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The Conduct of Lord Hain

Summary of the complaint

1. On 23 October 2018, the Court of Appeal published an open judgment in the case of *ABC & Others v the Telegraph Media Group Limited*. The judgment granted an interim injunction to prevent the disclosure of the identity of a senior executive who was the subject of allegations of inappropriate conduct. On 25 October, Lord Hain spoke in the House, revealing the identity of the senior executive, in the following terms:

“My Lords, having been contacted by someone intimately involved in the case of a powerful businessman using non-disclosure agreements and substantial payments to conceal the truth about serious and repeated sexual harassment, racist abuse and bullying which is compulsively continuing, I feel that it is my duty under parliamentary privilege to name Philip Green as the individual in question, given that the media have been subject to an injunction preventing publication of the full details of a story which is clearly in the public interest.”¹

2. Following his statement, I received complaints from several members of the public [Reference is to documents that have not been published] and from Schillings, acting on the behalf of Sir Philip Green [Appendix 1]. The complaints alleged that Lord Hain had broken the Code of Conduct in a number of respects:

- That he failed to declare his role as a Global and Governmental Adviser to Ince Gordon Dadds LLP, the law firm acting on the behalf of the Telegraph Media Group Limited, which Schillings argued was “manifestly apparent from the front page of the Open Judgement”;
- That his connection to Ince Gordon Dadds LLP meant that his statement ought to be considered as providing a parliamentary service in return for payment or as acting as a paid advocate;
- That he broke the House’s *sub judice* resolution; and
- That it was an abuse of parliamentary privilege to identify Sir Philip contrary to the judgment.

3. Following press speculation that he had breached the Code of Conduct by failing to declare his association with Ince Gordon Dadds LLP, Lord Hain wrote to the Registrar of Lords’ Interests on 30 October 2018 [Appendix 2]. His letter included public statements he and Ince Gordon Dadds LLP had made. In his statement Lord Hain said that he “was completely unaware Gordon Dadds were advising *The Telegraph* regarding this case”. Ince Gordon Dadds LLP, who wrote to me on 28 January 2019 [Appendix 4], said that “Peter Hain did not obtain any information from Gordon Dadds regarding this case, including any information which would enable him to identify Philip Green as having any involvement in it. He has not had any involvement at all in this case, nor in any of our work for *The Telegraph* newspapers.”

¹ HL Deb, 25 October 2018, [col. 987](#)

4. I undertook a preliminary assessment of the complaints and rejected the allegation that Lord Hain had provided paid parliamentary services or advocacy as the complaints provided insufficient evidence that Lord Hain's statement had been made on the behalf of or at the request of Ince Gordon Dadds. It was also far from clear that Lord Hain's statement conferred an exclusive benefit on Ince Gordon Dadds LLP.
5. I also rejected the complaints with regard to the *sub judice* resolution or the appropriateness of Lord Hain's use of parliamentary privilege as neither of these issues falls within the Code of Conduct and therefore are not within my remit. Both are matters for the House itself.
6. On the allegation that he failed to declare his association with Ince Gordon Dadds LLP, I launched an investigation with regard to paragraph 10 of the Code:

“10. In order to assist in openness and accountability members shall:

...

(b) declare when speaking in the House, or communicating with ministers or public servants, any interest which is a relevant interest in the context of the debate or the matter under discussion;”
7. On 17 January 2019 I wrote to Lord Hain inviting him to respond to the complaint [Appendix 3].
8. Lord Hain responded to my letter on 31 January [Appendix 5]. In his letter he repeated that he had not known about Ince Gordon Dadds' involvement; had he done so he would either have not made the statement or would have made an appropriate declaration.
9. To explore whether on the balance of probabilities it was likely that Lord Hain had not known about Ince Gordon Dadds' involvement in the case I met him on 1 March. A transcript of our meeting is included as Appendix 6.
10. In the course of our meeting, Lord Hain described the sequence of events leading to his statement in the House. On 24 October he had been approached by an acquaintance asking him to meet someone in relation to the judgment of the 23 October, which had already been the subject of press reporting. He agreed to the meeting, which took place on 25 October. During that meeting Lord Hain was told that the subject of the injunction was Sir Philip Green. Following that meeting he considered what he should do, before making his statement in the Chamber later that day.
11. During our meeting Lord Hain confirmed, adding to what he said in his letter to me, that he had not read the judgment. He explained that he had based his decision to disclose Sir Philip's name on moral considerations rather than on legal grounds. He had therefore not read the judgment and was unaware of Ince Gordon Dadds' involvement and unaware of the need to declare an interest:

“I am not a surrogate lawyer and I was not acting as one. I was not challenging the court in that sense. I was doing what I thought was morally right for the source, who had been treated terribly, and many others, according to what the source said and has subsequently been

revealed on the record in a number of newspapers, shortly after what I said. I was not trying to second-guess the court, the lawyers or the judiciary at all.”

