentary address, but he could not control where letters are physically sent.<sup>289</sup>

239. The letters Mr Paterson sent to DfID officials on 13 October 2016 and 16 January 2017 were on House of Commons paper, bearing the crowned portcullis.<sup>290</sup>

240. Mr Paterson said he had located the two letters he had sent using House of Commons paper, for which he apologised. He said a long-term member of staff had been on leave and he had had a temporary member of staff at the relevant time. He told me that the use of House-provided stationery had been “*an unfortunate oversight on [his] part*” for which he took full responsibility. Mr Paterson told me that he had been an MP since 1997 and this was the first occasion that he had breached a House of Commons rule.<sup>291</sup>

241. I asked Mr Paterson about the inclusion of the parliamentary footer in an email chain I had seen. He said he had no recollection of the email and, having looked into it, the obvious explanation was that the photographs attached to his email of 17 January 2018

289 WE6

290 WE6 vi and WE6 v

291 WE6

from his private email account had been sent first in error to his parliamentary email address, from which it would have been forwarded and, when he forwarded the attached photographs, the footer was attached.<sup>292</sup>

242. Mr Paterson provided a list of meetings he had had with Randox and Lynn's, with their locations and dates, between 24 October 2016 and February 2020. That list included 27 meetings held on the parliamentary estate, of which 15 were with Randox and 12 with Lynn's. One of the Randox meetings was about blood testing and also involved the Minister for Policing. Ten of the meetings with Lynn's were with the same representative of the company and took place most months between January 2019 and February 2020.<sup>293</sup>

243. Mr Paterson said that he had held meetings in his parliamentary office when they were in discharge of his parliamentary duty and when he had to be on the parliamentary estate because of a three-line whip. Mr Paterson added that his constituency is in Shropshire and is not accessible during the parliamentary week, and a serious injury in January 2018 had limited his mobility for some months, which meant he had been less able to leave the parliamentary estate.<sup>294</sup>

244. Mr Paterson said in his email to me that he had kept his consultancy business separate from his parliamentary work but, because he had been Secretary of State for Northern Ireland, there are times when the roles overlapped. He explained that compliance with security protocols arising from holding that office meant that his parliamentary staff dealt with his travel arrangements when visiting Northern Ireland. He said that he and his staff organised any meetings in his parliamentary office and his office managed his diary as they needed to know where he was at all times. Mr Paterson continued "*my work with both Lynn's and Randox is kept separate from my parliamentary duties*".

245. Mr Paterson told me that he:

- used his personal email and mobile phone for his consultancy work, sending his own emails;
- meets both companies off the parliamentary estate; and
- used to travel to meet them in Northern Ireland but, with the increase in three-line whips, he was often required to stay on the parliamentary estate and could not travel to Northern Ireland as often.

246. The legal adviser to Lynn's provided evidence on the meeting on 15 January 2018. He stated, "*The meeting was held in Mr Paterson's office at 1 Parliament Street. As far as I am aware, his office was chosen as a convenient location as neither my firm nor [Lynn's] had offices in London*".<sup>295</sup>

247. The Registrar said she would have advised Mr Paterson to make sure there was a clear separation between his outside work and his parliamentary duties, so that there was no danger of his using resources funded from the public purse (such as offices, phones, ICT, stationery or the time of his parliamentary staff) to support his outside work. She said it had been right and proper for Mr Paterson to use a private email address for his

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292 WE11

293 WE11 ii

294 WE11

295 WE25 xiii

communications with Randox (as was evidenced in the documents he had provided). However, she also identified occasions when a parliamentary email was used, giving as examples, the exchanges organising a meeting for 9 July 2018. The Registrar noted that the parliamentary footer was included with the attachments to Mr Paterson's email of 17 January 2018 to the FSA Chair, which might suggest that the parliamentary email system had been used during the correspondence.

248. The Registrar noted the meeting of 9 July 2018 between Mr Paterson and FSA had been planned to take place in 1 Parliament Street. The Registrar advised that such business meetings should not take place in MPs' parliamentary offices or on the parliamentary estate. If Mr Paterson's staff arranged these and were paid from parliamentary expenses, this was also a matter for concern.

249. The Registrar said she did not agree that Mr Paterson has no control over where FSA sent their letters to him. She said that if FSA habitually wrote to him at the House of Commons, he should have asked them to write to him at another address. She noted that all the FSA letters were sent in hard copy. In respect of Mr Paterson's use of parliamentary headed paper when writing to DfID, the Registrar noted that Mr Paterson attributed the use of that stationery to the work of a temporary secretary, and said that, if that person was paid from parliamentary expenses they should not have been engaged on Mr Paterson's outside work other than on a very occasional basis.<sup>296</sup>

250. Mr Paterson denied using his office improperly for meetings. He has stated that his use of parliamentary resources enabled him to fully discharge his parliamentary duties even during periods of frenetic parliamentary activity and were therefore in support of his parliamentary duties.

251. Mr Paterson said it was not the case that his work with Lynn's and Randox was always separate from his parliamentary role; as his consultancy work had brought to his attention serious wrongs that he was compelled, as a matter of parliamentary duty, to raise with the relevant public authorities.<sup>297</sup>

252. Mr Paterson's office manager stated that she had worked in Westminster for over 30 years, and for Mr Paterson since 2015. She stated that Mr Paterson kept his paid consultancies entirely separate from his duties as an MP, always used his personal phone and email address and did not involve his office staff in his consultancy work; save for her involvement in terms of logistics.

253. Mr Paterson's office manager stated that from October 2016 to December 2017, Mr Paterson conducted 229 meetings in his office, and highlighted that only four Randox meetings and one meeting with Lynn's meeting were held in his office.<sup>298</sup>

254. Mr Paterson's Senior Parliamentary Assistant stated she had worked for Mr Paterson for 19 years. She echoed Mr Paterson's office manager's comments that Mr Paterson kept his personal business entirely separate from his duties as an MP. She described Mr Paterson's use of his office for his consultancies as few and far between.<sup>299</sup>

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296 WE9

297 WE11

298 WE25 xx

299 WE25 xxi

255. Mr Paterson provided a statement from a former MP, who stated that he had no direct knowledge of the particular circumstances but would provide a view on the proper use of the parliamentary estate. He stated that it was acknowledged that, “*the purpose for which the taxpayer funds the parliamentary estate is to permit members of Parliament to conduct parliamentary and constituency business*”, but that, “*it is also a fact recognised both in public discourse and in the rules governing the conduct of members that MPs are permitted to take part in party political, private and business dealings while remaining members of Parliament.*”

256. The former MP stated that it was recognised that the parliamentary timetable makes it necessary for MPs to be present on the parliamentary estate over long periods of time to be available to participate at short notice in parliamentary proceedings, and that therefore there are inevitably times when an MP needs to make or receive calls or written communications, or will need to be involved in meetings, that relate to the party political, private or business dealings of the MP. The former MP stated he had never heard any suggestion that it would be thought improper for these to happen and that they were “*an everyday occurrence*”.

257. The former MP agreed with Mr Paterson that the Brexit debate absorbed a huge amount of time during which participants were compelled to remain on the parliamentary estate to be rapidly available for parliamentary interventions and votes.<sup>300</sup>

258. Mr Paterson provided a statement from Graham Stringer MP who echoed the former MP’s point that June 2017 to December 2019 was an exceptionally busy period within parliament and it was very difficult to plan to be away from the Parliamentary Estate.<sup>301</sup>

259. Mr Paterson provided a statement from Sir Iain Duncan Smith MP, stating, “*if there are good reasons, such as the need to be on the Parliamentary Estate during a whip, then you may use your parliamentary office to facilitate the occasional meeting. You may not run a business from your office as this would be improper, but many Members meet with Trade Unionists, journalists, sponsors and businesses in their office as they need to be on the Parliamentary Estate*”. Mr Duncan Smith stated he did not see the distinction between having a phone call and holding a meeting and stated that it was a case of using your own reasonable judgment. Mr Duncan Smith also echoed previous comments that Brexit was a particularly busy time.<sup>302</sup>

260. Mr Paterson provided a statement from Rebecca Harris MP, who stated that the proposition that Members with outside interests should not deal with those interests whilst on the Parliamentary Estate, for example using their office, “*cannot be correct*”. She went on to state, “*I have never heard of any suggestion, let alone a rule, prohibiting MPs from using their parliamentary office for all matters relating to outside interests ...* “. Ms Harris did not consider it practicable to expect members to conduct all their potential non-parliamentary or non-constituency business off the estate.

261. Ms Harris echoed previous comments about Brexit debates being an exceptionally busy time.<sup>303</sup>

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300 WE25 xxiii

301 WE25 xxiv

302 WE25 xxv

303 WE25 xxvi

## Analysis

262. I shall examine whether Mr Paterson’s use of House-provided resources was always in support of his parliamentary duties.

263. Mr Paterson has accepted that he used House of Commons paper for two letters to DfID, explained this was an oversight by a temporary member of staff, and apologised.

264. Mr Paterson has told me about 27 meetings which he held with Randox and Lynn’s on the parliamentary estate between October 2016 and February 2020. The details of the dates and times of these meetings can be found in the timeline in Appendix 1 to this memorandum.

265. Mr Paterson contends that it was necessary to hold those meetings with his clients on the estate because of the weight, volume and unpredictability of parliamentary business at the relevant times. He told me that it was “*simply not practical*” to hold meetings off the estate and it was “*safer*” to arrange meetings on the estate. I accept that the frequency of three-line Whips since June 2016 may have made it more difficult than usual for Members to attend meetings away from the parliamentary estate when the House is sitting. Nonetheless, other than in very rare and exceptional circumstances, Members should not use accommodation and support services provided at public expense for purposes other than their parliamentary activities.

266. Mr Paterson has stated that as his use of his office allowed him to fully discharge his parliamentary activity during exceptionally busy times, this was in support of his parliamentary duties. I do not accept this. These meetings appear to have been at the parliamentary estate to enable Mr Paterson conveniently to undertake his private business obligations.

267. Mr Paterson has provided several statements from Members who consider that the rules allow use of parliamentary offices for private business activity. The rule on the use of parliamentary facilities and services is clearly set out in the Code of Conduct, and I have in mind decisions taken by the Standards Committee and its predecessors when Members were found to have used the parliamentary estate for purposes other than their parliamentary duties.<sup>304</sup>

268. The statements which Mr Paterson has provided to me suggest he may not be the only Member improperly using his office for private interests. If so, I do not believe that this is a mitigating factor. I believe that most Members know and keep to the rules. It is Mr Paterson’s responsibility to ensure he is acting within the rules. I would also advise those who supported Mr Paterson’s business activity on the parliamentary estate to familiarise themselves with the rules of the House.

269. Even if I were to accept - which I do not - that all Mr Paterson’s approaches to FSA were justified because he was seeking resolution of serious wrongs, it is clear from Mr Paterson’s responses to my questions that he has routinely held meetings with, and about, his clients and their interests on the parliamentary estate. These meetings were, by his account, often arranged well in advance. I understand that it was simpler for the arrangements to be allowed to stand when the weekly Whip became available, but I do not

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304 [Written-evidence-Margaret-Hodge-report.pdf \(parliament.uk\)](#); Committee on Standards and Privileges, 23rd Report of 2010–12, HC 1887 (Liam Fox)

see that as justification for using the parliamentary estate for private business interests. More specifically, I do not see how a three-line Whip at 21.00 for 22.00 could justify meetings on the estate at 09.30 and 15.15 on 24 October 2016 and at 15.30 and 16.00 on 31 October 2016. Similarly, I do not think that it was relevant to the arrangements for a meeting at 9.00 on 6 December 2017 that there was a running Whip from 12.30 that day.

270. It is not clear whether every diarised meeting took place and what its exact purpose was. But in my view, 25 of those meetings should not have been held in Mr Paterson's office on the parliamentary estate. I am prepared to accept that Mr Paterson could properly have used his office to meet colleagues to plan a life sciences reception, or for a brief social visit.

271. Mr Paterson has said that it is incorrect to consider his work with Lynn's and Randox as entirely separate from his parliamentary role; that his consultancy work had brought to his attention serious wrongs that he was compelled, as a matter of parliamentary duty, to raise with the relevant public authorities. Those concerns might have justified a very small number of meetings on the parliamentary estate, if they were urgent, but there should have been a clear dividing line between his outside work and his parliamentary responsibilities. Nor do the concerns raised by the outside work justify the number of meetings that Mr Paterson held over an extended period of time. And, for the reasons I explain in my assessment of allegation one, I do not, in any case, accept that Mr Paterson's work with Lynn's and Randox was part of his parliamentary activity.

272. The House provides Members with accommodation, and supporting services, to enable them to carry out their parliamentary responsibilities. Paragraph 15 of the Code is very clear: "*Members shall ensure that their use of public resources is always in support of their parliamentary duties. It should not confer any undue personal or financial benefit on themselves ....*" When considering particular cases, my predecessors have sometimes taken the view that a Member's occasional use of parliamentary resources for non-parliamentary purposes was permissible. Mr Paterson did not make occasional use of parliamentary accommodation for meetings for his outside work. He used it 25 times between October 2016 and February 2020. This conferred upon Mr Paterson a personal benefit of a saving of time and inconvenience that would have resulted from holding the meetings away from the Parliamentary estate. Taking all of the above into account, I have concluded that Mr Paterson acted in breach of paragraph 15 of the then Code of Conduct during this period, misusing Houseprovided resources for purposes other than those for which they were intended.

273. Since May 2010 the Independent Parliamentary Standards Authority (IPSA) has administered the scheme for the reimbursement of Members' business expenses, including the reimbursement of the costs of employing staff to assist Members in their parliamentary duties. Alleged breaches of those rules are considered by the Independent Compliance Officer for IPSA.

274. I have not commented here on the tasks Mr Paterson gave to his parliamentary staff. He told me that - as is proper - he did not use their services for general support of his outside work. But he also told me that he used staff services for "logistics", which I take to mean for arranging and providing practical support for his business meetings, including those on the parliamentary estate. Parliamentary staff are now funded by the Independent Parliamentary Standards Authority (IPSA). This use of parliamentary staff time is a matter for IPSA to consider in the first instance.

## Conclusion

275. Mr Paterson breached the rule on use of House-provided resources by holding business meetings on the parliamentary estate between October 2016 and February 2020, and in sending two letters to DfID in October 2016 and January 2017 on House-provided stationery.

## Additional Matters

### *Approach from Mr Paterson's colleagues*

276. In the first week of November I received via the House authorities a letter from Nigel Fleming QC. It was not addressed to an individual and was said to have been received from unnamed “concerned colleagues” of Mr Paterson. They had asked for the letter to be passed to me. Mr Paterson’s solicitor later forwarded to me a copy of the same letter.<sup>305</sup> Since the letter relates to the detail of my inquiry and was given to the House authorities by unknown parties, I am concerned that the confidentiality of the inquiry may have been breached. If those involved were seeking to influence my inquiry and my findings, this would be a very serious matter.

### *Mr Paterson's comments*

277. On 1 December 2020 I sent a draft copy of this memorandum to Mr Paterson to allow him the opportunity to comment. He provided a large amount of information which has been incorporated into this memorandum.

278. On 11 June 2020 I sent a further draft copy of this memorandum to Mr Paterson to allow him the opportunity to comment.

279. Mr Paterson’s response can be seen in full in the Written Evidence Pack at WE43. Mr Paterson raised issues concerning the principles set out in Article 6, natural justice, the ACAS Code of Practice, common law and *Brown v Dunn* and stated that I have failed to follow these principles.

280. Article 6 concerns the determination of civil rights and obligations recognised by domestic law and criminal charges. This inquiry concerns the rules set down in the code of conduct for Members of Parliament. It is an internal House process. It is not a criminal charge and the process does not concern the determination of civil rights and obligations. For these reasons Article 6 does not apply. Despite that, I act so as to ensure that all my inquiries follow a due process approach that would satisfy Article 6 and provide an independent and fair investigation of the allegations.

281. Mr Paterson raises *Browne v Dunn* and the need to put one’s case in cross examination to a witness whose evidence is not accepted. He describes this a basic principle of common law and natural justice. The case of *Browne v Dunn* concerns how evidence must be challenged in an adversarial court hearing in England and Wales. This inquiry is not an adversarial court hearing but an internal House proceeding which will lead to a determination of whether Mr Paterson has breached the code of conduct for Members of Parliament. The common law and the case of *Browne v Dunn* do not apply to this inquiry



as it is not an adversarial court hearing, but an internal inquisitorial inquiry conducted under Standing Orders in the House of Commons. I apply a process that I am satisfied is fair and efficient in relation to all evidence produced.

282. Mr Paterson states that the ACAS Code of Practice has not been complied with. The ACAS Code of Practice is designed to help employers, employees and their representatives deal with disciplinary and grievance situations in the workplace. It is not relevant in this inquiry as Mr Paterson is not an employee of the House.

283. The principles of natural justice require that decision makers must inform people of the case against them, they must give those individuals a right to be heard, they must be free from any personal interest in the outcome and must only act on probative evidence. There is no requirement that there must be an adversarial court hearing with the cross examination of witnesses. This is set out more fully in Annex 2 of the Memorandum.

284. This inquiry concerns the conduct of Mr Paterson. The principles of natural justice have been applied because he has been informed of the case against him and has been given the opportunity to be heard. The evidence on which the recommendation has been put to the Committee is that of Mr Paterson's evidence and the various emails and other evidence relevant to Mr Paterson's actions in approaching Ministers and other officials and his use of House provided resources.

285. My recommendations do not rely on witness evidence concerning contaminants in milk, mislabelling of products or laboratory calibration as this is not relevant to the issue which is Mr Paterson's conduct in approaching Ministers and officials on behalf of Radox and Lynn's. There is no requirement to challenge those witnesses whose evidence concerns contamination and mislabelling as this evidence does not go to the issue being considered.

286. Mr Paterson has commented on my decision to anonymise third parties in the report and written evidence pack. This is in line with my usual practice.

287. My recommendations also do not rely on the other Members' evidence concerning their use of House resources as the issue is whether Mr Paterson misused House resources. These Members can only give evidence as to their conduct. It is for the Committee to determine whether Mr Paterson has correctly followed the rules on the use of House resources.

288. Mr Paterson states that I have applied the incorrect test. I do not agree with his assessment. I have applied the correct tests from the Rules of Conduct and Guide to the Rules.

289. Mr Paterson also asks for all communications I have had with third parties, FOI requests and all and any documents supplied. The material published by the FSA in response to an FOI request is publicly available. I do not need to know who made the FOI request in order to rely upon the material. I have provided in the Written Evidence pack my correspondence with the FSA, and the material provided in response. I have also provided in the Written Evidence pack all correspondence requesting material from third parties.

290. Mr Paterson says I have broadened the scope of the inquiry. During the course of the inquiry, it became apparent there might have been additional breaches of the rules of conduct. My inquiry was extended in response to this and Mr Paterson was notified in accordance with natural justice.

291. Mr Paterson asks the Committee to refer the matter to a Judge, but it is for the Committee to determine how they will conduct their procedures and I make no comment on that.

### Conclusion

292. Parliament allows Members to undertake paid outside work, recognising that this can inform and enrich parliamentary debate and scrutiny. Mr Paterson's experience, and the contacts he had made in his career, are likely to have made his services particularly valuable to his clients.

293. In the approaches he made to Ministers and senior officials, Mr Paterson's actions went beyond what was permitted by the rules. Considered in the round, his actions create the impression that companies with money at their disposal can pay Members of Parliament to promote their products to government Ministers and public officials and to help them to overcome regulatory obstacles.

294. I have found that Mr Paterson acted in breach of paragraph 11 of the 2015 Code of Conduct, which prohibits paid advocacy, in respect of approaches he made to the FSA and DfID. Mr Paterson has told me that he was acting as a "*whistle-blower*" under the exemption provided in paragraph 9 of Chapter 3 of the Guide to the Rules. I accept that he was entitled to this exemption in respect of the approach he made in November 2016, and the meeting he attended on 15 November 2016. But I do not accept that he was entitled to this exemption in his follow up meetings and correspondence as these were intended to benefit his clients rather than to raise a serious wrong.

