

## **Submission from Huw Merriman MP, Chair of the Transport Committee (SCC0029)**

### Introduction

1. I welcome the Committee on Privileges' resumption of its longstanding inquiry into select committee powers and contempts. The inquiry has been protracted for numerous reasons beyond the Committee's control but I am pleased that the Committee, and House, will now have opportunity to properly examine this important issue and hopefully propose reform.
2. I wish to make a few general points and reflect on my experience as a relatively new Committee Chair.

### Witness attendance at select committee hearings

3. Select committees have over the years proved remarkably successful in persuading high-profile controversial witnesses to give evidence—despite those witnesses often having little to gain by doing so. Rupert Murdoch, Philip Green, and Mike Ashley are relatively recent examples and looking further back the Maxwell brothers (although the latter refused to answer questions). It will not have been easy for the committees involved to secure those individuals but ultimately they succeeded, most likely due to witness concern about public reputational damage.
4. From the witness perspective, however, the risks and drawbacks of appearing before a select committee are only growing with time. The public profile of select committees continues to increase, as does media coverage of their evidence sessions, particularly on television and online, and we now live with 24-hour news and constant social media commentary and criticism. Witnesses today are thrust under a brighter spotlight than ever before.
5. In tandem, select committees feel increasingly emboldened to scrutinise and criticise the actions of private companies and not only Government ministers, civil servants, and regulators. Indeed, this is now recognised as a formal part of committees' remit under the revised core tasks set by the Liaison Committee in 2019. I believe it is important for committees to scrutinise the role of private companies where their actions directly affect a large section of the public and there is otherwise an accountability gap. The Transport Committee has been strongly critical during this Session of British Airways' actions towards its staff—and I believe in doing so we contributed to a change in approach by the company. However, these instances—which are often covered heavily by the media—will likely only

make prospective witnesses more cautious in appearing before committees.

6. I believe it was only a matter of time before a high-profile witness deemed that the reputational risks of non-attendance outweighed the perception, or reality, of being 'grilled' in public by a parliamentary committee and the associated media circus. The refusal of Dominic Cummings to appear before the DCMS Committee in the last Parliament—despite the subsequent formal measures undertaken by that Committee, the Committee of Privileges, and indeed the House via a resolution concluding that Mr Cummings committed a contempt—unfortunately exposed that, when push comes to shove, existing select committee powers to summon witnesses are inadequate and lack teeth. It also exposed that the formal sanctions for non-attendance are weak.
7. I have concerns that this high-profile refusal may embolden more witnesses to ignore invitations or formal orders by select committees to give evidence.

### **Transport Committee experience in the 2019-21 Session**

8. The Committee of Privileges has invited select committee chairs to share experiences with witnesses from this Session. Already in the 2019-21 Session, the Transport Committee has had an organisation refuse to give oral evidence, despite multiple requests and proposed dates. The Committee invited P&O Ferries to give evidence to our inquiry on the implications of the coronavirus pandemic on the freight and maritime sector. The company was involved in controversial staff redundancy plans in light of the financial impact of the pandemic on its business. We were clear to P&O from the outset that the session—in which they would appear on a panel alongside other witnesses—would be balanced and fair.
9. P&O refused to attend on our initial suggested date. It said it was inappropriate to do so while its staff redundancy consultation process was ongoing. It suggested it would consider an alternative date once the consultation completed. We proposed another date some months later once the consultation ended. P&O again refused, this time citing senior personnel changes. I met the Acting Chief Executive to reassure him about the Committee's intentions but he made clear that neither he nor any senior staff would give evidence.
10. The Committee was disappointed but we did not pursue the matter further either formally or informally. Our powers are limited and, even should we consider the first formal step of issuing a special report, there was still no

guarantee the company will attend. We ultimately felt powerless in this situation.

### **The way forward**

11. I am a lawyer and am aware of the risks of excessive infringement by the courts into the workings of Parliament. However, I believe select committee powers need strengthening to reflect the important scrutiny and transparency role they play in today's political system. I would like to see the powers related to the attendance of witnesses moved onto a statutory footing, as seen in some other jurisdictions. These powers should be narrow and tightly-drawn. In practice, I would expect such powers to be used rarely. I am certain their very existence would improve witness compliance rates and also ensure that the current process of securing reluctant witnesses is less complicated.
12. I recognise that the upshot of this is that committees would—quite rightly—have an increased duty and responsibility to exercise their powers more carefully and fairly.
13. If we continue with the status quo, I believe there will be more high-profile instances of witnesses refusing to attend select committee hearings, which will only have a perpetuating effect.
14. I look forward to seeing the Committee's deliberations and findings on this subject.

*6 October 2020*