295. I consider that Mr Paterson was not entitled to the whistle-blowing exemption, and therefore breached paragraph 11 of the Code in his approaches to the FSA, on behalf of Lynn's and to DfID on behalf of Radox as these were also intended to benefit his clients rather than to raise a serious wrong. He also brought no evidence to FSA and DfID about serious wrongs.

296. Mr Paterson has stated that when addressing a serious wrong, the rules on lobbying do not apply.<sup>306</sup> This is not the case. By Mr Paterson's application of the rules, any Member dealing with a serious matter could use that as a platform to benefit a company by whom they are paid. The correct interpretation of the rule is that it allows a Member to bring evidence of a serious wrong or substantial injustice to the responsible Minister or official, even if it would have the incidental effect of conferring a financial or material benefit on the organisation which paid him or her. Mr Paterson was seeking benefit for his clients. In those circumstances that benefit to his clients would not be 'incidental' but an intended outcome of the approach.

297. I note that Mr Paterson has argued that the approaches he made would have brought wider benefit to public health and for the international aid budget. He also argued that

these approaches had the potential to benefit other companies as well as his clients. I have not had to apply any test of wider benefit and these arguments have had no bearing on my finding.

298. I am particularly concerned that Mr Paterson intervened to secure a meeting with FSA officials when his client had previously not been able to obtain the action they wanted; and that he obtained a meeting with DfID Ministers which his client had been unable to secure.

299. I have found that Mr Paterson failed to declare his interests when communicating with FSA officials, in breach of paragraph 13 of the Code of Conduct. I am satisfied that Mr Paterson's general approach was to declare his interests and that those who had regular contact with him were well aware of these. However, the rules are clear that a Member must make a declaration in *any* communication when approaching a Minister or official.

300. I have found that Mr Paterson acted in breach of paragraph 15 of the Code of Conduct when he used his parliamentary office and parliamentary meeting facilities for his work for his paying clients, particularly in the 25 meetings which he held on the parliamentary estate; and when he sent two letters on parliamentary paper, for which he has already apologised.

301. Mr Paterson's breaches of the lobbying were so serious and so numerous that they risked damaging public trust in the House and its members. They create the impression that companies with money at their disposal can pay Members of Parliament to lobby for their benefit. I therefore find that he has also breached paragraph 16 of the 2015 Code. Mr Paterson has not shown the integrity and selflessness<sup>307</sup> expected of him. Although breaches of the rules might in other circumstances be concluded by way of the rectification procedure available to me under Standing Order No 150, Mr Paterson's breaches are too serious for the rectification procedure to be appropriate. It is for this reason that I must refer this memorandum to the Committee on Standards.

**Kathryn Stone OBE**

**Parliamentary Commissioner for Standards**

16 July 2021

## Appendices to the Commissioner's memorandum

### Appendix 1 - Timeline of Events

Date	Action
<b>2015</b>	
1 August	Mr Paterson begins work as a consultant for Randox
9 September	Mr Paterson receives first payment from Randox

307 General principles of conduct, part IV of the Code of Conduct for Members

Date	Action
7 October	Mr Paterson registers his first payment from Radox
<b>2016</b>	
28 July	Radox write to DfID asking for a meeting about blood testing
12 October	Mr Paterson meets Secretary of State for International Development by chance in Parliament and asks for a meeting for Radox
13 October	Mr Paterson sends a follow up letter to Secretary of State for International Development
24 October	Mr Paterson meets Radox at 09.30 and 15.15 on the parliamentary estate
31 October	Radox and Mr Paterson meet on the parliamentary estate at 15.30 & 16.00 with Home Office Minister
w/c 1 November	Mr Paterson becomes aware of Radox milk testing results
w/c 7 November	Mr Paterson approaches FSA about milk testing
15 November	Radox and Mr Paterson meet about milk testing at 14.00 on the parliamentary estate. Radox, FSA and Mr Paterson meet at 15.00. Three-line whip from 12.30
16 November	Mr Paterson sends a follow up email to FSA about milk testing
17 November	FSA reply, saying contamination of milk was at a low level but agreeing further testing required. FSA say Radox technology is not accredited.
<b>2017</b>	
12 January	Radox and Mr Paterson meet about blood testing at 16.00 on the parliamentary estate before travelling to and meeting with Minister of State (DfID)
16 January	Letter from Mr Paterson to Minister of State (DfID)
25 January	Lynn's make first payment to Mr Paterson
26 January	Radox make a private social visit to the parliamentary estate at 9.00. One-line whip
27 January	Mr Paterson registers first payment from Lynn's
February	Lynn's approach FSA
1 February	Minister of State (DfID) writes to Mr Paterson about blood testing
7 February	Radox and Mr Paterson meet about the Grand National at 11.00 on the parliamentary estate. Three-line whip
20 April	Radox increase Mr Paterson's pay and hours

Date	Action
26 April	Mr Paterson registers increase in his pay from Randox
11 September	Randox and Mr Paterson meet in House of Lords by invitation about the Life Sciences Reception at 19.00. Three-line whip from 21.00
15 November	Mr Paterson meets FSA on the parliamentary estate at 13.00 about meat additives, and at 14.00 about milk testing. Three-line whip. Mr Paterson emails the FSA Chair about meat additives.
24 November	FSA write to Lynn's saying that Lynn's proposals amount to using additives, and to say that the other company had agreed to relabelling
6 December	Randox and Mr Paterson meet on the parliamentary estate at 9.00 to discuss implications for the French dairy industry. Three-line whip from 12.30
<b>2018</b>	
15 January	Mr Paterson meets FSA on the parliamentary estate at 15.45 with Lynn's and others about reclassification of ingredients. Three-line whip in the evening
17 January	Mr Paterson emails FSA
18 January	FSA and Mr Paterson meet on the parliamentary estate about milk testing
10 February	FSA reply to Mr Paterson's email
23 May	Randox and Mr Paterson meet at 12.00 on the parliamentary estate. Three-line whip from 12.30
24 May	Mr Paterson meets with FSA, Lynn's and legal advisers about Lynn's Country Food's products
20 June	Randox and Mr Paterson meet on the parliamentary estate at 10.30 about the Life Sciences Reception. Deferred divisions from 11.30
29 June -2 July	Emails sent by Mr Paterson's office about a meeting on 9 July about Lynn's products
9 July	Mr Paterson meets with the FSA Chair about Lynn's products, planned to be held on the parliamentary estate
11 July	Email from Mr Paterson to FSA
17 July	Randox and Mr Paterson meet at 9.00 on the parliamentary estate about the Life Sciences reception. Three-line whip from 12.30
10 October	Randox and Mr Paterson meet at 10.00 on the parliamentary estate. Deferred divisions from 11.30
10 December	FSA write to Mr Paterson
18 December	Mr Paterson meets FSA on the parliamentary estate to discuss milk testing and food additives

Date	Action
<b>2019</b>	
10 January	Lynn's meet Mr Paterson on the parliamentary estate
6 February	Lynn's meet Mr Paterson on the parliamentary estate
6 March	Lynn's meet Mr Paterson on the parliamentary estate
10 April	Lynn's meet Mr Paterson on the parliamentary estate
18 May	Lynn's meet Mr Paterson on the parliamentary estate
12 June	Lynn's meet Mr Paterson on the parliamentary estate
17 July	Lynn's meet Mr Paterson on the parliamentary estate
30 October	Lynn's meet Mr Paterson on the parliamentary estate
<b>2020</b>	
15 January	Lynn's meet Mr Paterson on the parliamentary estate
12 February	Lynn's meet Mr Paterson on the parliamentary estate

## ***Appendix 2 - Analysis of the process of the inquiry***

1. The Parliamentary Commissioner for Standards, Kathryn Stone, ('the Commissioner') aims to carry out independent, fair, thorough, and impartial inquiries that meet the requirements of natural justice.
2. Mr Paterson has raised concerns about whether the inquiry into his conduct under the Code of Conduct was fair and accorded with natural justice. In particular, he has raised the following specific instances which he believes indicates that the process was unfair and failed to meet the requirements of natural justice.
  - a) The inquiry was opened just before Parliament was dissolved; it would have been fairer to wait to see if he was re-elected.
  - b) The Commissioner failed to interview Mr Paterson and failed to take up his offer of a meeting, instead conducting the inquiry through a series of letters.
  - c) The Commissioner relied on evidence in the form of hypothetical questions to the Registrar for Members' Financial interests, who was not independent but a junior member of The Commissioner's team.
  - d) There were excessive delays in the inquiry, such as the delay from 19 March to 29 May 2020.

- e) The Commissioner and her team failed to understand the material, for example she asked in November 2020 whether Mr Paterson was an employee or a consultant to Randox and Lynn's, when Mr Paterson had already said in January 2020 that he was a paid consultant.
  - f) The Commissioner failed to interview relevant witnesses.
  - g) The Commissioner misinterpreted the rules and strained to find breaches, in particular she failed to correctly apply the rules on paid advocacy.
  - h) The Commissioner failed to provide all relevant documentation to Mr Paterson for his comments, in particular only part of a FOIA request was provided.
  - i) Insufficient time was allowed for Mr Paterson to respond to the draft memorandum and obtain evidence in rebuttal.
3. The principles of natural justice can be summarised as follows:
- a) decision-makers must inform people of any case against them or their interests
  - b) decision-makers must give these individuals a right to be heard
  - c) decision-makers must be free from any personal interest in the outcome
  - d) decision-makers must act only on logically probative evidence
4. This annex will analyse the particular concerns raised by Mr Paterson and whether the inquiry has been conducted fairly and in accordance with the principles of natural justice.
5. Mr Paterson says that the Commissioner acted unfairly in opening the inquiry when she was aware that Parliament would shortly be dissolved, and it would have been fairer to wait to see if he was re-elected before opening the inquiry.
- a) The initiation letter to Mr Paterson opening this inquiry was sent on 30 October 2019 shortly before the Dissolution of Parliament even though The Commissioner would have to halt work during the Dissolution period.
  - b) The inquiry was opened at that time because it is the Commissioner's practice to inform a Member as soon as practicable once the decision has been made to initiate an inquiry. This is in the interests of fairness and because a delay in informing a Member about a decision to open an inquiry might disadvantage them, for example they might dispose of relevant evidence because they were not aware of the inquiry. Promptly informing a Member of an inquiry may also minimise delays by ensuring that the inquiry can be re-started as soon as the new Parliament is formed.
6. Mr Paterson says it is unfair that the Commissioner failed to interview him or take up his offer of meeting in person, instead conducting the inquiry through a series of letters.
- a) The Commissioner conducted the inquiry in accordance with her usual practice, through a series of letters, rather than in an interview. She did this as she needs detailed answers to conduct her inquiry and, in her experience, Members

generally prefer to respond in writing as this gives them time for consideration, and to identify any material they have that supports their responses. The use of letters to conduct the inquiry was intended to allow Mr Paterson the best opportunity of responding fully, and to attempt to minimise the impact and stress of the process and the Commissioner was not made aware until the end of the inquiry that Mr Paterson would have preferred to attend an interview.

- b) The Commissioner sent a number of letters containing questions, both as she needed to ask further questions in response to his answers and to obtain his comments as further information came to light. For example, in Mr Paterson's first letter he said that he believed he had approached public officials with or on behalf of companies which paid him, which is against the rules except in very narrow circumstances. The Commissioner asked further questions to establish whether his approaches were justified under the "serious wrong" provision in paragraph 9 of chapter 3 of the Guide to the Rules. Mr Paterson also said he had used Parliamentary resources in the course of his outside work. The Commissioner asked further questions to establish the extent of his use of Parliamentary resources and whether it was in breach of the rules.
- c) It is not correct that Mr Paterson offered to meet the Commissioner and she failed to take up this offer. In her initial letter the Commissioner said, "*While I do not, at this stage, know whether it will be necessary to interview you about this matter, it would be open to you to be accompanied at any interview. I am, of course, very happy to meet with you at any stage if you would find that helpful*". In his reply of 16 January 2020, Mr Paterson said, "If you wish to interview me, I would be pleased to meet you. If you require any additional information, please let me know". On 26 November 2020 the Senior Investigations and Complaints Manager asked Mr Paterson's solicitor if Mr Paterson would like a remote meeting with the Commissioner, but this was declined. In January 2021 Mr Paterson asked to meet the Commissioner and the Commissioner agreed to a remote meeting which has now taken place.

7. Mr Paterson criticises the reliance on evidence in the form of hypothetical questions to the Registrar for Members' Financial Interests, describing her as not independent but a junior member of The Commissioner's team. The Guide to the Rules, paragraph 17, makes it clear that no written guidance can provide for all circumstances and the Registrar is available to give advice to Members. For this reason, the Commissioner sought the Registrar's views, as a member of her team with extensive experience in other cases, so she could draw on that experience to test the evidence in this case. Her advice is just that, it is a matter for the Commissioner as to whether or not she accepts this advice.

8. Mr Paterson has criticised delays in the inquiry, in particular the delay in responding to his letter of 19 March 2020 which was not replied to until 29 May 2020.

- a) It is accepted that there were delays in the inquiry. These include a delay by Mr Paterson in responding to the Commissioner's initiation letter of 30 October 2019, Parliament returned on 17 December, but Mr Paterson did not reply until 16 January, and the delay by the Commissioner who responded to Mr Paterson's letter of 19 March on 29 May. This was partly due to the move of the Commissioner's office to home working due to the pandemic, and due



to the pressure of work. There were unavoidable delays due to Mr Paterson's bereavement. The final delays were caused by Mr Paterson's request for additional time to produce evidence and respond to the draft Memorandum.

- b) It is correct that this inquiry has taken longer than the Commissioner would have liked, but this was partly due to the need for a thorough inquiry given the seriousness of the allegations, and only one lengthy delay (from March to May 2020) was caused by the Commissioner's office, other delays were at the request of Mr Paterson. Although unfortunate, there is no evidence that the length of time this inquiry has taken has made the inquiry unfair, rather Mr Paterson has been allowed extra time to produce evidence.

9. Mr Paterson has criticised a failure to understand the material by the Commissioner and her staff. In particular, he says that he was asked in November 2020 whether he was an employee or consultant of Radox or Lynn's. He points out that he told the Commissioner on 16 January 2020 that he was a consultant and that this was declared in the Register and to be asked this again in November 2020 shows a failure to understand the material he had already provided.

- a) The Commissioner asked for the clarification in November 2020 because she had noted that ACoBa had referred to "your employer" and although Mr Paterson had referred to himself as a consultant, in the absence of any contract for both consultancies the Commissioner felt it important to get confirmation on this point.
- b) The terms employee and consultant are not necessarily contradictory, it is possible to work as a consultant while being an employee, so it was important to clarify whether Mr Paterson was both a consultant and an employee or only a consultant.
- c) As the Commissioner's inquiry is inquisitorial and not adversarial, she needs to ask follow up questions and ascertain relevant facts in order to be able to make a decision that is evidence based. The Commissioner needed to confirm whether Mr Paterson was an employee or consultant and in the absence of a written contract she needed to clarify this with Mr Paterson.

10. Mr Paterson says that the inquiry is unfair as the Commissioner has failed to interview relevant witnesses. Mr Paterson has not set out which witnesses the Commissioner failed to interview but has provided some witness statements himself.

- a) Much of the additional witness evidence produced by Mr Paterson is not relevant to this inquiry. This is because some of the witnesses produce evidence as to the harm caused by the products, but the issue is not whether there was serious harm, but whether Mr Paterson's actions fell wholly within the exception in paragraph 9 of chapter 3 of the Guide to the Rules, or whether he went beyond raising evidence of a serious wrong that would have the incidental effect of conferring a benefit on one of the companies for which he was a consultant, into paid advocacy on their behalf.
- b) The additional evidence provided by Mr Paterson that is relevant will be considered by the Commissioner when she makes her determination.

11. Mr Paterson says that the inquiry is unfair as the Commissioner misinterpreted the rules and strained to find breaches.

- a) The Commissioner has set out her reasoning in detail in her Memorandum. The Commissioner's duties include advising the Committee and individual Members on the interpretation of the Code of Conduct and as such, she is an expert on the interpretation of the Rules.
- b) The Commissioner's duties also include investigating this matter and then reporting to the Committee on Standards who will decide whether they accept her reasoning and whether they find Mr Paterson's conduct to be in breach of the rules. Mr Paterson therefore has an opportunity to challenge the Commissioner's findings in another forum, so is not disadvantaged if he believes the Commissioner's interpretation of the Rules to be incorrect.

12. Mr Paterson says that the inquiry is unfair as he has not been provided with all relevant documentation. In particular, a Freedom of Information Act request was discovered towards the end of the inquiry and part of this was disclosed to Mr Paterson as it concerned one of the meetings referred to in the evidence.

- a) The FOIA request that was disclosed at the end of the inquiry was disclosed late as the Commissioner's team only became aware of it late in the process. The substantive part of the document containing details of meetings was disclosed as that was relevant to the inquiry. The procedural documents concerning the FOIA request were not disclosed as they were not relevant and were not referred to in the Memorandum. Mr Paterson was given the opportunity to comment on the material that was relied on and alerted to the existence of the remainder of the FOIA request.

13. Mr Paterson alleges unfairness as he was allowed insufficient time to respond to the draft Memorandum, and as a result he had to work over Christmas to meet the deadline.

- a) The draft Memorandum was sent to Mr Paterson for a factual accuracy check on 1 December 2020. This was not intended to be the stage at which Mr Paterson began to collect evidence and submit his case. Mr Paterson had originally been informed of the nature of the allegations in October 2019 and had been asked a number of questions since, so the Commissioner believed Mr Paterson had had sufficient opportunity to become acquainted with the nature of the allegations and present any evidence he thought relevant.
- b) As the inquiry had been delayed already and the Commissioner did not expect Mr Paterson to bring additional evidence at this stage, he was asked to respond in 2 weeks, on 15 December, well before Christmas, however, at Mr Paterson's request this time has been extended more than once to enable Mr Paterson to submit additional evidence.

14. In considering whether the inquiry has been fair the following principles of natural justice have been considered,

- a) decision-makers must inform people of any case against them or their interests.
- b) decision-makers must give these individuals a right to be heard.

- c) decision-makers must be free from any personal interest in the outcome.
- d) decision-makers must act only on logically probative evidence.

15. Mr Paterson was informed of the nature of the inquiry at the outset of the inquiry on October 2019 and the nature of the allegation has not changed. He has been asked a number of questions about the detail of the inquiry and has had the opportunity to respond. He has also seen the draft Memorandum and been given the opportunity to check its accuracy and comment on it.

16. Mr Paterson was notified of the inquiry in October 2019 he was asked a number of questions and given an opportunity to respond. He has been asked a number of questions to clarify the issues and on each occasion has been given an opportunity to respond. He was given a copy of the draft Memorandum and offered an opportunity to check its factual accuracy and, at his request, more time has been allowed on a number of occasions to ensure he can provide evidence to support his account.

17. The Commissioner is independent and appointed by the House, she does not have a personal interest in the outcome of the case.

18. The Commissioner has carefully collected the evidence that she considers relevant and has offered Mr Paterson the opportunity to see the evidence and allowed additional time for him to provide additional evidence to support his case. Her draft Memorandum is detailed and carefully sets out which items of evidence she has relied on to make her decision.

19. Although there has been some delay in concluding this case, this has been partly due to delays in the Commissioner's office when the office had to relocate to working from home, but a number of the delays were at Mr Paterson's request to enable him to respond fully to the inquiry.

20. Mr Paterson has been informed of the nature of the case against him. He has had an opportunity to respond to the evidence and produce his own evidence. The Commissioner is independent with no personal interest in the outcome and she has set out the evidence she relies on in her Memorandum. In these circumstances the inquiry does not breach the principles of natural justice.

### ***Appendix 3 - Timeline of inquiry***

October 2019: I began the inquiry

30 October 2019: I wrote to Mr Paterson, informing him of my inquiry and requesting information relevant to the allegations

16 January 2020: Mr Paterson responded to my initiation letter, providing accompanying material

27 January 2020: I wrote to the Registrar of Members' Financial interests, requesting advice regarding the allegations. I informed Mr Paterson that I had done this

25 February 2020: I wrote to Mr Paterson providing the Registrar's advice and asking some additional questions

19 March 2020: Mr Paterson responded to the Registrar's advice and my additional questions

21 March 2020: The UK entered a state of lockdown and I and my team had to adapt our working practices

29 May 2020: I wrote to Mr Paterson with some additional questions, having reviewed the material he provided

18 June 2020: Mr Paterson responded to my additional questions

End June 2020: I suspended my inquiry after Mr Paterson suffered a close family bereavement

9 November 2020: I resumed my work on the inquiry

23 November 2020: I asked Mr Paterson a point of clarification

24 November 2020: Mr Paterson responded to my request for clarification

1 December 2020: I wrote to Mr Paterson attaching a draft copy of my memorandum, requesting his comments by 15 December

10 December 2020: Mr Paterson's solicitor asked that I extend the deadline for his comments, and for him to provide additional evidence

15 December 2020: I wrote to Mr Paterson extending the deadline to receive his comments to 10 January 2021 (later extended to 13 January 2021 as 10 January 2021 fell on a Sunday)

5 January 2021: My office wrote to Mr Paterson drawing his attention to a section of the FSA FOI material which I had not previously had sight of

8 January 2021: Mr Paterson's solicitor wrote to my office querying what test I had applied when considering evidence to be relevant, and asking for an additional extension to his deadline to return material to me by 27 January 2021

12 January 2021: I agreed to Mr Paterson's request to extend the deadline for receiving any additional evidence to 27 January 2021

15 January 2021: Mr Paterson responded to my draft memorandum and provided a substantial body of material

2 February 2021: I responded to Mr Paterson, setting out my response to the points he had raised about the inquiry. I confirmed I would update him as to the progress of the memorandum on 14 February 2021.

4 February 2021: Mr Paterson wrote to me requesting a meeting and providing an additional witness statement

11 February 2021: I wrote to Mr Paterson agreeing to his request to meet, but stating the meeting would be over video call, and providing an agenda

19 February 2021: Mr Paterson's office informed me he would respond the following week

24 February 2021: Mr Paterson wrote to me raising three points about the inquiry. Mr Paterson stated he was in the process of collecting additional evidence, and stated he wished to meet in person.

1 March 2021: I responded to Mr Paterson's letter setting out my position and stating that the meeting could only be over video call, and should occur within the next week to avoid further delay to the inquiry

5 March 2021: Mr Paterson wrote to me stating that he anticipated his enquiries would be complete within 2–3 weeks and that he would be in touch to arrange a meeting at that point

16 March 2021: I wrote to Mr Paterson setting out my position, and stating that I expected any additional evidence to be provided by 26 March, and that any meeting would have to occur before then

17 March 2021: Mr Paterson emailed me confirming his availability on 26 March 2021

19 March 2021: Mr Paterson provided an additional witness statement, and stated he was expecting to receive at least one further statement in the coming days

24 March 2021: I wrote to the FSA requesting material, asking for the material to be provided by 7 April

26 March 2021: I interviewed Mr Paterson, at his request. Mr Paterson provided me with two additional witness statements prior to the meeting

30 March 2021: I wrote to Mr Paterson asking further questions that I had not been able to put to him in the interview and providing him with a copy of the interview transcript. I asked for the response to these questions and any suggested amendments to the transcript by 9 April.

9 April 2021: Mr Paterson responded with further evidence

21 April 2021: I wrote to a witness to request a statement, after none had been forthcoming from Mr Paterson

23 April 2021: The FSA provided the material that had been requested

11 May 2021: I received a statement from an outstanding witness

3 June 2021: I met with Mr Paterson

#### **Appendix 4 - Glossary**

ACoBA: Advisory Committee on Business Appointments, who considers applications under the business appointment rules about new jobs for former ministers

Chief Vet: The UK's Chief Veterinary Officer, an official in the British government who is head of veterinary services in the United Kingdom.

Daera: The Department of Agriculture, Environment and Rural Affairs in Northern Ireland

Defra: The Department for Environment, Food and Rural Affairs; government department responsible for environmental protection, food production and standards, agriculture, fisheries and rural communities in the United Kingdom

DfID: The Department for International Development; government department responsible for administering overseas aid.

Florfenicol: A semi-synthetic antibacterial agent.

FSA: The Food Standards Agency, responsible for food safety and food hygiene in England, Wales and Northern Ireland.

Lynn's: Lynn's Country Foods, a limited company which processes and distributes food products. Mr Paterson is a consultant for Lynn's.

Milk Quality Forum: A forum set up by Mr Paterson to improve the quality of milk.

Nitrate: A salt or ester of nitric acid, often used as a preservative

Nitrite: A salt or ester of nitrous acid, often used as a preservative

NML: National Milk Laboratories; provides payment testing, microbiology and other testing services to dairy farmers

PCS: Parliamentary Commissioner for Standards; the Commissioner is independent of Parliament and investigates allegations that MPs have breached the House of Commons' Code of Conduct for Members.

Prosur: A company that creates and produces preservatives. Their product was used by Lynn's to preserve bacon and ham products

Randox: Randox Laboratories Ltd, a company in the vitro diagnostics industry. Mr Paterson is a consultant for Randox.

RASFF: Rapid Alert System for Food and Feed. This is primarily an IT tool designed to swiftly exchange information between national authorities on health risks related to food and feed.

VMD: Veterinary Medicines Directorate; an executive agency which protects animal health, public health and the environment.

## Appendix 2: Written evidence from Mr Owen Paterson

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This document includes redactions, authorised by the Committee, of material which is of a sensitive personal nature or material which in the view of the Committee might be legally actionable were it not subject to parliamentary privilege.

### **In the matter of an Inquiry before the Committee on Parliamentary Standards**

#### **Witness Statement of Owen Paterson**

I, **Owen William Paterson**, say as follows:

#### **1 Introduction**

1.1 I make this statement in response to the Parliamentary Commissioner for Standards (“**the Commissioner**”) undated memorandum,<sup>308</sup> as received by me on 16 July 2021. The content of this witness statement is within my own knowledge and is true. I have signed this statement under a perjury declaration.

1.2 I invite the Committee to read this statement and the attached letter to the Commissioner dated 2 July 2021 before I appear in front of the Committee, which is projected to be on 21 September 2021.

1.3 I have fully co-operated with this Inquiry and answered in detail all questions put to me by the Commissioner. I have not breached the Rules of Conduct.

1.4 I wish to appear before the Committee in person and give oral evidence with my advisor present to assist me.

1.5 Further, to the extent that my evidence does not prove to the Committee’s satisfaction that I have not breached the Rules, then I invite the Committee to accept the unchallenged evidence provided by 17 witnesses.<sup>309</sup> These are the only witnesses who give evidence. If the Committee does not accept these written statements, then I ask that any witness whose evidence is not so accepted be called and examined in front of the Committee.

#### **2 Summary**

2.1 To assist the Committee, I have summarised the matters referred to by the Commissioner and the basis upon which I assert the Rules have not been breached. This statement then covers the evidence that supports my position.

#### *Paid Advocacy*

2.2 The Commissioner finds that I acted as a paid advocate by seeking to promote the products of Radox and Lynn’s and that my actions were intended to give these companies a financial benefit; not that my actions actually did give any financial or other benefit.

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308 The Memorandum ends “[insert date]” and this is but one example of a lack of attention to detail in what is a most serious matter.

309 Pages 168–213 and 277 of the Written Evidence Bundle to the Commissioner’s Memorandum.

2.3 The evidence I have presented to the Commissioner and on which I rely, proves that in each matter where I initiated contact with the Responsible Minister or Public Official then I was acting to address a serious wrong or substantial injustice, which is expressly permitted by the Rules. The Rules on paid advocacy relate to the circumstances in which a Member “initiates” contact.

2.4 Members of Parliament are under a duty to act in the best interests of their constituents and the general public. Where a Member of Parliament becomes aware of any “serious wrong or substantial injustice” then that Member is under a duty to refer it to the Authorities. No more so than when dealing with dangerously contaminated foods consumed by children. In such circumstances the Member is permitted to initiate contact with the responsible minister or the public official(s). Not to do so would obviously prevent an MP from acting in their constituents’ and the wider general public’s best interests.

#### Contamination of Milk

2.5 In November 2016, in my capacity as a consultant to Randox, I became aware that 12.5% of milk at the point of sale in Ireland (Northern Ireland and the Republic) was contaminated with a concealed, banned, carcinogenic, anti-microbial residue. This was incredibly serious for the consumers and the dairy industry. It simply shouldn’t happen.

2.6 The Commissioner initially found that in referring this to the FSA I acted as a paid advocate, which I found extraordinary. I then provided the Commissioner with witness statements from those who were involved in this issue and whom the Commissioner had not approached, including the Deputy Chair of the FSA, the Chief Vet (who the Commissioner initially said I had not even met which was erroneous) and Directors/ Employees of the National Milk Laboratory.

2.7 The Commissioner now accepts that my initial approach to the FSA was not paid advocacy, but then finds that when I followed that up I was engaging in paid advocacy. This is to create a false narrative and is clearly not right.

2.8 The events/facts can easily be summarised as follows.

2.9 As soon as I became aware that contaminated milk was being sold to the general public, I contacted the FSA as a matter of urgency and met the Chair, Deputy Chair and Chief Scientific Advisor, with others present, to pass on the serious findings that had been made. At that meeting I properly declared my interest as I always do. We are agreed there was no paid advocacy in this meeting.

2.10 The following day I sent a confirmatory email which referenced the matters we had discussed. The Commissioner finds that that email is seeking to promote Randox products and I failed to disclose my interest. However:

2.10.1 The email was merely written confirmation of the discussion and as the discussion is accepted by the Commissioner to fall within the exemption and is not paid advocacy, the email confirming that discussion must fall within the same exemption. The Commissioner’s finding to the contrary is illogical.



2.10.2 I declared my interest at the meeting and that is confirmed by the witness evidence. So everyone who received the email had received my declaration of my interest the day before. The finding that there was non-disclosure of my interest is also not correct.

2.11 I then waited almost a year, during which time the FSA progressed matters with the National Milk Laboratory and began routinely to test for the banned, carcinogenic product that had been found and so this should have been eliminated from the food chain. It was right and proper to give the FSA time to address this issue.

2.12 A year after my initial approach I became aware that milk was still contaminated with substances that shouldn't be there and so I followed up my approach with the FSA because I was concerned that whilst one contaminated product was being checked for, others were not. This was a follow-up to my initial approach and no different from it. The Commissioner finds that this was paid advocacy. I do not see how on one occasion disclosing that milk is contaminated is a serious wrong, but on another occasion, it is not.

2.13 Further, this was one course of dealing within the same initial approach.

2.14 I then set up the Milk Quality Forum which consists of the Chief Veterinary Officer, the National Milk Laboratory, the Animal and Plant Health Agency (APHA), the Veterinary Medicines Directorate (VMD), the Food Standards Agency (FSA), the Responsible Use of Medicines in Agriculture (RUMA) Alliance, and me to improve milk safety. This is my only interest. Both the Chief Vet and representatives of the National Milk Laboratory confirm that I have improved milk safety. Randox is not a member of this forum. I am proud of my achievement which has improved milk quality and safety and did so discreetly.

2.15 The FSA does not test milk. It does not control contracts for the testing of milk and to suggest that there could be any benefit to Randox, by disclosing to the FSA that milk is contaminated is not correct. There was no benefit and there could be no benefit.

2.16 The National Milk Laboratory already had Randox testing equipment.

2.17 Randox has not received any financial or material benefit and could not do so as there was none to receive.

2.18 The Commissioner, having conceded that my approach to the FSA is within the Rules, then asserts that the request that Randox testing equipment was approved by the FSA was a benefit to Randox. It was not a benefit to Randox. It was a benefit to the FSA, as then the FSA could rely on Randox tests without the time and cost of outside verification.

2.19 Further, the Commissioner makes this statement without any evidence whatsoever, which is a cause of serious concern that allegations which are clearly not proven and in respect of which there is no evidence are found against me in a most subjective way. This is a process which is repeated in this inquiry.

#### Contaminated Ham

2.20 This is almost a mirror image of contaminated milk.

2.21 Kerry Foods, which is one of the world's largest producers of processed meats and based in Kerry in the Republic of Ireland, launched an "all naturally cured" ham that was said to be chemical free. It was tested and found to contain a concealed, prohibited by law, carcinogenic chemical, namely nitrite extracted from vegetables (celery).

2.22 This had been reported to the FSA in Northern Ireland by, amongst others, the UK's leading food safety expert, Professor Christopher Elliott, who describes it as the worst case of mis-selling he has ever seen in over 30 years. The FSA in Northern Ireland had taken no action. Kerry Foods were about to launch this dangerous and unlawful product across the rest of the United Kingdom.

2.23 A Member of Parliament in these circumstances is compelled to act to protect their constituents and the general public and that is what I did. I alerted the FSA in London to the contaminated product and as a result Kerry Foods removed the banned, carcinogenic curing agent and launched the product in a safe form.

2.24 So I did not initiate the contact with the FSA. I did though approach the FSA with evidence of the serious harm this product would cause and as a result of my intervention the product was made safe.

2.25 This was of no benefit whatsoever to Lynn's whose primary product range is bacon and sausages. The Commissioner, without any evidence whatsoever, asserts that I was seeking to clear a competitor's product to benefit Lynn's. Not only is there no evidence of this, it is with the greatest respect a figment of the Commissioner's imagination and not based on any facts whatsoever. All I did was to prevent UK consumers being sold a product that had direct links to colorectal cancer which kills 16,000 per year in the United Kingdom. The product wasn't removed, it was made safe. It is ham not bacon.

2.26 The Commissioner then references enquiries made by the FSA of Lynn's, which were made in meetings I attended, relating to Lynn's curing agent, Prosur. The FSA did not understand that Kerry Foods' all natural curing agent was not natural at all, but Lynn's was an entirely natural curing agent derived from lemon juice.

2.27 When the FSA came under attack for effectively ignoring the report of the contaminated ham, the FSA moved into defensive mode and went on the attack against Lynn's. The FSA raised the issue of Lynn's curing agent (Prosur). This issue was not initiated by me and is not within the paid advocacy rules. I simply helped Lynn's to explain to the FSA that their product was completely different from Kerry Foods and perfectly safe.

2.28 This has been explained to the Commissioner several times but the memorandum still misreports the evidence and facts; it does not address these two entirely separate issues.

2.29 I would ask the Committee to give careful consideration to what the Commissioner is asking you to do, namely to censure a Member of Parliament for drawing to the attention of the FSA, food that was as a matter of fact contaminated with unlawful, dangerous, carcinogenic substances. That is what I reported. I do wonder what the headline would be – MP rebuked for telling FSA that milk and ham are contaminated with a concealed cancer-causing substance.

2.30 If I became aware of similar facts tomorrow, I would unhesitatingly do the same thing, as it is my duty to protect the public.

2.31 These matters were referenced by The Guardian as part of a political campaign against me, because of my political beliefs. However, this has nothing to do with Brexit and has nothing to do with benefitting either of the companies. It is about protecting consumers and I make no apology for doing that.

*Better Calibration of Medical Equipment*

2.32 It came to my attention that medical equipment, which was a significant part of the overseas aid budget, was not producing good health outcomes as there was no simple cost effective method calibrating the equipment which is a central part of its use.

2.33 Radox initiated an approach to Priti Patel who had told Members of Parliament that her department, then DfID, wanted new companies with new technologies to add value. I followed up that approach first with Priti Patel in a very short conversation in the division lobby and I was then contacted by the relevant Minister, then the Rt Hon Rory Stewart MP, who I met with a number of public officials who he brought to the meeting.

2.34 I did not initiate the contact.

2.35 The Commissioner finds that I initiated the contact, on the basis that Radox wrote to Priti Patel on 28 July and I followed that up on 12 October, which is said to be the initiation. The Commissioner refers to this as being three months later and so separate from the initial contact due only to the passage of time. This is not three months in the Parliamentary calendar. First, there was a Summer recess until 5 September and then the conference season until 10 October and so in actual working time within Parliament, my approach to Priti Patel was a few working days after the letter was sent. That is the reality.

2.36 From reading the memorandum I think the Commissioner would accept that I did not initiate the approach, but for the fact she says I waited three months. If it had been a few days then it was not my initiation, which is the reality. This misunderstanding flows from the lack of any investigation, and, perhaps, from a lack of understanding of the workings of Parliament.

2.37 The Commissioner has not sought to obtain any witness evidence and didn't meet me until after she had formed her views.

2.38 I then provided the Commissioner with an email from Rory Stewart in which he confirms no paid advocacy took place at the meeting and, instead, that I "made arguments about the principle of good laboratory testing, as someone who was concerned to make sure that UK tax money was well spent overseas, and to achieve better healthcare outcomes".

2.39 So the only witness evidence the Commissioner has is from me, Priti Patel and Rory Stewart, each of whom confirms I acted properly. I respectfully assert that the Commissioner cannot undertake a fair process by ignoring the only witness evidence she has.

*Evidence*

2.40 The Commissioner does not generally accept my evidence on key issues and has not explained why this is her position. I have been a Member of Parliament for 24 years, a Cabinet Minister and before that I ran an international business. Many people may disagree with my views, but no one has ever accused me of not being honest and truthful.

2.41 If the Commissioner chooses not to accept my evidence then she should explain to me what her reservations are, give me an opportunity to comment and her objective analysis should then be recorded in her report. This has not happened and that means the memorandum is not in accordance with natural justice.

2.42 Further, as noted earlier, I have provided 17 witness statements, which corroborate my evidence and again the Commissioner has largely chosen to ignore the witness evidence because it does not fit her narrative and that is not fair or in accordance with natural justice. It is a standard rule that unchallenged witness evidence should be adopted and followed. If the Commissioner doesn't want to accept the witness evidence, then she should challenge the witnesses and set out her objective reasons for not following their evidence. It is beyond argument that the witness statements are all relevant to the Commissioner's investigation.

2.43 The Commissioner bases her case predominantly on FSA emails discovered under a Freedom of Information Request. Some of these emails are anonymous and no attempt has been made to establish who the author was or their state of knowledge of the matters referred to. Such emails are at times preferred to witnesses who have signed statements under perjury declarations and that is not in accordance with natural justice. It is not a fair and even-handed process.

#### Declarations of Interest

2.44 The Commissioner finds contrary to ten witness statements that I have not declared my interests on all occasions. The witness evidence which is covered in detail in this statement proves that is incorrect and the Commissioner had these statements long before she arrived at her conclusion.

2.45 It is instructive to note that the Commissioner initially accused me of not declaring my interest without speaking to me or to any witnesses. After I had supplied the evidence to show that this is simply not true, the Commissioner appears unable to follow the evidence provided and withdraw the accusation in its entirety.

2.46 Rather a false narrative is created in which I am found not to have declared my interest to witnesses who advise that I had. In every meeting I declare my interest. On a couple of occasions in emails following up I didn't record this. But I had already declared it. Everyone I dealt with knew I was a consultant as I declared it and the evidence proves this.

#### Use of Parliamentary Facilities

2.47 The Commissioner says that I misused Parliamentary facilities by conducting consultancy business in my office and on two occasions sending House of Commons' stationery.

2.48 I accepted from the outset, in my first letter to the Commissioner, 16 January 2020, that on two occasions a member of staff providing cover for maternity leave had wrongly used House of Commons' stationery and I apologised. I think it is very sad that my apology has not been accepted and this aspect closed.

2.49 I have provided witness statements from senior members of the House of Commons, including a senior Government Whip and Professor Sir Oliver Letwin, who opposed me on Brexit, which confirms that during the minority Government I was required to remain within the precincts of Parliament because of the intense activity that was then taking place.

2.50 The number of meetings we are talking about is only 2.5% of the total number of meetings I had on non-Parliamentary business so 97.5% took place away from Parliament. This statistic alone shows that wherever possible my meetings were not within Parliament.

2.51 The Commissioner has evidence from several senior MPs which confirms I did not breach the rules in clear terms. In deciding I did, the Commissioner has not provided any witness evidence from any MPs or Government officials and ignores the evidence from a Government Whip.

#### Length of Inquiry

2.52 This matter has taken an unacceptably long time and has put an incredible strain on my family [redacted].

2.53 I have answered all the Commissioner's questions. I found myself subject to an investigation which seemed ever expanding in its scope, without any time frame or disclosed process. I was unable to make complaint. I was for long periods left in the dark and unable to function as an MP should.

2.54 Had the Commissioner not had Parliamentary Privilege I would have issued proceedings over a year ago to have this matter reviewed by a High Court judge and challenge the fairness of the process.

2.55 One question I have asked the Commissioner several times is to disclose all information received from third parties, not just the documentation provided in response to the Freedom of Information Requests, but the requests themselves and all and any other requests and emails. The Commissioner has refused to do this. So the investigation is not transparent.

2.56 I do not know what investigations have been undertaken. I do not know why witnesses were not interviewed. It may be that those behind this investigation and who are supplying documentary evidence, did interview witnesses who supported my case and so that material has been filtered out. It may be that documents have been obtained and not passed to the Commissioner. I am entitled to know all of this and can only do so by having proper disclosure of all third-party material sent to the Commissioner and to see all email communications etc.

#### Conclusion

2.57 I would hope that anyone considering this matter will see that this investigation is a most unsatisfactory state of affairs. There has been no proper investigation. I have had to provide the witness evidence and as that confirms my evidence is correct it has been largely ignored.

2.58 I offered to the Commissioner that we should agree that her memorandum be reviewed by a High Court judge so that the Committee Members would have the benefit of a judge's opinion on the fairness of the investigation. The Commissioner did not respond to this request.

### 3 My Relevant Background

3.1 I am and have been for 24 years (since 1997) the Member of Parliament for North Shropshire. I have an unblemished record as a Member of Parliament. I have not previously been accused of any breach of the Rules of Conduct.

3.2 I was appointed the Shadow Secretary of State for Northern Ireland in 2007. In 2010, in the Coalition Government, I was appointed the Secretary of State for Northern Ireland.

3.3 In 2012 I became the Secretary of State for DEFRA. I held this position until 2014.

3.4 I am from a farming family and I have lived in a rural farming constituency all of my life. I represent a rural constituency. From my time as Secretary of State in Defra and my background I have a huge interest in food safety.

3.5 Prior to entering Parliament, I ran a large tanning business. This gave me considerable experience in dealing with new technologies. I learnt how important they are in remaining competitive in a tough world. I also dealt with demanding consumers and many difficult issues. As a result, I have considerable expertise in businesses processing animal products using innovative technologies.

### 4 My Consultancies

#### Radox

4.1 The following year after I left Government in 2014, I was approached by Radox Laboratories Limited ("**Radox**"), a company based in Northern Ireland, who asked if I would become a consultant for them.

4.2 Radox is a world-renowned diagnostic company, which has developed new and unique diagnostic processes that improve many aspects of life including health and food safety.

4.3 My role is as an ambassador and to give Radox strategic advice. Radox's clients are large international organisations which I am used to engaging with. It is now rapidly growing as it is at the forefront of new technologies, which I am passionately interested in. I give advice and assistance very much on a policy level. For example, Radox may wish to engage with an entity overseas and ask me from my experience how best that can be achieved.

4.4 I do not have a role in dealing with sales or product promotion or any direct commercial aspect of the business.

4.5 Randox engages with the UK Government on a daily basis and I have no role or involvement in those dealings. For example, as a leading diagnostics company Randox has been a major provider of Covid tests. I have had absolutely nothing to do with this. I haven't contacted or engaged with anyone in Government or Government supply chains regarding Randox and its day to day business.

4.6 My only involvement with Ministers/public officials in connection with Randox is as set out below. This is in relation to two issues, which I and other witnesses testify did not breach the rules on paid advocacy.

4.7 In 2015, after I was approached by Randox, I contacted the Office of the Advisory Committee on Business Appointments, which is the relevant body for former Ministers who are considering taking a business appointment. Detailed written advice was given to me,<sup>310</sup> which I followed when accepting the appointment.

*Lynn's Country Food ("Lynn's")*

4.8 In December 2016 I became a consultant to Lynn's and I followed the same advice from ACOBA.

4.9 Jago Pearson in his witness statement<sup>311</sup> sets out the role I have within Lynn's.

4.10 Lynn's is a Northern Ireland company that has developed nitrite-free meat products. It is a rapidly growing business. I provide advice and assistance on commercial issues.

4.11 I do not engage with public officials on behalf of Lynn's save in the one instance referred to in this statement. Then my evidence and that of the other witnesses is that I did not breach the rules on paid advocacy.

*Generally*

4.12 My consultancies have been properly declared to ACOBA and in the Register of Members Interests. I have complied with all disclosure obligations.

4.13 The Commissioner states at paragraph 7 that she is surprised I do not hold written contracts for these consultancies. The Commissioner says, "I would have expected Mr Paterson to have a written contract for these roles..." I have never been asked to obtain a written contract. Had I been asked I would have obtained one. ACOBA did not make any such request and nor did the Registrar.

4.14 In my 15 or so years in international business prior to entering Parliament I shipped goods worth considerable sums without contracts. I operated in a world where your word is your bond and relationships are built on trust. I did not see the need for a contract. I received payment for my services and if any employer wished to end my agreement then they would have the ability to do so immediately, without having to give notice under a contract. I believe relationships based in trust are better and stronger.

310 Pages 100–101 of the Written Evidence Bundle to the Commissioner's Memorandum.

311 Pages 178–180 of the Written Evidence Bundle to the Commissioner's Memorandum.

4.15 I have fully complied with the Rules and yet I am subject to criticism by the Commissioner regarding the lack of a written contract, which is not required by the Rules. I am concerned this shows a willingness to find fault where there is none and discloses bias against me. So far as I am aware the absence of a written contract is not the subject of this investigation. If it was, I would have filed evidence rejecting this criticism.

## 5 Overview of the Investigation

5.1 I was accused by The Guardian on 30 September 2019, of undertaking paid lobbying, which I flatly deny. The Commissioner wrote to me on 30 October 2019, a few days before Parliament was dissolved, before the election on 12 December 2019, to advise that an investigation was being commenced and at the same time that it would be suspended whilst Parliament was dissolved.

5.2 I replied in detail to the Commissioner on 16 January 2020 (circa 40 pages). I offered to meet the Commissioner.

5.3 The Commissioner then wrote to me on several further occasions with additional questions in what was an ever-expanding inquiry. I answered all the Commissioner's questions. The Commissioner did not respond to the answers I gave and expanded the issues under investigation way beyond the original accusations.

5.4 The Commissioner has stated that this is an inquisitorial process and that the scope and work undertaken are entirely matters for her and not for disclosure to or discussion with me. I was left in the dark for long periods. There is no formal process and no right of redress.

5.5 As stated above, I have asked on several occasions that the Commissioner advise me as to the source of documents, to ensure all evidence in the investigation was being disclosed to the Commissioner.

5.6 On 1 December 2020, after 14 months of investigation, the Commissioner sent me her draft memorandum, without having spoken to me or any other witness. I was shocked by the content.

5.7 The Commissioner made findings of fact based predominately on internal and anonymous FSA emails, which had not been disclosed to me at the time. The Commissioner had made no attempt, that I am aware of, to find out who the author of these emails was and establish what knowledge that person had of the matters referred to in the emails. For example, in one case the anonymous author was commenting on a meeting that took place 2 years before. The author may not have been at that meeting and the evidence may be pure supposition. We don't know the evidential quality as no investigation has been undertaken into this key issue.

5.8 I was also then aware for the first time that the Commissioner had not spoken to any witnesses at all. I was very concerned by this, as some 14 months had elapsed. I had provided much detail to the Commissioner but no investigation had been undertaken. I and my family had been put under immense strain, [redacted]. I honestly wondered what the Commissioner had been doing for 14 months.



5.9 I therefore provided the Commissioner early in 2021<sup>312</sup> with evidence from 17 witnesses, in the form of statements under a perjury declaration and in some cases emails. This evidence proves that I have not breached the Rules.

5.10 The Commissioner asked for the witnesses' contact details, so the Commissioner could contact them. I promptly provided these. The Commissioner has not contacted any of the witnesses. I do not know why I was asked to give contact details and then no attempt has been made to contact the witnesses.

5.11 On 11 June 2021 I received a second draft memorandum. I responded in detail to that by letter dated 2 July 2021,<sup>313</sup> which I invite the Committee to read. The final memorandum is similar to the second and contains conclusions formed when drafting the first memorandum, which was settled before any proper investigation was undertaken. This is a deeply flawed and unacceptable process; it does not meet the basic requirements of fairness, thoroughness, objectivity and natural justice.

## 6 Lack of Natural Justice and a Fair Investigation

6.1 The Commissioner is required to undertake her work in accordance with natural justice. This requires a fair and objective (not subjective) process to be undertaken.

6.2 I am deeply critical of the process undertaken by the Commissioner, as set out in this statement. There has been no proper investigation of my conduct by the Commissioner, which is at the heart of this matter.

6.3 I summarise my objections to the process adopted by the Commissioner as follows:

6.3.1 Failing to interview me before the Commissioner made her initial findings of fact in the first draft memorandum;

6.3.2 Failing to accept my evidence without due cause;

6.3.3 Failing to interview witnesses at any stage of the investigation even after requesting and receiving their contact details;

6.3.4 Failing to follow the 'unchallenged witness evidence', and/or wrongly dismissing such evidence as irrelevant;

6.3.5 Taking an inconsistent approach to similar fact matters i.e., ham and milk both contaminated with a concealed, prohibited, carcinogenic matter - in milk it is accepted this is a serious wrong and in ham it is held it is not. They are both the same and yet different findings are made. This shows a deeply flawed process.

6.3.6 Failing to apply a fair and objective process in considering and weighing up the evidence;

6.3.7 Reaching conclusions which are not supported by the evidence;

6.3.8 Giving unfair weight to the content of anonymous internal FSA emails;

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312 See my letter dated 15 January 2021 – pages 127 to 160 of the Written Evidence Bundle to the Commissioner's Memorandum.

313 Pages 287 to 305 of the Written Evidence Bundle to the Commissioner's Memorandum.

6.3.9 Creating 'evidence' via the Registrar who is not a witness to a matter under investigation;

6.3.10 Applying an incorrect test to the Rules;

6.3.11 Criticising me for not having a written consultancy contract when that is not required by the rules and wasn't requested by ACOBA or the Registrar.

6.4 I will address two of these topics in greater detail.

*Failing to Interview me until February 2020 and any witness at any time*

6.5 It is impossible to conduct a fair investigation into disputed issues of fact without interviewing the person subject to the investigation and the witness to the matters under investigation. These interviews should be a priority and done at an early stage, whilst memories are fresh and before any findings of fact are made. This is a basic requirement of any investigation.

6.6 The Commissioner has been aware since receipt of my first detailed reply dated 16 January 2020 that the issues of fact alleged by The Guardian are disputed by me.

6.7 The Commissioner first determined<sup>314</sup> I had breached the Rules of Conduct and made findings of fact against me, before speaking to me, or engaging in any way with the witnesses to my conduct. Since then the Commissioner has largely kept to her initial findings irrespective of the evidence that I have provided to show that they are not correct.

6.8 The allegations made by The Guardian relate to my conduct at and around certain meetings. In order to form a view as to whether or not rules were breached it is necessary to speak to some or all of those present. It is clearly not a fair process to reach conclusions as to my conduct without doing so. It is obviously unfair to reach conclusions that are then contrary to the unchallenged witness evidence of persons present at the relevant meetings and this is what the Commissioner has done.

6.9 The Commissioner says she is concerned with my conduct, not others. This is said in response to the challenge that witnesses have not been interviewed. My conduct cannot be judged without speaking to me and the witnesses, being the persons with whom I engaged in the matters under investigation. To undertake a fair process these interviews should take place before any findings of fact, provisional or otherwise, are made.

6.10 In my first letter to the Commissioner dated 16 January 2020 I offered a meeting. The Commissioner did not take up this offer until after she had issued the first draft memorandum on 1 December 2020 and I had provided my detailed response including witness evidence. The meeting took place 13 months after it was offered by me. By this time the Commissioner had already formed the view I had breached the Rules and had made findings of fact which she has largely stuck to, despite receiving considerable witness evidence which proves that these findings are not correct.

*Unchallenged Witness Evidence*

6.11 It is a long-standing rule of the common law, that unchallenged witness evidence is to be followed. The Commissioner states that this is a rule applied in the courts, in adversarial litigation and so it does not apply to the Commissioner's work.

6.12 This is an extraordinary statement to make. The courts apply the common law which embodies natural justice. A failure to accept unchallenged witness evidence is a clear breach of natural justice, whether the investigation is inquisitorial or adversarial.

6.13 The Commissioner by her statement and her actions demonstrates a willingness to make findings of fact contrary to the evidence. Where the evidence contradicts the Commissioner's position, it is disregarded and that is not fair or acceptable.

6.14 Where the Commissioner does not accept a witness's evidence, then in order to undertake a fair investigation, the Commissioner is required by natural justice to put to the witness the matters that cause her not to accept the evidence. The Commissioner should put her challenges and then objectively consider the responses and decide whether or not the objections stand up. This analysis should be in the report.

6.15 It may help if I give an example by reference to this matter. I am accused and found by the Commissioner to have undertaken paid advocacy in a meeting with The Right Honourable Rory Stewart MP. What is remarkable in this finding is that Rory Stewart provided evidence which I sent on to the Commissioner, in which he stated that I did not undertake paid advocacy. That is rejected without challenge or explanation.

6.16 So in making this finding the Commissioner has ignored my evidence, Priti Patel's and Rory Stewart's. There is no other witness evidence. The Commissioner has failed to accept, without any reason, unchallenged witness evidence which is the best evidence as to what happened during the meeting. That is demonstrably unfair and contrary to natural justice.

6.17 Further the Commissioner does not accept my evidence on key issues but has not put to me or explained in her report the reasons why my evidence is rejected. I have been a Member of Parliament for 24 years and a Cabinet Minister. Before that I was in international business. I have never been accused of lying. So I am entitled to know on what basis my evidence is being rejected.

6.18 In a fair and objective process, the Commissioner must take into account my background and the corroborative evidence before deciding to reject my account and that has not been done.

#### ACAS and Fairness

6.19 I provided the Commissioner with the ACAS Code of Practice for disciplinary and grievance procedures as to how a conduct investigation is to be undertaken. I am advised that these are standard requirements in any investigation and if not met in the workplace, such investigations are set aside in the Courts. In this matter the Commissioner has not met these standards, but I am prevented by Parliamentary Privilege from making any challenge to the Commissioner's work. It cannot be the position that the ordinary standards of a fair investigation that apply nationally, do not apply to the Commissioner.

7.1 There are two key Rules in this matter.

7.2 The Code of Conduct paragraph 6 states: “**Members have a general duty to act in the interests of the nation as a whole; and a special duty to their constituents.**” This is an express duty and requires Members to act in these interests.

7.3 This links to Chapter 3 of the Guide to the Rules relating to the Conduct of Members (17 March 2015 edition) dealing with lobbying and paragraph 9 which states:

7.4 “Exceptionally, **a Member may approach the responsible Minister or public official with evidence of a serious wrong or substantial injustice** even if the resolution of any such wrong or injustice would have the incidental effect of conferring a financial or material benefits on an identifiable person from whom or an identifiable organisation from which the Member, or a member of his or her family, has received, is receiving or expect to receive, outside reward or consideration (or on a registrable client of that person or organisation).” (My emphasis).

7.5 The Rules on paid advocacy set out in paragraph 11 of the Code of Practice, and Rule 8 of the Guide to the Rules, relate to when a Member may and may not approach a Government Minister or public official. A key factor in this matter, which the Commissioner disregards, is that where a public official approaches the Member then that is not within the paid advocacy rules. This is what happened in relation to the FSA enquiries relating to Prosur which I explain below. This is confirmed in evidence by several witnesses and this evidence is ignored by the Commissioner.

7.6 Further, as set out above where there is evidence of a serious wrong or substantial injustice then the Member *may* approach the responsible Minister or public official. The Commissioner wrongly implies this means one approach only and there cannot be any follow up. Whereas the rule refers to the “resolution” of the wrong or injustice and resolution can be an interactive process.

7.7 Attending a meeting and then sending a confirmatory email is one course of dealing not two. Raising an issue and then following up to ensure it is resolved is one course of dealing – it is a single “approach”.

7.8 The Commissioner treats each communication, email and meeting as a separate approach. Each one is considered in isolation; this is an artificial device. This is not how communications work. There is in each case a series of emails and a meeting or meetings, which are interrelated and all are part of one approach. Each one is not separate and distinct from the others and the Commissioner’s analysis is artificial and not reflective of modern communications. A summary, however detailed, at the end of a meeting is clearly and obviously part and parcel of that meeting, or that “approach” but (according to the Commissioner) a follow-up email or letter after the meeting, with the same or similar content, is a new approach. If this was the intention it would have been expressly set out in the Guide to the Rules.

7.9 Further, in the Memorandum by way of example at paragraph 205, there is reference to referring to a matter being a serious wrong or substantial injustice at the time it is raised. The suggestion being I should have said this is a serious wrong when raising the matter. There is however no requirement in the Rules to do this. A matter is a serious wrong or substantial injustice or it is not. Referring to a matter as a serious wrong does

not make it a serious wrong. It is a question of fact, to be decided in each case. There is no requirement to label a matter as a serious wrong or a substantial injustice when raising an issue and to do so would serve no purpose.

## 8 The Test applied by the Commissioner

8.1 The Commissioner sets out her test for deciding if I have observed the rules on paid advocacy at paragraph 20. The test applied by the Commissioner is not in accordance with the Rule (as set out above). The correct test is:

8.1.1 Did I initiate the approach? If not, then it falls outside the rules relating to paid advocacy. The approach must be initiated by the Member to be within the exclusion on paid advocacy.

8.1.2 Where I initiated an approach, then if I did so with evidence of a serious wrong or substantial injustice, then that is not paid advocacy and is permitted.

8.2 The Commissioner adds a test namely was it an approach which sought to confer, or would have the effect of conferring, any financial or material benefit on either Radox or Lynn's. This is not a correct analysis. The Rule is clear, that where the approach is made with evidence of a serious wrong or substantial injustice, then even if the resolution would have the incidental effect of conferring a financial or material benefit, that is not a factor to take into account.

8.3 Intention is not relevant. What matters is whether or not there is a serious wrong or harm.

8.4 Incidental clearly means a benefit which flows from the resolution of the serious wrong or substantial injustice. So it is a benefit that arises as a consequence of the resolution and is incidental to the resolution. The fact there is a serious wrong and its resolution is what matters. If there is a financial consequence that is irrelevant.

8.5 I add, lest there be any doubt, that in the matters in this investigation there has been no financial or other material benefit to either myself or either of the two companies for which I am a consultant. The benefit is to the general public, to whom I owe a duty as a Member of Parliament.

8.6 The Commissioner sets out her paragraph 9 test at paragraph 21 as follows:

8.6.1 Whether my behaviour indicated my purpose to provide evidence of a serious wrong or substantial injustice.

8.6.2 Whether I limited my actions to providing evidence of a serious wrong or substantial injustice.

8.6.3 Whether my actions would make any benefit that was other than incidental.

8.7 Again these tests misapply the Rule, as follows:

8.7.1 The rule states that a Member can make a relevant approach with evidence of a serious wrong or substantial injustice. The Commissioner seeks

to change this to apply a test as to whether or not my behaviour indicated my purpose was to provide evidence. This is wholly subjective, could only be determined by an investigation (which has not been undertaken) and is not what the Rule requires. The Rule enables a Member to make a relevant approach with evidence of a serious wrong or substantial injustice and that is all that is required, sensibly as that is an objective standard that can be policed.

8.7.2 The Commissioner could not determine my behaviour without speaking to me and those who I engaged with in making disclosures. Not that this is the test, but if the Commissioner takes the view this is relevant then I do not see how this can be determined without investigating “my behaviour” i.e, speaking to witnesses as to my motivation.

8.7.3 I would add that the witnesses confirm my motivations were genuine.

8.7.4 The Commissioner states my actions must be limited to providing evidence. The Rule does not state this. It enables an approach to be made “with evidence”, not limited to the provision of evidence. Any approach will include more than just the evidence for example:

- (a) Context will need to be given so the importance and accuracy of the evidence can be known;
- (b) The Member may be well placed to assist on resolution, using expertise in this regard;
- (c) It matters that the disclosure is acted upon, it would be ridiculous if the Member could not follow up to make sure the issue was being or had been effectively addressed. This is what I did with milk for example.

8.8 I submit that the Rule is clear. Where there is a serious wrong or substantial injustice then any Member can approach the responsible Minister or public official. That approach should include (but is not limited to) evidence of the serious wrong or substantial injustice. If there is a financial or material benefit in the resolution of the issue then that is incidental.

## 9 The Sale of Contaminated Milk

### The Issue

9.1 In November 2016 I was told by Randox that random sampling tests at the point of sale in Northern Ireland and the Republic of Ireland revealed that 12.5% of milk was contaminated with florfenicol, which is a banned anti-microbial residue. Government statistics were that 0.01% of milk may be contaminated.

9.2 AMR (anti-microbial resistance) is a massively serious health issue. It is predicted to be a major cause of death worldwide by 2050. The presence of an anti-microbial residue promotes AMR.

9.3 This disclosure was shocking. Randox knew that this information had to be disclosed to the authorities and that unless this was done carefully and in a controlled way, then the dairy industry could be devastated. As a former DEFRA Secretary of State I was asked to help only because this was so sensitive.

9.4 My sole motivation was to protect consumers and the dairy industry. My constituency is a large dairy area and major employers are Müller and Arla. I remember being most concerned that just as egg farmers went out of business due to salmonella, the same would happen to dairy farmers.

9.5 The dairy farming industry is a major exporter. British milk is recognised as safe and its derivative products are sold worldwide. Powdered milk is exported to China and in China there had been a huge scandal regarding contaminated baby milk.

9.6 This information could not have been more important. What would parents think and do if there was the risk of giving children milk with a contaminated carcinogenic residue? The Commissioner rightly accepts this was a serious wrong.

9.7 So I set up a meeting with the FSA to ensure that this serious wrong was properly disclosed and remedied. I knew the Chair and Deputy Chair through my various previous roles. It was not remedied, in that a year later, tests of milk were still picking up prohibited substances. I therefore set up the Milk Quality Forum with the Chief Veterinary Officer, the National Milk Laboratory, the Animal and Plant Health Agency (APHA), the Veterinary Medicines Directorate (VMD), the Food Standards Agency (FSA), the Responsible Use of Medicines in Agriculture (RUMA) Alliance, and me to improve milk safety. This has been achieved but there is more work to be done.

9.8 Through my work, milk is now routinely tested for florfenicol and flukicides, which was not previously done. These are both harmful substances that should not be in milk at all but were and were not being tested for.

9.9 It is important to note that the FSA is the responsible body for food safety, but it does not undertake tests. Milk is routinely tested by the National Milk Laboratory which is a private company owned by dairy farmers. The National Milk Laboratory at all times had Randox testing machines.

9.10 As a matter of fact there was no benefit to Randox. The FSA don't issue contracts for testing and the National Milk Laboratory already had Randox equipment. This was only about making milk safe and that is why I set up the Milk Quality Forum. Randox is not invited to MQF meetings and has no role within it.

### The Witnesses

9.11 I refer the Committee to the witness evidence and in particular on this issue:

#### 9.11.1 Tim Bennett<sup>315</sup>

Mr Bennett was the Chair of the Food Standards Agency between July 2013 and March 2016 and Deputy Chair of the FSA until March 2017 and states the following (paragraphs 3 to 14 of his statement):

**I was first contacted by Owen Paterson in respect of the issue of contaminants in milk in early November 2016. Mr Paterson requested a meeting to share with the FSA, as the regulator for food standards, test results from point of sale milk which caused him serious concern.**

**At all times Mr Paterson explained that the tests had been undertaken by Randox and he is retained as a consultant by Randox. I know of Mr Paterson's interest in food safety and production and the dairy industry and his expertise in these areas.**

Due to the potential severity of this issue, both myself and Ms Heather Hancock, the Chair of the FSA, then met with Mr Paterson accompanied by Professor Guy Poppy, who was at the time, the Chief Scientific Advisor at the FSA.

At the meeting, we discussed Randox's findings and the concerns in respect of Florfenicol found in milk. Randox were present at this meeting only to explain their tests and findings. I recall being aware that Randox's tests were new and not accredited. Therefore further accredited tests by the agency or other government agencies would be required to verify the findings before taking action.

**I understand it has been suggested that this meeting may have been a forum to promote Randox. Any such suggestion is quite wrong. This meeting was set up solely to disclose to the FSA, as the appropriate body, the test results.** The Chair and Deputy Chair of the FSA would not have attended a commercial meeting and we would play no part in any procurement process. Further, the Chief Scientific Advisor attended as this was a meeting solely about the test results.

I cannot recall any discussion about purchasing testing equipment.

As a regulatory body, it is of utmost importance that the FSA is apprised of intelligence such as this. In my experience, it did not matter who was presenting the intelligence, whether this was a consumer or an MP, providing there was good evidence this would be inputted into the system in the same way to ensure the appropriate action was taken.

If anyone believes there is a problem in the food industry, the FSA should always be the first point of contact. Once the FSA had this information, the appropriate organisation could be informed, whether this was the VMD or otherwise. The FSA were responsible for dairy farm inspections and so the FSA was the correct body to raise concerns relating to possible contaminants in dairy products.

Within the last 10–15 years, testing technology has developed quite rapidly and often the latest tests are more sensitive. These new tests have made the food supply much safer. The food science industry is often therefore at the forefront of food safety and it is vital that the regulatory bodies, such as the FSA, are kept informed about any potential technological advances.



**Mr Paterson had a strong background in both dairy, through his rural constituency, and biosciences, through his Defra position. His intelligence was therefore highly respected. We welcomed him bringing this information to our attention.**

**I am aware that Mr Paterson subsequently raised these issues within the industry, through his Milk Quality Forum. It is by actions such as these that food safety is improved.**

#### 9.11.2 Professor Christopher Elliott<sup>316</sup>

Professor Elliott is a world authority on food safety. He led the UK Government's response to the horse meat scandal. He has no connection to Randox. He has given the following evidence under a perjury declaration relating to Antibiotic Residues in Milk (paragraphs 23 to 25 of his statement):

I was not involved in issues relating to the contamination of milk but I am aware that Florfenicol was found in milk at point of sale in supermarkets in various EU countries including the UK. Florfenicol is a prohibited substance in milk and poultry. It is not permitted in any quantity.

The reason it is prohibited is that the United Nation's FAO concluded that this class of compounds is genotoxic, which means it could cause genetic damages and possibly lead to cancer.

**Therefore, the finding of Florfenicol in milk may potentially be a most serious harm. It should not be there at all. It is prohibited for good reason.**

#### 9.11.3 Ben Bartlett<sup>317</sup>

Mr Bartlett is a director of the National Milk Laboratory (NML) which tests 100,000 milk samples every month for contaminants. He has made a statement under a perjury declaration, in which he states that NML already had Randox equipment and that the FSA is the body responsible for the statutory obligation to test milk and NML undertakes the tests and reports to the FSA. In respect of the meetings issue of contaminated milk he states as follows (at paragraphs 10 to 14 of his Statement):

By this time Owen Paterson had met with the FSA and we were involved in liaison with the Chief Vet, Christine Middlemiss, and looking into the findings made by Randox and considering how we could improve the safe standards of milk. In July 2019 I attended, by telephone, a meeting to discuss these important issues. Also at this meeting was Mr Paterson, the Chief Vet, the Vet Director of the FSA and other interested parties.  
**Mr Paterson made it clear that he had three interests in this issue: (i)**

316 Pages 168 to 173 of the Written Evidence Bundle to the Commissioner's Memorandum. The Professor of Food Safety at Queen's University, the founder of the Institute for Global Food Safety, visiting Professor at the China Agriculture University in Beijing and the Chinese Academy of Sciences. In 2017 Professor Elliott was awarded an OBE for his work on food integrity. He has published more than 450 papers in the field of detection and control of chemical contaminants in agri-food commodities and co-ordinates one of the world's largest research projects in this area ([EU-China-Safe](#)). Since 1986 Professor Elliott has been engaged in research related to a wide range of toxic chemicals in foods and agricultural commodities.

317 Pages 191 to 193 of the Written Evidence Bundle to the Commissioner's Memorandum.

as the MP for North Shropshire, a rural constituency with a huge dairy industry; (ii) as the Former Defra Secretary; and (iii) as a paid consultant for Randox, who provided some of the test kits which had identified this issue. It was apparent to me during these meetings that Mr Paterson's primary concern however was milk contamination and the impact this could have on the dairy industry. I attach Ms Middlemiss' note from the meeting, which notes that Mr Paterson had expressly declared his interest in Randox.

Due to Owen Paterson's intervention in this matter and his establishment of the milk quality forum, better processes have been put in place to minimise the risks of contaminants such as flukicides entering the food chain. Key to this has been raising the awareness of the issue amongst relevant stakeholder organisations (such as the FSA, DEFRA and the VMD). We are also now seeing more comprehensive surveillance programmes becoming established that supplement the surveillance provided by statutory programmes.

In all my meetings with Mr Paterson at all times he identified himself as a consultant to Randox. I of course knew that he was also the MP representing North Shropshire, a rural constituency with significant dairy farming interests, and the former Defra Secretary. This is also noted within Ms Middlemiss' note.

At no time did Mr Paterson seek to persuade me or anyone else to purchase any products from Randox.

As I have said, the National Milk Laboratories already had two Randox machines and we still have those same two machines. We have not acquired any additional equipment or technology from Randox but we have seen progress in the development of surveillance programmes for contaminants as a result of Mr Paterson's intervention for which we are grateful.

9.11.4 The Chief Vet – Professor Christine Middlemiss<sup>318</sup>

Professor Middlemiss confirms under a perjury declaration as follows (paragraphs 2 to 13 of her Statement):

I was first contacted through my office by Owen Paterson in respect of a milk contamination issue in May 2019. Mr Paterson informed me that a company with whom he had a consultancy, Randox, had carried out around 100 random sample "off the shelf" tests of milk which had discovered contaminants which should not have been present in milk.

Dairy UK undertake non-statutory testing as commercial due diligence, however due to the unknown risk of this issue, I agreed to meet with Mr Paterson and Dr Kath Webster, the Director of Scientific Services, APHA. Dr Kath Webster was the previous Head of Biotechnology and Manager of the Test Development Programme at APHA.

This meeting took place on 22 May 2019 in Mr Paterson's office. **The purpose of the meeting was to discuss the testing which had resulted in these contaminants being identified.** I wanted to understand the validity of the testing, the sampling methods and what the impact of these findings could be to public health and the food industry. We needed to establish whether there was a statutory significance to the findings and whether there was a safety issue. This was in effect a risk assessment.

Following this meeting, we held a follow up meeting on 16 July 2019, to which a number of people with key responsibilities within the milk industry were invited. This included myself, Dr Kath Webster for the APHA, Eric Crutcher for the VMD, Jane Clark from the FSA and Ben Bartlett and Eamon Watson from the NML.

The purpose of this second meeting was to further investigate the contamination issue with those with knowledge of the potential issue and to determine the necessary next steps. During this meeting, Ben Bartlett and Eamon Watson of the NML gave a presentation entitled "Surveillance for Contaminants – what are we finding?" which analysed the prevalence of the issue, the validity of the testing, how accurate the testing was and how concerning these findings were. Because the Randox testing was not accredited, it was necessary for NML to carry out further testing to determine whether the issue was as presented within the Randox tests. I attach my minute of this meeting.

Following this meeting, we determined that there were no significant statutory or safety concerns related to the contamination of milk but that there was much more that could be done within the industry in terms of stewardship and communication relating to use of certain drugs in cattle, particularly Flukicides and certain anti-biotics. **We agreed worthwhile improvements for the long term as a result of this intelligence being raised by Mr Paterson in this manner. This group continued to meet to discuss these issues and we referred to ourselves as "the Milk Quality Forum".**

**The focus of this group is on how better to improve testing and safety within the dairy industry. It is not about whether there was a need for more testing, it is about how we can reduce the contaminants which had been detected. Whilst I am aware that Mr Paterson is a consultant to Randox, as he declares this at each meeting, at no point have I felt that these meetings have been used in any way as a sales pitch for Randox.**

A further Milk Quality Forum meeting was held in October 2019, which was attended by the same individuals (albeit that due to transport issues Ben, Eamon and Jane attended via telephone), and another meeting had been planned for May 2020, however due to Covid this had to be postponed. I found these meetings very helpful and hope they are able to continue in the future.

**At each of these meetings, Mr Paterson would make reference to the fact he was sat on a “three legged milking stool”: (1) as the MP for a rural constituency which is home to Müller, one of the largest dairy suppliers in the UK; (2) as the former Secretary of State for Defra; and (3) as a paid consult for Randox. I remember he would make these declarations at the start of each meeting.**

**At no point were commercial issues discussed at these meetings and there were no requests for further Randox testing. These meetings were entirely proper and focussed on how to improve food safety in dairy products.**

A key part of my role as CVO is to make sure intelligence is received by the correct people within the organisation and passed on to those with the power to act upon it. I had previously dealt with Mr Paterson when he was the Secretary of State for Defra and he had set up Monthly Biosecurity Meetings to discuss and detect potential issues in biosecurity and ensure they were acted on before they became critical. After the foot and mouth outbreak, Professor Anderson said risks must be analysed on a regular basis and Mr Paterson’s Biosecurity Meetings provided a Ministerial forum for this. As such I was aware of Mr Paterson’s extra sensitivity to detection of unmanaged risks. With this background, **it made complete sense for Mr Paterson to be raising this contamination issue and I felt compelled to investigate this fully.**

I welcome intelligence such as this being brought to my office. The intelligence Mr Paterson had indicated that there may have been a serious issue which I needed to be aware of. As CVO, I must have access to new information and those with specialist knowledge must not be deterred from bringing new intelligence forward.

#### 9.11.5 Eamon Watson<sup>319</sup>

Mr Watson is a Veterinary Advisor of National Milk Laboratories and a registered Member of the Royal College of Veterinary Surgeons offering technical support to the milk quality and disease testing services. Previously he had worked at the former Veterinary Laboratories Agency (now known as the Animal and Plant Health Agency) as a Veterinary Investigation Officer providing expertise on laboratory diagnostics, disease investigation, national surveillance programs, epidemiology, and research. He gave the following statement accompanied by a statement of truth (paragraphs 2–11):

**Following the introduction of Randox testing (IPM I) to the laboratory in 2017, NML became aware of the detection of both florfenicol (an antibiotic compound) and nitroxylin (a flukicide compound) residues in raw ex-farm milk samples.**

**Both of these compounds may be harmful to human health.**

**Florfenicol is not authorised for use in animals producing milk for human consumption including pregnant animals intended to produce milk for human consumption. I attach a summary report from the Committee for Veterinary Medicinal Products which discusses the toxicity of florfenicol.**

**Nitroxylin is not authorised for use in cattle and sheep producing milk for human consumption including the dry (non-lactating) period and should not be used in the last trimester of pregnancy of heifers (primiparous) which are intended to produce milk for human consumption.**

**I was invited to attend meetings of the ‘Milk Quality Forum’ consisting of Christine Middlemiss (the Chief Veterinary Officer), representatives from the Animal and Plant Health Agency (APHA), the Veterinary Medicines Directorate (VMD), the Food Standards Agency (FSA), the Responsible Use of Medicines in Agriculture (RUMA) Alliance, NML and Owen Paterson.**

**The first of these was by conference call (16/07/2019) and subsequently in person (16/10/2019) and again by conference call (28/01/2020). At each meeting Mr Paterson made it clear that he was there wearing three hats:**

**(1) as the MP for North Shropshire a rural constituency and home to a Muller processing site; (2) as the Former Defra Secretary; and (3) as a paid consultant for Randox, who provided some of the test kits which had identified this issue. In this context I understood the interests Mr Paterson held - I did not feel that any one of them was over-represented and that the primary concern was safeguarding milk supply.**

The Milk Quality Forum provided a welcome opportunity to share our results and observations on veterinary medicine residues, including antibiotics and flukicides, in milk and to raise our concerns with key parties in a safe forum. We were aware of the potential issue identified and we were also mindful of the potential damage this issue could do to the dairy industry.

Subsequent to these meetings, and alongside other industry initiatives, there has been an increased awareness on the risk of residues of veterinary medicines, including flukicides, and the need to ensure these do not enter the human food chain. I attach the joint statement from the National Office of Animal Health (NOAH) and the VMD on the use of Flukicides in dairy cattle.

Surveillance and testing programs can provide a level of assurance for product quality and I would welcome further transparency of testing for veterinary medicine residues in the coming years.

*Response to the Commissioner*

9.12 The Commissioner now agrees that I was reporting a serious wrong.

9.13 The Commissioner essentially finds that I should have notified the FSA and then taken no further action. This would have been a dereliction of duty on my part. I have a duty to act in the best interests of my constituents and the general public and that is what I did.

9.14 I followed up with the FSA after my first meeting as I always do. I am found not to have disclosed my interest but that is incorrect. As Tim Bennett confirms, I had disclosed my interest in the meeting and I was now writing to those present at the meeting. The disclosure of my interest had taken place.

9.15 A year later I became aware that whilst Florfenicol was being tested for, other contaminants were being found and so I followed this up as is my duty.

9.16 I then established the MQF to better improve milk safety and Professor Middlemiss, Tim Bennett and Ben Bartlett each confirm that I have improved milk safety. All the witnesses confirm that I disclosed my interest as a consultant. No witness states, or even suggests, that I was engaged in advocacy or lobbying for Radox, paid or otherwise.

#### Applying the Test

9.17 I approached the FSA with evidence of a serious wrong, namely that milk was contaminated with a banned carcinogenic anti-microbial residue.

9.18 I disclosed my interest.

9.19 I followed up my report to ensure that milk safety was improved and as other contaminants had been found.

9.20 I set up the Milk Quality Forum.

9.21 There was and could be no benefit to Radox and no intention to benefit Radox (if this is relevant). For example, Radox were not invited to the Milk Quality Forum.

#### Commissioner's Findings

9.22 The Commissioner finds I breached the Rules in the following emails:

9.22.1 My email to FSA dated 16 November 2016.

(a) This email was following up by confirming the matters we had discussed.

(b) I am criticised for the email referring to mycotoxins. This had been raised by the Chief Scientific advisors to the FSA Professor Guy Poppy, although the Commissioner redacts his name and job description, so his importance isn't clear. Where an official raises a matter, that is outside the rules on paid advocacy. I was merely responding to a matter raised with me by Professor Poppy.

9.22.2 Meeting and Email 15 November 2017

(a) This meeting took place because illegal substances were still being detected in milk as my email references. This is no different to my first disclosure. The presence of illegal substances is a serious wrong.

9.23 The Commissioner accepts that the presence of illegal substances in milk is a serious wrong and that applies equally in November 2016 and November 2017 as that had not been remedied, or to use the words of the exception, there had not been a “resolution” of the wrong.

9.24 My sole motivation was milk safety as the witnesses testify. Their evidence must be accepted.

9.25 As a matter of fact Radox did not benefit financially or in any other way.

## 10 Contaminated Ham

### *The Issue*

10.1 Kerry Foods is a substantial international business based in Kerry in the Republic of Ireland. It produces dairy and meat products, including ham. Kerry Foods brought to the market in Ireland an “All Naturally Cured” ham, aimed at young families.

10.2 Processed meat is traditionally cured with nitrite. Nitrite is now recognised by the World Health Organisation as a cause of colorectal cancer, which kills 16,000 in the UK every year. This is a major health issue.

10.3 Nitrite comes in a variety of forms. One form is to extract it from vegetables such as celery. This makes the nitrite more dangerous and so this is banned under European law which applies to the UK.

10.4 Kerry Foods “All Naturally Cured” ham was not naturally cured at all. The curing agent was nitrite extracted from celery. This is a banned carcinogenic substance.

10.5 I am a consultant to Lynn’s. Lynn’s produces meat products, particularly bacon, which are cured with lemon juice and so are nitrite free. Lynn’s saw the ham product and tested it out of commercial interest and discovered the nitrite. This was reported by Lynn’s and Professor Elliott to the FSA in Northern Ireland who then took no action. Challenging a major food producer in the Republic can be difficult in Northern Ireland for obvious political reasons, particularly at the time when Brexit was being negotiated.

10.6 This was drawn to my attention and as nothing was being done to stop a carcinogenic food being sold I followed this up with the FSA in London. I did not initiate this contact but I did provide the evidence that led to the product being made safe. This is the same as contaminated milk, it is a serious wrong to be selling a product with a concealed, prohibited carcinogenic curing agent.

10.7 The Commissioner has wrongly described this as a labelling issue. It has nothing to do with labelling. It is rather like rice containing arsenic and complaining the arsenic is not on the label. It is not the label that is the issue but the content.

10.8 When the FSA was involved they became very defensive and frankly aggressive. Our meeting with the FSA was very difficult and we had to take time out for everyone to calm down.

10.9 However, ultimately, the FSA did two things:

10.9.1 The issue was taken forward and Kerry Foods removed the carcinogenic banned curing agent.

10.9.2 A challenge was made to Lynn's bacon product by the FSA. The FSA incorrectly assumed that Lynn's must be using the same curing agent as Kerry Foods, as both were branded natural. In fact, Lynn's use natural juice.

10.10 This later issue has not been dealt with correctly by the Commissioner. It was the FSA who raised this issue with me and so there can be no issue of paid advocacy or lobbying. All I did was to help facilitate a resolution.

#### Witnesses

10.11 I refer the Committee to the witness evidence and in particular on this issue:

10.11.1 Professor Christopher Elliott<sup>320</sup>

Professor Elliott gives evidence under a perjury declaration as follows (paragraphs 12 to 21 of his Statement):

In or about 2015 I was contacted by the owner of Lynn's Country Foods, Denis Lynn. I had a number of conversations with Denis over the years on this topic. He told me that he wanted to find a way to process bacon without nitrite addition. I was extremely sceptical of there being an alternative as bacon has been cured in this way for hundreds of years.

In 2016 Denis Lynn came to me with a natural product for curing bacon and meats that did not contain nitrite. This was produced by a Spanish company called Prosur. I investigated this product and advised Denis to have extensive testing undertaken. The data generated showed that it did not contain nitrite or vegetable extract including nitrite and it prevented botulism. It was, in my opinion, a much safer means of preserving meat compared with nitrites. I believed this to be a major innovative breakthrough in tackling colorectal cancer.

**In 2017, I became aware through Denis Lynn that Kerry Foods were marketing Denny's Ham as a naturally cured product i.e., without nitrite. Kerry's produced a video which included young children eating their ham, with a plate of chemicals on one side plate and then celery as 'the natural agent' on the other plate, with a statement that Denny's Ham was chemical free and safe. I did not believe this to be the case. It was cured with nitrite obtained from celery and in my opinion this practice breached EU law. It was no different than if it was cured with chemicals and the ad was very misleading. In 35 years working in food safety and**



**research this is the worst video I have ever seen for the promotion of food. I was appalled. Kerry Foods were promoting the use of a dangerous additive to children yet declaring it to be safe and natural.**

Kerry Foods is the world's largest producer of processed meats and so it is extremely serious that such a large, sophisticated company with huge sales is producing a product which it is targeting at families and young children **claiming it is safe when it contains nitrite which there is substantial evidence to show is carcinogenic. Not to reveal this and seek to have the product removed would be a most serious harm.**

I wrote to the FSA and expressed my deep concerns about this practice.

*Owen Paterson & the FSA*

I have had several meetings with Mr Paterson, who was a consultant to Lynn's Country Foods about the issues of nitrites in processed meats. **Mr Paterson's concern was entirely focused on protecting the UK public, as a dangerous and mislabelled food was being widely sold in UK and this contained an additive banned by the EU.**

**The principal meeting was with the FSA on 15 January 2018. I declared my presence was as an independent scientific expert. Mr Paterson was clear that he was present in his capacity as a consultant to Lynn's Country Foods.**

I would describe this as an extremely difficult meeting. At this meeting Mr Paterson and myself wanted to address the sale of a carcinogenic product, that contained a banned additive and produced a genuine risk for consumers. I have had extensive and very positive dealings with the FSA during my career but on this occasion the FSA did not understand or appreciate the significance of the link between nitrites and colorectal cancer and that Kerry Foods ham contained nitrite and this was from a banned additive, vegetable extract. The FSA also didn't know or accept that Lynn's Country Foods used an entirely different curing technology that did not contain nitrite. **In my opinion there was a lack of understanding on the part of the FSA.**

**The FSA focused on the labelling of Lynn's Country Foods bacon, rather than seeking to remove Kerry Foods Denny's ham from sale. This issue was eventually resolved by Lynn's agreeing to call lemon juice, which is the natural curing agent, ascorbic acid. The FSA in my opinion did not act sufficiently robustly to protect the public as it should have done and this failure was a serious harm.**

This meeting with the FSA did not relate to the sale of Lynn's Country Foods products. Lynn's primary concern at this meeting was promoting safe food and calling out a company supplying unsafe food.

10.11.2 Matthew Forde (Solicitor)<sup>321</sup>

Mr Forde was present at the meetings with the FSA and under a perjury declaration he says the following (paragraphs 1 to 15 of his Statement):

I am a Solicitor and Director of the law firm, Forde Campbell. I am a commercial law specialist having spent 25 years advising commercial clients in manufacturing, retail, design, media & entertainment and the food industry.

My firm was instructed to represent Lynn's Country Foods Limited (LCF) in November 2017 after they had raised a food safety and labelling concern with the FSA in relation to a Kerry Foods product, Denny All Natural Ingredient Ham. My knowledge of facts and matters set out in this statement derives from knowledge acquired during my representation of LCF.

LCF is an innovative food producing company, based in Northern Ireland, producing a range of meat products, including bacon and ham, which it makes without the use of nitrites. The traditional method of making bacon and ham products is to add nitrites during the manufacturing process to act as a curing and preserving agent. Nitrites not only inhibit the growth of bacteria but they also aid colour development, by giving the meat an artificial reddish-pink hue, which effectively masks the process of natural decay. Nitrites also lend a typical 'cured' flavour to the meat. However, the presence of nitrites in processed meat is known to be a contributor to cancers. This is because, when digested, nitrites create compounds in the human digestive system known as nitrosamines. Most nitrosamines are carcinogenic. The science is overwhelmingly clear that there is a link between nitrosamines and cancers and for which reason food regulations impose limits on the levels to which nitrites can be added to cured meat products. The regulations also require food producers to declare the presence of added nitrites (as additives) by printing this information on the product labels so that the consumers know what they are eating. Despite these regulatory safeguards, current scientific opinion is now increasingly of the view that these 'limits' are outdated and meaningless and that there are no 'safe limits' where the ingestion of nitrites is concerned, even at the levels permitted by the regulations. There is also a concern that some food producers are finding ways to circumvent regulations requiring nitrites to be declared as additives on labels by selectively extracting nitrites from natural food sources and using those nitrite extractions in the food production process as an alternative to adding nitrites as a pure chemical. Such methods are not permitted by the regulations.

Because of the worrying link between nitrites and cancers, LCF researched ways of producing bacon and ham products without using nitrites. The challenge was to develop products that still looked and tasted like traditionally-processed bacon and ham and yet avoided the use of nitrites to achieve those 'traditional' characteristics. LCF eventually found a way to do this. A key ingredient flavour used in LCF's new process was a unique blend of natural dried fruit and spices developed by a Spanish company called Prosur. LCF's new products using the Prosur flavour blends were first sold in the UK in late 2017, initially under supermarket own labels

under their range of 'made without nitrites' meat products. It was not until early 2018 that LCF first began marketing these new products under its own brand in the UK.

The Denny All Natural Ingredient Ham first came to LCF's attention in 2017 at about the same time as the LCF new 'made without nitrites' bacon and ham products were first appearing on supermarket shelves. LCF noticed that the

Denny Ham product made no mention on its label of the presence of nitrites despite the fact that it was being produced with nitrites selectively extracted from fermented celery. The product was being manufactured in the Republic of Ireland and was appearing in retail outlets in Northern Ireland. Given the regulatory requirement for food producers to declare the presence of nitrite additives on labelling, LCF could not understand why the FSAI and UK FSA had allowed this product to enter the UK when its label made no mention of the presence of nitrites. The concern for LCF was twofold. First, a safety concern that UK consumers would be unaware from the label that this ham product contained nitrites; and second, that if the product were allowed to remain in the UK market, it would create an obvious confusion for any consumers of processed meats who were actively seeking products produced without nitrites, such as the LCF bacon and ham products. In other words, consumers could easily make the mistake in thinking that the Kerry Foods' product was nitrite free, when it was not. This was the issue that LCF first brought to the attention of the FSA in Northern Ireland in or about July/August 2017 and then later with the FSA in London in November 2017 and as part of that later notification it engaged the consultancy services of Owen Paterson. The FSA in Northern Ireland had already confirmed to LCF in August 2017 that use of nitrite-rich vegetable extracts, such as celery extract, to achieve a technological function in a meat product would constitute an unauthorised use of an additive and so LCF felt justified in their approach.

I was aware that LCF met with the FSA chair, Heather Hancock, at a meeting on 15 November 2017, at which Owen Paterson was also in attendance. My firm was not directly involved at this stage with any dealings with FSA (London) and we only became involved following the FSA's written follow up to that November 2017 meeting.

It is fair to say that LCF's dealings with the FSA on this issue did not turn out quite as they expected. Although the FSA agreed to raise the labelling issue with the FSAI, and which they subsequently did, the FSA then, unexpectedly, turned their attention to the ingredients that LCF was using in its new bacon and ham products. Given the timing and form of the FSA's questions, it seemed fairly obvious to LCF that these had originated directly from the FSAI (as a 'retaliatory' response) at the behest of the producers of Denny All Natural Ham. It was at this stage that my firm was brought on board.

The main thrust of the FSA's query was about whether or not the Prosur ingredients fell within the scope of Regulation (EC) No 1333/2008 on food additives and, if so, was the labelling in compliance. Both Prosur and LCF were of the opinion that the ingredients (which were essentially dried fruit and spices - i.e. 'foods' by definition) fell outside the regulations because they acted primarily as flavours to the meat products rather than having any designed technological effect. As mentioned above, the ingredients were intended as a flavour to mimic the taste of traditionally made bacon and ham. LCF were treating the FSA's questioning very seriously as there was a genuine concern at the time that the FSA might require LCF to withdraw its products from UK supermarket shelves until the labelling status of the Prosur ingredients had been resolved.

My involvement throughout this time was largely spent seeking clarity from the FSA on their interpretation of Regulation 1333/2008 and Regulation 1334/2008 (insofar as these related to flavourings and food ingredients) and submitting counter-submissions to explain why we were of the view that certain regulations did not apply to the Prosur ingredients. We also involved senior counsel in the submission exchange process. At no stage during this period was it ever clear to us where the FSA were going with their investigations. As an organisation I found them extremely difficult to deal with.

In early January 2018, our office received a notification from LCF that a formal interagency notice had been filed by the FSAI with FSA relating to the Prosur product. From recollection, it was at this time that I had my first direct dealings with Owen Paterson in relation to these matters. I was aware that Mr Paterson had been engaged as a consultant to assist LCF in its dealings with the FSA, although I was not involved in his appointment. Given his former roles as Secretary of State for Northern Ireland and Secretary of State for Environment, Food and Rural Affairs, my understanding was that he brought useful knowledge and experience and would have understood the challenges faced by NI businesses operating in the UK market and particularly the food production industry and would have been familiar with some of the regulatory regimes under which that industry operated. It was my also understanding that Mr Paterson had a good knowledge of the workings of the FSA and was able to advise LCF on how best to escalate the issue of the dangers of nitrites in processed meat products within that organisation. On this specific area, I was aware that LCF had also sought the scientific opinion of Professor Elliott (a world leading expert in the harmful effects of nitrites in cured meat). I recall that on 10 January 2018 I had been copied into an email that Mr Paterson had sent to Heather Hancock (FSA) on 8 January 2018, requesting an urgent meeting with the FSA in relation to LCF's general concerns about nitrite levels in traditionally manufactured processed meats and separately about the enquiry into the Prosur ingredients.

The meeting was arranged for 15 January 2018, which I attended together with Mr Paterson, LCF representatives, a Prosur representative, FSA

delegates and Professor Christopher Elliott. The meeting was held in Mr Paterson's office at 1 Parliament Street. As far as I am aware, his office was chosen as a convenient location as neither my firm nor LCF had offices in London.

In my notes of this meeting, I have noted that Mr Paterson was attending in his capacity as a consultant for LCF. I recall that at the outset of the meeting all of the attendees were required to introduce themselves in turn, confirming the capacity in which they were attending. I confirmed that I was attending as a legal adviser to LCF, advising on regulatory issues. I cannot remember the exact words Mr Paterson used when he introduced himself at the beginning of the meeting but I am reasonably certain that he confirmed that he was attending in his capacity as a paid consultant for LCF and that everyone attending was aware that he was attending in this capacity and nobody took issue with this. The basis of my certainty on this issue is the fact that almost all of the attendees of the 15 January meeting attended a later meeting with the FSA on 24 May 2018. I have seen a copy document of the FSA's notes of that later May meeting in which Mr Paterson is listed by the FSA as attending in his capacity as a consultant to LCF.

The 15 January meeting was an incredibly frustrating meeting for the LCF attendees because it became very apparent that the FSA attendees were unwilling to engage in any discussion about whether traditional bacon and ham products posed any health risks to consumers. Instead they appeared firmly of the view that the current regulatory limits for nitrites were sufficient to protect against the dangers of ingestion by humans, notwithstanding the very compelling submissions of Professor Elliott. I was taken aback by how hostile they were towards LCF and its innovative product and their refusal to engage with any suggestion that the existing regulatory regime had been fashioned to support the outdated methods used by the established meat producers. It became increasingly clear that they were unwilling to support any innovation in food production that might otherwise suggest that the current regulatory regime was outdated, even where there was a substantial and obvious public health benefit in removing known cancer causing chemicals from food products. The FSA's sole focus during the meeting was concerned with the formulation and properties of the Prosur product and, by implication, whether LCF was in compliance with various labelling regulations.

My firm's dealings with the FSA on these issues continued for at least another five months, culminating in a further meeting with the FSA at their offices in London, on 24 May 2018. This meeting was attended largely by the same delegates as those who attended the January meeting. Mr Paterson was also at the May meeting. Whilst I had only two meetings with the FSA about these issues (both of which Mr Paterson attended), I was in regular correspondence with the FSA during a seven-month period. Mr Paterson would typically be copied into some of that correspondence. Whilst I only met Mr Paterson on those two occasions I certainly had several telephone calls with him during that time period and would have copied him into

my advices to LCF from time to time. Because it was never clear to our firm and/or LCF where the FSA were going with their investigations or the seriousness to which they were treating the issues LCF had raised about the use of nitrites in traditionally made meat products, Mr Paterson's advices on the dealings and internal decision making processes of the FSA proved to be critical to our ability to steer LCF through this difficult period.

Mr Paterson was always transparent in the FSA dealings that I was involved with and there was never any question of the capacity he was acting in.

10.11.3 Declan Ferguson (Technical Director Lynn's)<sup>322</sup>

Mr Ferguson gives evidence under a perjury declaration as follows (paragraphs 1–22 of his Statement):

I am the Technical Director of Lynn's Country Foods, a position which I have held since 8th December 2014. I hold a degree in Food Science from Queen's University, Belfast and have spent twenty three years working in the food industry. I worked as a Food Technical Manager at both Marks & Spencer and Tesco for nearly fourteen of those years before moving to food manufacturing. Until November 2020, I was the Chair of the Northern Irish Branch of the Institute of Food Science and Technology and I am a member of the Safefood Knowledge Network Food Safety Expert Group. Safefood's role is to promote awareness and knowledge of food safety and nutrition in Northern Ireland and the Republic of Ireland.

I was heavily involved in the meetings and discussions with the FSA in respect of the issue with nitrites in cured meats and this statement covers the meetings and discussions that took place from the first report of this issue to the FSA in Northern Ireland. There were two separate issues between the FSA and Lynn's:

(1) Lynn's were extremely concerned about prohibited use of nitrites derived from vegetable extract in a Kerry's Food product and sought to bring this to the FSA's attention and (2) the FSA had concerns about Lynn's own nitrite free product and instigated an investigation into this.

Processed meat was identified by the World Health Organisation as a cause of colorectal cancer in or about 2007. Further research was undertaken and then, in the last decade it has become known that it was not the processed meat itself that was the risk element but nitrite within the meat, being the traditional curing agent. There has been a growing movement to find a safer and so better alternative, as many people die of colorectal cancer. This is a serious health issue.

The IARC Working Group of the World Health Organisation now classify processed meats as a group 1 carcinogen (similar to tobacco or asbestos) after concluding that processed meat consumption can lead to the formation of carcinogenic N-nitroso-compounds and which are linked to an increased risk of colorectal cancers.

Lynn's was one of many businesses throughout the world looking to find a way to process meats without the use of nitrites. Throughout this process, Lynn's worked closely with Professor Chris Elliott, a leading expert in the field of nitrites in cured meats, to find and develop a new method. In 2016, Lynn's found a potential ingredient produced by a Spanish company Prosur to help create a nitrite-free alternative to curing meats, which was widely used in Spain and France which enabled us to produce nitrite free meat products.

In 2017, when Kerry Foods produced what they were claiming to be an "all natural" product – Denny's "all natural" Ham we were interested to understand how that was achieved. We carried out analysis on the product to examine the ingredients and curing agents used. We discovered that Denny's "all natural" Ham contained nitrite derived from vegetable extract, more specifically celery. This is prohibited under EU regulations due to the fact it is not an approved additive. Around 42,300 people are diagnosed with colo-rectal cancer in the UK each year, of which eating processed meat cured with nitrite is a known cause.

Lynn's were extremely concerned that this product should be allowed to be marketed as "all natural" and without nitrites, when this was not at all the case. Not only were consumers being deliberately misled as to the ingredients of the product, but consumers actively trying to seek out a nitrite free product would also be misled into buying this product. The curing agent was explicitly banned under EU regulations. We sought further advice from Professor Chris Elliott on this matter, he was equally appalled that Kerry Foods were misleading consumers in such a way.

It was solely for this reason that Lynn's wrote to and sought engagement with the FSA in Northern Ireland from February to August 2017. The FSA informed us that whilst the use of nitrites derived from vegetable extracts to achieve a technological function in a meat product would constitute an unauthorised use of an additive, this was not an issue they could deal with directly as the manufacturing company was based in a different jurisdiction and they had asked that the enforcement authority in that region investigate the matter further. We received no further update and as far as we were concerned, no action had been taken as the Denny's "all natural" Ham product was still available to purchase in Northern Ireland, still claiming to be "all natural" when this was not the reality. Further the product was to be sold in Great Britain and this only enhanced our concern that a dangerous product was being mis-sold.

By November 2017, Lynn's were becoming exasperated. We knew of a product on the market which was actively breaching EU legislation and misleading consumers but we also did not know how to do anything about this. Given the serious health implications of this, Lynn's approached Owen Paterson, as a consultant to Lynn's with prior experience of the workings of governmental organisations and EU regulation, for advice on how this should be dealt with. Mr Paterson then contacted Heather Hancock as

the Chair of the FSA about the serious harm this product was posing to consumers. He set up a meeting between Lynn's and the FSA to discuss this point which took place on 15 November 2017.

I attended this meeting with Heather Hancock, David Self and Colin Clifford of the FSA, alongside Denis Lynn and Mr Paterson on behalf of Lynn's. Mr Paterson stated he was a consultant to Lynn's. This meeting was entirely focussed on the issue of the nitrite concealed within the Kerry Food product and the serious risk of harm this posed to consumers. During this meeting the FSA advised that they were working with the Irish FSA to investigate the matter. No one at that meeting, or any other meetings I attended subsequently, expressed any reservation regarding Mr Paterson being present as a consultant.

Mr Paterson always stated he was a consultant in each meeting at the outset.

Further to this meeting Lynn's received a follow up letter from Carles Orri on 24 November 2017 which sought to confirm the position, stating, "the indirect addition of nitrates to foods via standardised nitrate rich extracts of vegetables such as spinach or celery is considered to be use of an additive rather than a food ingredient. In such cases the extract is being added for the purposes of preservation given the standardised level of nitrate. Consequently, such use would not be permitted by Regulation (EC) No 1333/2008 as these extracts are not authorised as preservatives, having not met the specifications for nitrates." This letter further confirmed that the company (Kerry Food) had agreed to reformulate and relabel the products in question. This outcome would draw the matter to a conclusion as the public would no longer be misled by this product and it would no longer contain the prohibited source of nitrite.

Following this meeting, in early January 2018, we became aware of a separate issue which had arisen. A RASFF (Rapid Alert System for Food and Feed) notice was made against the Prosur product which is the product which Lynn's were using in our own nitrite free product. This notice had been filed by the FSA in Ireland with the FSA. It was being alleged that Prosur contained nitrite, which claim was false. We believe this can only have arisen as a result of a complaint made by Kerry's Food.

It was at this stage that the FSA then changed their approach from co-operating to resolve the issues with Kerry's Food to initiating their own attack on Lynn's product alleging it was not correctly described.

Mr Paterson made contact with Heather Hancock of the FSA on 8 January 2018 to facilitate a meeting regarding this new issue being raised by the FSA. This was a very technical meeting about the product itself and as such Heather Hancock did not attend. This meeting took place on 15 January 2018 and in attendance were: Mr Paterson, Professor Chris Elliott (a leading scientific expert in the field of nitrites in cured meats), Juan De Dios



Hernandes (CEO of Prosur), Mathew Forde (as Lynn's legal representative), Michael Wight, Mark Willis and Laura Eden (all of the FSA), Denis Lynn (CEO of Lynn's) and myself.

This was an incredibly frustrating meeting. The FSA had not previously proactively taken action regarding Kerry Foods but had now decided, incorrectly, that Lynn's were also using nitrite additives to cure meats. The FSA instigated this investigation and they were seemingly only interested in this. This is evident from the follow up email of Carles Orri which was sent to me on 26 January 2018. Within this email, he set out the overriding principles of food legislation that "consumers should not be misled about the nature of food or its ingredients" and that "it is important the correct legislative frameworks are followed and food is labelled appropriately". These are the exact reasons why Lynn's had approached the FSA in November 2017 regarding the Kerry Food product, however we were mystified as to why these issues were now being raised in respect of our own product. I have since been provided with the FSA's note of this meeting which confirms the FSA's misunderstanding of our product. This meeting note also accords with my own recollection of Mr Paterson's role in the meeting, Mr Paterson's primary concern was that of consumer confidence in bacon products and that they were as safe as could be.

At this meeting, the FSA requested considerable further information in respect of the Prosur product, the focus of their investigation at this time. Initially I had reservations about providing this in writing due to the commercial sensitivity of this issue, however I provided a comprehensive response to the questions that had been raised by the FSA by email on 22 February 2018.

Despite having answered the FSA's questions in full, we received correspondence on 2 March 2018 which stated that the FSA were "still unclear as to the functionality of [Lynn's] natural flavouring" product, which we consider to be the key issue." So we then dealt with this issue which was raised by the FSA.

The discussions between Lynn's and the FSA continued until ultimately a further technical meeting was proposed for 24 May 2018 to go through our responses. Mr Paterson had no real involvement in this discussion as it was technical, he just facilitated the discussion.

I do not recall the exact words Mr Paterson used at the beginning of each meeting but he would always say that he was a consultant acting on behalf of Lynn's Country Food. I remember thinking this was quite an awkward way to start a meeting but Mr Paterson always said it and his status was always abundantly clear. His position as consultant is also noted in the meeting minute of 24 May 2018.

Lynn's approach to the FSA in November 2017 was solely to expose a serious harm, namely the risk to consumers of a product that claimed to be natural but which in fact contained nitrate as a curing agent, which is carcinogenic.

The additive was contrary to EU law. We needed Mr Paterson's assistance to bring this serious harm to the attention of the FSA as the relevant body to protect UK consumers as our approach had not led to any action being taken to protect consumers.

Thereafter, from January 2018 onwards, the FSA raised totally new and unrelated issues regarding our product which we dealt with.

10.11.4 The evidence of Mr Ferguson is supported by Jago Pearson of Lynn's.<sup>323</sup>

#### Response to the Commissioner

10.12 The Commissioner heads this section of her report as my "contact with the FSA about food additives". That does not correctly reference either of the two entirely separate issues and the Commissioner, despite representations and evidence deals with this matter as if it were one issue. I have explained that this is incorrect several times.

10.13 At paragraph 84 the Commissioner says that I approached the FSA because "a global food produce was acting in breach of EU law by mislabelling a product". That is an incorrect statement. Professor Christopher Elliott describes Kerry Foods conduct as, "In 35 years working in food safety and research this is the worst video I have even seen for the promotion of food. I was appalled. Kerry Foods were promoting the use of a dangerous additive to children yet declaring it to be safe and natural".

10.14 Kerry Foods ham contained a curing agent that was banned by law because it is carcinogenic and that is why I made complaint to the FSA. It is no different to the contaminated milk. They both contained concealed carcinogenic substances prohibited by law.

10.15 I was therefore reporting a serious wrong. This is the same as contaminated milk.

10.16 The FSA then raised the issue of Lynn's curing agent. I did not raise this matter. The Rules are clear that where an issue is raised by a public official that is not within the paid advocacy rules. I helped resolve what was a very technical issue by putting the technical people together.

#### Applying the Test

10.17 I approached the FSA with evidence of a serious wrong, namely the presence of a banned, unlawful, carcinogenic curing agent in Kerry Foods ham product. The evidence was provided by Professor Elliott. It is irrelevant that Professor Elliott had previously written to the FSA in Northern Ireland as that had not been dealt with and a dangerous product continued to be sold and was about to be sold in GB.

10.18 If I am wrong in that Professor Elliott's approach to the FSA is relevant then I did not initiate the approach. I was following up on Professor Elliott's. My action led to the product being made safe.

10.19 There was no benefit to Lynn's as all Kerry Food's had to do and which they eventually did, was to remove the unlawful curing agent. They continue to sell this product but without the carcinogenic curing agent.

10.20 My sole motivation was to protect my constituents and the general public. I was able to achieve this.

10.21 The Commissioner is confused by the FSA raising an issue with me regarding Lynn's curing agent. That is not an issue I raised so is outside the rule relating to paid advocacy. The FSA raised this as is clear from the witness evidence and the internal FSA memos which the Commissioner seeks to rely on in part.

The Commissioner's Findings

10.22 I note that the Commissioner refers to the Registrar (see paragraph 135). The Registrar was not involved in this matter and reports to the Commissioner. This is the creation of evidence.

10.23 The Registrar is recorded as advising the Commissioner that I approached the FSA to stop the selling of products and to promote Lynn's own brand. An anonymous internal email from the FSA is referenced which refers to Lynn's "trying to clear the market for the launch of its own products." This is nonsense. The evidence from the witnesses under perjury declarations is clear. The Kerry Foods ham product contained a prohibited carcinogenic substance. As a result of my intervention this was removed.

10.24 Kerry Foods did this and continued to sell its product.

10.25 The registrar's comment is not evidence, but an opinion from someone who had no involvement in the matter at all. It is though presented as if it is evidence. The registrar reports to the Commissioner.

10.26 The anonymous FSA email is plain wrong and shows the lack of understanding I have had to deal with. The Kerry Foods product is ham, Lynn's is bacon, you don't seek to stop ham being sold to clear the market for bacon. This is nonsensical.

10.27 The Commissioner's analysis at paragraph 135 fails to get to grips with the facts and rather seeks to rely on internal FSA emails when we don't know who the author is or their state of knowledge and the content is clearly wrong.

10.28 The Commissioner doesn't follow the unchallenged witness evidence and so doesn't accept:

10.28.1 Kerry Foods product was ham and it contained an unlawful, banned carcinogenic curing agent. It was the duty of the FSA to require Kerry Foods to use a different curing agent and that is what happened.

10.28.2 The FSA then raised the issue of Lynn's curing agent. I didn't raise this but helped resolve it. This is not an issue I raised and so it is not within the lobbying rules.

10.29 At paragraph 137 the Commissioner states her opinion that a competitor product would be removed. The Commissioner says if this was the intention that is sufficient to

breach the rule. This is the key factor in her decision and it is flawed. As a matter of fact, Kerry Foods ham is not a competitor product of Lynn's naked bacon. This analysis is flawed and wrong. This flows from not engaging with witnesses or their evidence when I provided it.

10.30 It is on this basis that the Commissioner says she is satisfied that the meeting on 15 November 2017 and the email of the same date sought to confer a benefit on Lynn's. This finding is clearly wrong. That addresses the issue regarding Lynn's in terms of paid advocacy as this was my only approach.

10.31 The Commissioner goes on to refer at paragraph 139 to "the approaches relating to Lynn's use of the Prosur's product". I did not approach the FSA about this matter. As is referred to in the witness evidence made under perjury declarations, it was the FSA who approached Lynn's and me about this matter. There can be no breach of the lobbying rules where I am not responsible for raising an issue.

10.32 The Commissioner refers to various emails and meetings relating to Prosur. As I did not raise this issue those engagements are not relevant and not within the lobbying rules.

10.33 The Commissioner considers whether or not my actions fell within Rule 9 at paragraph 147 et seq.

10.33.1 The Commissioner accepts that the Rule does not prevent a Member raising a serious wrong that may have been previously raised before.

10.33.2 The Commissioner refers at paragraph 150 to the evidence of those who attended the meeting in November 2017. The Commissioner confuses unchallenged witness evidence with anonymous internal FSA emails that were not seen by me until in this inquiry. The Commissioner acting fairly and objectively should accept Professor Elliott's evidence which corroborates mine in that I was focused on addressing a serious wrong.

10.33.3 At paragraph 151 the Commissioner has not understood that the issue is not the general use of nitrites, but the use of a nitrite that is expressly banned by law, being extracted from vegetable matter, which makes it more dangerous. The Commissioner does not reference this fact. The Commissioner again states that the ham product was sold by a competitor and its removal could have reduced the market for the new Lynn's product. This is again confusing ham and bacon which are not competitor products.

10.33.4 It is these fundamental misunderstandings that drive the Commissioner to make her findings. The evidence proves the Commissioners analysis is wrong.

10.33.5 At paragraph 152 the Commissioner says it appears that Lynn's raised the second issue, Prosur. That is incorrect and clearly so. It was raised by the FSA as confirmed in evidence by me, Professor Elliott, Matthew Forde and Declan Fergusson.

## 11 The Calibration of Laboratory Equipment

### The Issue

11.1 The UK Government spends considerable sums on medical aid. It is a serious wrong and a substantial injustice if that equipment is not fit for purpose and so produces adverse health outcomes. A key reason for this is a failure to be able to accurately and easily calibrate medical equipment for example equipment that checks blood for disease and infection.

11.2 I was aware that DfID wanted to understand new technologies and the solutions they can bring.

### The Evidence

11.3 I was made aware of the need to better calibrate machines by Randox. I made it my business to look out for the responsible Minister, The Right Honourable Priti Patel MP in the division lobby. I mentioned the issue, my involvement and followed up with a letter making it clear I was a consultant to Randox.

11.4 Priti Patel referred the matter internally in DfID and I was contacted to meet The Right Honourable Rory Stewart MP. I attended that meeting.

11.5 Priti Patel and Rory Stewart have both given evidence in this matter.

11.6 Priti Patel has made a statement under a perjury declaration. In this Ms Patel confirms that she encouraged MPs to bring new suppliers and technologies to the attention of the department and that was what I was doing. Ms Patel received my letter and her department, not me, set up the meeting with Rory Stewart. Clearly those civil servants involved in setting up this meeting didn't consider there was anything improper in this. I do not know who these individuals are as there has been no investigation of this issue by the Commissioner and I am unable to know this information.

11.7 Priti Patel confirms that my motivation was to effect change and drive better outcomes. Further that there was no impropriety in my approach and I was transparent as to my position with Randox.

11.8 Rory Stewart sent me an email<sup>324</sup> which I forwarded to the Commissioner, dated 21 December 2020 and which reads (my emphasis):

*Dear Owen,*

*Here is my memory of the meeting.*

*I met Owen Patterson in my DfID office to hear more about a particular solution to problems with laboratory testing in the developing world. It was a relevant issue for DfID since the department invests hundreds of millions a year of UK government money in Health programs in developing countries. High quality laboratory testing is a crucial part of tackling disease and mortality among infants and adults. Improving laboratory testing will*

*bring significant benefits to health – and through health to livelihoods and incomes. And of course poor quality testing endangers the health of local populations – and if linked to UK health programs – compromising programs funded by UK tax- payers.*

*It was clear at the time that the technology being discussed had been developed and was being explained to us by a private sector company. This Is not unusual – much of the technology, and equipment used in international development is developed and sold by private sector companies. It was also clear that Owen Patterson was a consultant to the company. The arguments made for the equipment by the company were about its technical strengths and advantages for international development. But Mr Paterson did not, in my view, use the meeting to advocate specifically for this company. Instead he approached the conversation as someone with concern for UK tax-funded programs, lab testing, and an interest in improving health care – and an expertise in UK government.*

*As with any official engagement, we were careful as a department to ensure that officials were present at the meeting, along with the Minister. The Officials would not have permitted the meeting to continue if it breach the rules on Conduct of Members of the House. We listened carefully to the description of the problem and the proposed solution.*

*Following on from the meeting civil servants subjected the idea to the standard procedures, to which we would submit any idea or application presented to the department. This began with identifying whether there was ultimately a requirement for the product, and whether the product fits with Dfid’s strategic priorities and processes.*

*In the event, we concluded – regardless of the strengths and weaknesses of this particular product - that DfiD did not have a strategic requirement for such a product. We, therefore, took the idea no further. This was only ever an idea.*

*Had we ultimately decided that we had a requirement for such equipment we would have gone through an open and transparent public tender process, beginning with a public request for bids, and I as a Minister would not have played a role in the choice of supplier. But since we chose not to try to acquire such a product, there was in the event no need for a tender.*

*Owen Paterson was totally clear with me as to his capacity as a consultant, but he was not in my view conducting himself in that particular meeting as a paid advocate for that product. Instead he made arguments about the principle of good laboratory testing, as someone who was concerned to make sure that UK tax money was well spent overseas, and to achieve better healthcare outcomes.*

#### The Commissioner’s Findings

11.9 The Commissioner does not accept that I was participating in an approach made by Randox. This is on the basis that approach was three months before mine. This timing does not appear to have been investigated by the Commissioner, as much of this three-month period fell within the Parliamentary summer recess/conference season.

11.10 Randox’s letter dated 28 July 2016 was sent during the Parliamentary Summer recess. This was from 21 July to 5 September 2016. This was then followed by the Conference recess which ran from 15 September 2016 to 10 October 2016. So in reality from 28 July to 12 October in the Commons was not 12 weeks, and was only 10 sitting days.

11.11 I was, as a matter of fact, following up Randox's letter because it had not been answered. I do not accept the Commissioner's finding that because 3 months had elapsed this was a new approach. It was not. The letter I sent the following day was my confirmation of the discussion which, as can be seen, I usually send.

11.12 The Commissioner without explanation rejects Rory Stewart's evidence and finds the approach was designed to benefit Randox. This is a remarkable finding as the Commissioner has not spoken to Rory Stewart.

11.13 It is not a fair process to receive evidence from a highly reputable source, a former Government Minister and to reject it without investigation or challenge. This is not in accordance with natural justice. If the Commissioner chooses not to accept Mr Stewart's evidence then a fair process requires that the Commissioner puts her challenges to Mr Stewart and then objectively determines the matter once they have been responded to.

11.14 The Commissioner should follow the unchallenged witness evidence and that confirms that there was no paid advocacy.

#### The Test

11.15 I did not make the approach in this matter. That was made by Randox and I followed it up.

11.16 I was dealing with better health outcomes for the most vulnerable in the world. It is a serious wrong and/or a substantial injustice to receive poor medical intervention which can result in death.

11.17 I did not engage in any paid advocacy as Rory Stewart has confirmed.

## 12 **Declarations of Interest**

#### The Issue

12.1 Did I declare my interest when engaging in my capacity as a consultant?

#### The Evidence

12.2 The evidence that I always declare my interests is overwhelming and yet the Commissioner finds that I do not.

12.3 It is my invariable practice whenever I engage with anyone as a Consultant to tell them that I am a consultant. For example in dealing with milk, as Professor Middlemiss and Mr Watson testify I would say I am sitting on a three legged milking stool, I am a consultant to Randox, an MP for a rural constituency and a former Secretary of State for DEFRA.

12.4 The following witnesses confirm that I disclosed my interests:

12.4.1 Professor Elliott<sup>325</sup> - "Mr Paterson was clear that he was present in his capacity as a consultant to Lynn's Country Foods"

12.4.2 Declan Fergusson<sup>326</sup> - “Mr Paterson always stated he was a consultant in each meeting at the outset”

12.4.3 Matthew Forde<sup>327</sup> - “I have noted that Mr Paterson was attending in his capacity as a consultant for LCF. I recall that at the outset of the meeting all of the attendees were required to introduce themselves in turn, confirming the capacity in which they were attending. I cannot remember the exact words Mr Paterson used when he introduced himself at the beginning of the meeting but I am reasonably certain that **he confirmed he was attending in his capacity as a paid consultant for LCF** and that everyone attending was aware that he was attending in this capacity and nobody took issue with this.” He goes on at paragraph 15 to state, “Mr Paterson was always transparent in the FSA dealings that I was involved with and there was never any question of the capacity he was acting in.”

12.4.4 Mark Campbell<sup>328</sup> - “Mr Paterson invariably starts each meeting by saying he is a paid consultant to Radox. To my memory he is fastidious in this.”

12.4.5 Ben Bartlett<sup>329</sup> - “Mr Paterson made it clear that he had three interests in this issue: (i) as the MP for North Shropshire, a rural constituency with a huge dairy industry, (ii) as the Former Defra Secretary; and (iii) as a paid consultant for Radox.” And “In all my meetings with Mr Paterson at all times he identified himself as a consultant to Radox”.

12.4.6 Eamon Watson<sup>330</sup> - “At each meeting Mr Paterson made clear he was wearing three hats (1) as the MP for North Shropshire a rural constituency and home to a Muller processing site, (2) as the former Defra secretary and (3) as a paid consultant to Radox”.

12.4.7 The Hon Alexandra Guyver<sup>331</sup> - “I have often heard Mr Paterson introducing himself as a paid consultant at the beginning of meetings...”

12.4.8 Rory Stewart<sup>332</sup> - “it was clear that Owen Paterson was a consultant to the company”.

12.4.9 Tim Bennett<sup>333</sup> - “he was retained as a consultant by Radox”.

12.4.10 Professor Christine Middlemiss<sup>334</sup> - “At each of these meetings, Mr Paterson would make reference to the fact he was sat on a “three legged milking stool”: (1) as the MP for a rural constituency which is home to Muller, one of the largest dairy suppliers in the UK; (2)

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326 Pages 174 to 177 of the Written Evidence Bundle to the Commissioner’s Memorandum, paragraph 11.

327 Pages 181 to 184 of the Written Evidence Bundle to the Commissioner’s Memorandum, paragraph 12.

328 21 Pages 185 to 190 of the Written Evidence Bundle to the Commissioner’s Memorandum, paragraph 32.

329 22 Pages 191 to 195 of the Written Evidence Bundle to the Commissioner’s Memorandum, paragraphs 10 and 12.

330 23 Pages 196 to 197 of the Written Evidence Bundle to the Commissioner’s Memorandum, paragraph 7.

331 24 Page 198 of the Written Evidence Bundle to the Commissioner’s Memorandum, paragraph 5.

332 25 Page 201 of the Written Evidence Bundle to the Commissioner’s Memorandum.

333 26 Pages 210 to 211 of the Written Evidence Bundle to the Commissioner’s Memorandum, paragraph 4.

334 Pages 212 to 213 of the Written Evidence Bundle to the Commissioner’s Memorandum, paragraphs 10.



as the former Secretary of State for Defra; and (3) as a paid consultant for Radox. I remember he would make these declarations at the start of each meeting.”

12.4.11 Rt Hon Priti Patel MP and Home Secretary<sup>335</sup> “Mr Paterson stated he was a paid consultant to Radox Laboratories”.

12.5 In addition, my capacity is recorded in letters and emails.

12.6 Everyone I dealt with as a consultant knew I was acting as a consultant.

### The Commissioner’s Findings

12.7 The Commissioner finds that “relevant financial interests are to be declared in any communication, formal or informal, **when approaching others**” (my emphasis), paragraph 233.

12.8 In Paragraph 234 whilst accepting that my “**general approach was to declare my interests and those who had regular contact with him were well aware of these**”. The Commissioner also states that “I have seen emails from Mr Paterson to FSA officials which did not include a declaration (of interest)”. These emails were not approaching others but followed approaches in which I declared my interest.

12.9 The Commissioner finds that I breached the rules in emails I sent to the Chair of the FSA dated 16 November 2016, 15 November 2017, 8 January 2018 and 17 January 2018.

12.10 The Chair of the FSA was always aware that I was acting as a consultant to Radox and Lynn’s. I made this disclosure when I met with the Chair and it is referenced in letters and internal FSA emails. It is clear that the FSA and its Chair knew my capacity.

12.11 When I approached the FSA, I made my capacity clear. That does not require me to keep stating my capacity. The FSA knew my capacity as it was disclosed at the outset. Tim Bennett confirms this as do my other witnesses.

12.12 I note that whilst the Commissioner says I did not make a disclosure to the Chair of the FSA there is no evidence to support this assertion. My evidence is that the Chair knew my capacity as I disclosed it and so there is no breach of the rules.

## 13 Use of Parliamentary facilities

### The Issue

13.1 I am accused of the misuse of House-provided resources, through the use of my parliamentary office in connection with consultancy matters.

### The Evidence

13.2 Rebecca Harris MP,<sup>336</sup> a senior Government Whip, concludes that, “It has never been suggested to me that the use by an MP of his office for occasional meetings due to

335 Page 277 of the Written Evidence Bundle to the Commissioner’s Memorandum, paragraph 5.

336 Pages 207 to 209 of the Written Evidence Bundle to the Commissioner’s Memorandum.

the need to be on the Parliamentary Estate is an abuse of the Rules on Conduct and I don't believe it is. We certainly wanted MPs to do this during this period and not leave the Estate and we encouraged this."

13.3 Rt Hon Sir Iain Duncan Smith MP,<sup>337</sup> the former leader of the Conservative Party and former Secretary of State for Work and Pensions, who states at paragraph 5 of his letter, "*Many members take phone calls relating to their other interests within their parliamentary office.*" And at paragraph 1, "*When there is a whip in place, it is absolutely necessary to remain on the parliamentary estate.*" He also states at paragraph 2, "*The subject matter of any meeting could, in the future, become parliamentary business and so it is vital that we are aware of these issues.*"

13.4 Rt Hon Professor Sir Oliver Letwin,<sup>338</sup> the former Minister of State for Government Policy and advisor to Former Prime Ministers is a man of considerable standing within and outside of Parliament. The Commissioner describes him in his report just as "a former MP". He states, "*there will inevitably be times when an MP who needs to be on the estate will need to make or receive calls or written communications, or will need to be involved in meetings, that relate to the party political, private or business dealings of that MP.*" He continues, "*As someone who was (in the period between 2017 and 2019) actively involved in the Brexit debate, on the opposing side to that supported by Owen Paterson - that I can testify to the huge absorption of time during which participants on either side of the debate were compelled to remain on the parliamentary estate in order to be rapidly available for a series of often unpredictable and sometimes very important parliamentary interventions and votes.*"

13.5 Graham Stringer MP<sup>339</sup> who is an experienced Labour MP and so not a supporter of a Conservative MP, but nevertheless confirms the following, "It was very difficult during this period to plan to be away from the Parliamentary Estate as it was an extremely fluid situation in which amendments were being tabled to motions and then withdrawn or added at a late state and it was necessary to be closely monitoring all that was happening and that was difficult to do other than being within the Parliamentary Estate."

13.6 The Hon Alexandra Guyver,<sup>340</sup> my office manager, confirms, "Mr Paterson keeps his paid consultancies entirely separate from his duties as an MP. He always uses his personal phone and personal email address for his consultancy matters. He does not involve his office staff in issues relating to his consultancy work."

13.7 Claire Ayres,<sup>341</sup> my senior parliamentary assistant states, "Mr Paterson keeps his personal business entirely separate from his duties as an MP. I am not involved in his consultancy matters and he has never asked me to be."

13.8 Each of these witnesses gives evidence that is uncontested.

13.9 The effect of this evidence is that it proves that I was acting properly in convening a very limited number of meetings in my Parliamentary Office. Some 2.5% of the total meetings. On any sensible view of the evidence, this cannot be described as anything other

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337 Pages 205 to 206 of the Written Evidence Bundle to the Commissioner's Memorandum.

338 Pages 202 to 203 of the Written Evidence Bundle to the Commissioner's Memorandum.

339 Page 204 of the Written Evidence Bundle to the Commissioner's Memorandum.

340 Page 198 of the Written Evidence Bundle to the Commissioner's Memorandum.

341 Pages 199 to 200 of the Written Evidence Bundle to the Commissioner's Memorandum.

than very occasional, and permitted, use of my office – it cannot sensibly be described (as found by the Commissioner at paragraph 269 of her Memorandum) as “routinely holding meeting with, and about, [my] clients and their interests”. The Commissioner does not dispute that in a 15 month period (October 2016 to December 2017) only 5 meetings with Radox or Lynns were held in my office (see paragraph 253). Such use can only sensibly be described as permissible “occasional” use, as is 25 times over 3½ years (October 2016 to February 2020).

13.10 The evidence from these witnesses, particularly the Members of Parliament, was that I was acting as was required at the time as I had to be on the Parliamentary Estate. The Government Whip even states that Members of Parliament were actively encouraged to conduct their external business on the estate to ensure they could attend to parliamentary business at a moment’s notice.

13.11 This clear and consistent evidence is wrongly dismissed by the Commissioner at para 268 as suggesting “that I may not be the only Member improperly using his office for private interests”. Further, there is nothing in the Commissioner’s Memorandum to show that this consistent evidence does not reflect the “customs and practice of the House and Members” (SO150(9)(c)).

13.12 Apart from the two letters referred to earlier (which I have always admitted), there is no evidence at all before the Commissioner to support a conclusion that by the very occasional use of my office for business purposes, I mis-used House resources.

#### 14 **Conclusion**

14.1 I have not breached the Rules of conduct.

14.2 There has not been a fair and proper investigation. My evidence and that of witnesses is just ignored without reason.

14.3 The memorandum would not stand up to scrutiny in any court. It does not meet the basic standards of an investigation required in workplaces throughout the UK as helpfully set out by ACAS. It does not comply with natural justice.

#### **Statement of truth**

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:

**THE RT HON OWEN PATERSON MP**

Date: 8th August 2021

## Formal minutes

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**Tuesday 7 September 2021**

**Members present:**

Chris Bryant, in the Chair

Jane Burgess

Andy Carter

Alberto Costa

Rita Dexter

Allan Dorans

Chris Elmore

Mark Fletcher

Sir Bernard Jenkin

Dr Michael Maguire

Mehmuda Mian

Dr Arun Midha

Paul Thorogood

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Sir Bernard Jenkin declared a non-pecuniary interest in relation to the case of Mr Owen Paterson as a close personal friend of Mr Paterson, and his wife being a close personal friend of Mr Paterson's late wife.

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**Tuesday 14 September 2021**

**Members present:**

Chris Bryant, in the Chair

Tammy Banks

Andy Carter

Alberto Costa

Rita Dexter

Allan Dorans

Yvonne Fovargue

Sir Bernard Jenkin

Dr Michael Maguire

Dr Arun Midha

Paul Thorogood

\*\*\*\*\*

Sir Bernard Jenkin informed the Committee that following his declaration on 7 September that he had a non-pecuniary interest in relation to the case of Mr Owen Paterson as a close personal friend of Mr Paterson, and because his wife had been a close personal friend of Mr Paterson's late wife, and having reflected on the ensuing discussion in the Committee in which no other member had supported the idea of his having a continued involvement with the case, he had decided to withdraw with immediate effect from any further participation in the Committee's consideration of the case.

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## Tuesday 19 October 2021

### Members present:

Chris Bryant, in the Chair

Tammy Banks

Andy Carter

Alberto Costa

Rita Dexter

Mark Fletcher

Yvonne Fovargue

Dr Michael Maguire

Mehmuda Mian

Dr Arun Midha

Paul Thorogood

Draft report (Mr Owen Paterson), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 213 read and agreed to.

Two papers were appended to the Report.

*Resolved*, That the Report be the Third Report of the Committee to the House.

None of the lay members present wished to submit an opinion on the Report (Standing Order No. 149 (8)).

*Ordered*, That the Chair make the Report to the House.

Written evidence was ordered to be reported to the House for printing with the Report.

## **Adjournment**

The Committee adjourned.

# Witnesses

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The following witness gave evidence. Transcripts can be viewed on the [publications page](#) of the Committee's website.

**Tuesday 21 September 2021**

**Rt Hon Owen Paterson MP**

Q1–127

## Published written evidence

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The evidence listed below is published on the Committee's website: [www.parliament.uk/standards](http://www.parliament.uk/standards).

1. The Grocer article, 11 August 2017
2. The Guardian article, 30 September 2019
3. Letter from the Commissioner to Rt Hon Owen Paterson MP, 30 October 2019
  - 3i. The freedom of information request
  - 3ii. FSA's response
  - 3iii. Document headed "'All Natural' labelled ham complaint"
  - 3iv. Internal FSA email of 14 November 2017
  - 3v. Second Internal FSA email of 14 November 2017
  - 3vi. Internal FSA email of 16 November 2017
  - 3vii. Internal FSA email of 26 January 2018
  - 3viii. Internal FSA email of 29 January 2018
  - 3ix. Second internal FSA email of 29 January 2018
  - 3x. Third internal FSA email of 29 January 2018
  - 3xi. Fourth internal FSA email of 29 January 2018
  - 3xii. Fifth internal FSA email of 29 January 2018
  - 3xiii. Sixth internal FSA email of 29 January 2018
  - 3xiv. Briefing headed Chair meeting with Owen Paterson MP - 9 July 2018
  - 3xv. Document headed Chair meeting with Owen Paterson MP - 9 July 2018
  - 3xvi. Internal FSA email of 10 July 2018
  - 3xvii. Briefing for meeting of 18 December 2018
  - 3xviii. FSA Chair's internal email of 18 December 2018
  - 3xix. FSA internal email of 19 December 2018
  - 3xx. FSA internal emails of 13 to 14 December 2018
  - 3xxi. First FSA internal email of 14 December 2018
  - 3xxii. Second FSA internal email of 14 December 2018
  - 3xxiii. Briefing for meeting on 18 December 2018
  - 3xxiv. FSA internal emails of 18 -19 December 2018
  - 3xxv. FSA internal email of 19 December 2018



- 3xxvi. Emails between Mr Paterson's office and the Food Standards Agency, 29 June to 2 July 2018
4. Email from Rt Hon Owen Paterson MP to the Commissioner, 15 January 2020
  5. Email from the Commissioner's Office to Rt Hon Owen Paterson MP, 16 January 2020
  6. Letter from Rt Hon Owen Paterson MP to the Commissioner, 16 January 2020
    - 6i. Email exchange between Mr Paterson and Chair, FSA 16 and 17 November 2016
    - 6ii. Letter from the Chair of FSA to Mr Paterson, 30 November 2016
    - 6iii. Email from Owen Paterson to the Chair FSA, 15 November 2017
    - 6iv. Letter from Radox to the Secretary of State for International Development, 28 July 2016
    - 6v. Letter from Mr Paterson to the Secretary of State for International Development, 13 October 2016, on House-provided stationery bearing the crowned portcullis
    - 6vi. Letter from Mr Paterson to the Minister of State at the Department for International Development, 16 January 2017 - on House-provided stationery bearing the crowned portcullis
    - 6vii. Letter from the Minister of State, DfID, to Mr Paterson, 1 February 2017
    - 6viii. Email from Mr Paterson to Chair, FSA 15 November 2017
    - 6ix. Letter from FSA to Lynn's Country Foods Ltd, 24 November 2017
    - 6x. Email from Owen Paterson to Chair FSA, 17 January 2018
    - 6xi. Letter from FSA Chair to Mr Paterson, 10 February 2018
    - 6xii. Note of meeting with FSA, Prosur and Lynn's Country Foods, 24 May 2018
    - 6xiii. Email from Mr Paterson to Chair FSA, 11 July 2018
    - 6xiv. Letter from Chair FSA to Mr Paterson, 10 December 2018
  7. Letter from the Commissioner to the Registrar of Members' Financial Interests, 27 January 2020
  8. Letter from the Commissioner to Rt Hon Owen Paterson MP, 27 January 2020
  9. Letter from the Registrar to the Commissioner, 12 February 2020
  10. Letter from the Commissioner to Rt Hon Owen Paterson MP, 25 February 2020
  11. Email from Rt Hon Owen Paterson MP to the Commissioner, 19 March 2020
    - 11i. Letter from ACOBA to Rt Hon Owen Paterson MP July 2015
    - 11ii. List of meetings held on the parliamentary estate
    - 11iii. Letter from one of Mr Paterson's staff, 18 March 2020
  12. Letter from the Commissioner to Rt Hon Owen Paterson MP, 29 May 2020
  13. Letter from Rt Hon Owen Paterson MP to the Commissioner, 18 June 2020
  14. Letter from the Commissioner to Mr Paterson's solicitor, 2 November 2020

15. Letter from Mr Paterson's solicitor, 5 November 2020
- 15i. Letter from Nigel Pleming QC, 14 September 2020
16. Letter from the Commissioner to Mr Paterson's solicitor, 9 November 2020
17. Letter from the Commissioner to Rt Hon Owen Paterson MP, 23 November 2020
18. Letter from Rt Hon Owen Paterson MP to the Commissioner, 24 November 2020
19. Letter from the Commissioner to Rt Hon Owen Paterson MP, 1 December 2020
20. Letter from Mr Paterson's solicitor to the Commissioner, 10 December 2020
21. Letter from the Commissioner to Mr Paterson's solicitor, 15 December 2020
22. Email from Commissioner's office to Mr Paterson, 5 January 2021
23. Email from Mr Paterson's solicitors to Senior Investigations and Complaints Manager, 8 January 2021
24. Email from Commissioner's office to Mr Paterson, 12 January 2021
25. Letter from Mr Paterson to the Commissioner, 15 January 2021
  - 25i Mr Paterson's entry in the Register of Members' interests
  - 25ii Commission Regulation (EU) No 37/2010
  - 25iii FSA FOI 2476
  - 25iv FSA FOI 2476 Annex C
  - 25v FSA FOI 2476 Annex D
  - 25vi FSA FOI 2476 Annex E
  - 25vii Statement of Professor of Food Safety, 15 January 2021
  - 25viii Attachment to Professor of Food Safety's statement; WHO Paper regarding Nitrates and Nitrites
  - 25ix Attachment to Professor of Food Safety's statement; Paper reviewing role of Nitrite Exposure from Processed Meat
  - 25x Letter from Professor of Food Safety to FSA Chair, 13 November 2017
  - 25xi Technical Director at Lynn's Country Foods statement, 14 January 2021
  - 25xii Communications Director at Lynn's Country Foods' Statement, 28 January 2021
  - 25xiii Legal adviser to Lynn's Country Foods' Statement, 15 January 2021
  - 25xiv Senior Manager at Radox's Statement, 14 January 2021
  - 25xv Director at National Milk Laboratories Statement, 14 January 2021
  - 25xvi Chief Vet's note of Meeting, 16 July 2019
  - 25xvii Veterinary Advisor of National Milk Laboratories' Statement, 15 January 2021
  - 25xviii Veterinary Advisor Attachment to statement: Summary Report from committee for veterinary medicinal products

- 25xix Veterinary Advisor Attachment to statement: NOAH and VMD flukicides in dairy cattle
- 25xx Mr Paterson's Office Manager's Statement
- 25xxi Mr Paterson's Senior Parliamentary Assistant's Statement, 15 January 2021
- 25xxii Email from (former) Minister of State (DfID), 21 December 2020
- 25xxiii Email from a former MP, 21 December 2020
- 25xxiv Letter from Graham Stringer MP, 14 January 2021
- 25xxv Letter from Iain Duncan-Smith MP (undated)
- 25xxvi Letter from Rebecca Harris MP, 14 January 2021
- 25xxvii Former Deputy Chair of the FSA's Statement, 14 March 2021 (provided on 19 March)
- 25xxviii Chief Veterinary Officer's statement, 22 March 2021 (provided on 26 March 2021)
26. Letter from the Commissioner to Mr Paterson, 2 February 2021
27. Letter from Mr Paterson to the Commissioner, 4 February 2021
28. Letter from the Commissioner to Mr Paterson, 11 February 2021
29. Letter from Mr Paterson to the Commissioner, 24 February 2021
30. Letter from the Commissioner to Mr Paterson, 1 March 2021
31. Letter from Mr Paterson to the Commissioner, 5 March 2021
32. Letter from the Commissioner to Mr Paterson, 16 March 2021
33. Emails from Mr Paterson to the Commissioner, 17–19 March 2021
34. Letter from the Commissioner to the FSA, 24 March 2021
35. Mr Paterson interview transcript, 26 March 2021
36. Letter from the Commissioner to Mr Paterson, 30 March 2021
37. Letter from Mr Paterson to the Commissioner, 9 April 2021
38. Letter from the Commissioner to the former Secretary of State for DfID, 21 April 2021
39. Material provided by the FSA on 23 April 2021
- 39i FOI 2422
- 39ii FOI 2476
- 39iii FOI 2476 Forde Law to FSA
- 39iv Paterson Owen MP 30 November 2016
- 39v Paterson Owen MP 10 February 2018
- 39vi Owen Paterson MP 10 December 2018
- 39vii Freedom of Information request to the FSA

40. Former Secretary of State for DfID's Statement, 11 May 2021
41. Transcript of meeting between Mr Paterson and Commissioner, 3 June 2021
42. Letter from Commissioner to Mr Paterson, 11 June 2021
43. Letter from Mr Paterson to Commissioner, 2 July 2021
44. Letter from the Commissioner to Mr Paterson, 16 July 2021
45. Letter from Mr Paterson to the Clerk, 23 July 2021
46. Letter from Mr Paterson's solicitors to the Clerk, 25 August 2021
47. Letter from the Commissioner to the Clerk, 2 September 2021
48. Letter from Commissioner for Standards to the Clerk from the Parliamentary Commissioner for Standards, 14 September 2021
49. Letter from Mr Paterson to the Clerk, 20 September 2021
50. Letter from Mr Paterson to the Chair of the Committee, 30 September 2021
51. Email from the Commissioner to the Clerk, 4 October 2021

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website.

### Session 2021–22

Number	Title	Reference
1st	Boris Johnson	HC 549
2nd	Mrs Natalie Elphicke, Sir Roger Gale, Adam Holloway, Bob Stewart, Theresa Villiers	HC 582

### Session 2019–21

Number	Title	Reference
1st	Kate Osamor	HC 210
2nd	Stephen Pound	HC 209
3rd	Greg Hands	HC 211
4th	Conor Burns	HC 212
5th	Mr Marcus Fysh	HC 213
6th	Confidentiality in the House's standards system	HC 474
7th	Sanctions in respect of the conduct of Members	HC 241
8th	David Morris	HC 771
9th	Dr Rosena Allin-Khan	HC 904
10th	The House of Commons and the criminal law: protocols between the police and the Parliamentary Commissioner for Standards and the Committee on Standards	HC 883
11th	ICGS investigations: Commons-Lords agreement	HC 988
12th	Sanctions and confidentiality in the House's standards system: revised proposals	HC 1340