Finding

12. I accept Lord Hain’s account of the steps he took before deciding to speak in the Chamber. Since making his statement in the House he has consistently stated that he was unaware of the involvement of Ince Gordon Dadds. Though Schillings are correct that the involvement of Ince Gordon Dadds is plain on the front page of the judgment, Lord Hain has explained why he did not read the judgment, why he considered it unnecessary to do so and why, therefore, he was unaware of Ince Gordon Dadds’ role.
13. Though it would have been desirable for Lord Hain’s consideration of how to act to have included whether he might have any relevant interests—discussing his intentions with the Lord Speaker in accordance with the House’s rules on matters which are *sub judice* might have prompted such consideration—and for a suitable declaration to have been made, I accepted his assertion that he had not read the judgment, and was not aware of Ince Gordon Dadds’ role in the legal proceedings. It would be unreasonable to censure him for failing to declare an interest of which he was unaware.
14. The complaint is dismissed.
15. I would note that this case highlights the need for members to consider very carefully their actions in the House, and to take advice when necessary, to ensure the potential for breaches of the Code is avoided. The more specific the matter under discussion and the more an action rests on the privileges and freedoms members of the House enjoy, the greater the need for such careful consideration.

Lucy Scott-Moncrieff, CBE Commissioner for Standards

**APPENDIX 1: COMPLAINT FROM SCHILLINGS ON THE BEHALF
OF SIR PHILIP GREEN, 31 OCTOBER 2018**

Dear Madam,

LORD PETER HAIN OF NEATH

(1)ABC (2)DEF (3)GHI and TELEGRAPH MEDIA GROUP LTD

Claim No: HQ18X02611

Appeal No: A2/2018/1947 (“the Action”)

We act for the Claimants / Appellants in the above Action, and write on behalf of the third Claimant, a senior executive of the first and second Claimants.

We write to lodge a formal complaint in relation to the recent behaviour by the Rt. Hon Lord Peter Hain of Neath (“**Lord Hain**”). We consider that Lord Hain has committed potentially serious breaches of the House of Lords Code of Conduct. Accordingly we write to you as Commissioner for Standards and respectfully request that you commence an investigation into these alleged serious breaches and, if appropriate, for you to recommend a sanction to be adopted by the Sub-Committee on Lords’ Conduct.

By way of background information, we refer to the following (copies of which are in the numbered document bundle enclosed) [Reference is to documents that have not been published]:

1. The Open Judgment in this Action of the Court of Appeal dated 23 October 2018 (tab 1) [Reference is to documents that have not been published]. In particular, we would respectfully draw your attention to Paragraph 2 in which the Court of Appeal granted the Claimants an interim injunction preserving the confidentiality of the information in question pending a full trial. As you will be fully aware, an injunction is only an interim remedy that preserves the position until the matter can be heard at trial, with full evidence put before the Court. The Action is therefore *sub judice*. Further, as will be apparent from the Judgment, the Court of Appeal at [1] [Reference is to documents that have not been published] continued the anonymity order granted by the lower court as “the details of their identities (the Claimants’) and any background information which might lead to their identification” was part of the confidential information in question and therefore covered by the interim injunction;
2. Consequently, The Telegraph made the following publications (tab 2) [Reference is to documents that have not been published]:
 - (a) The British #MeToo scandal which cannot be revealed - The Telegraph 23.10.2018 (also front page on the 24.10.2018)
 - (b) The public have a right to know when the powerful seek to gag the vulnerable - The Telegraph 23.10.2018 (also in hard copy on 24.10.18)
 - (c) How gagging orders became the MeToo war’s weapon of choice - The Telegraph 23.10.2018 (also in hard copy on 24.10.18)
 - (d) Schillings, The ‘attack dog’ firm that acted for Giggs, Terry and Ronaldo - The Telegraph 23.10.2018 (also in hard copy on 24.10.18)
 - (e) This decision will discourage exposure of oppressive workplace cultures - The Telegraph 23.10.2018 (also in hard copy on 24.10.18)

- (f) NDAs are the by-product, not the root cause, of abuse - The Telegraph 23.10.2018 (also in hard copy on 24.10.18)
- (g) The day press freedoms received a devastating blow - The Telegraph 23.10.2018 (also in hard copy on 24.10.18)
- (h) #MeToo is the antidote to a sleazy business culture that stops women speaking out - The Telegraph 24.10.2018
- (i) Lawyers cannot escape responsibility for unethical, oppressive gagging agreements - The Telegraph 24.10.2018
- (j) My #Metoo experience at the hands of unnamed businessman The Telegraph 24.10.20 18
- (k) BBC legal correspondent wrong to say NDA was signed freely - The Telegraph 24.10.2018

In view of the nature and quantity of the articles, the Telegraph Media Group clearly considered that it was in their interest that the identity of what they had termed a “*leading businessman*” be made public.

3. Lord Hain’s Register of Lord’s Interests (tab 3) [Reference is to documents that have not been published], from which you will see that under “*Category 2: Remunerated employment, office, profession*”: “*Global and Governmental Adviser, Gordon Dadds LLP, London WC2 (provides professional and legal service in the UK and globally)*” Lord Hain is a paid adviser to Gordon Dadds LLP, the solicitors for the Telegraph Media Group Limited. On Lord Hain’s individual webpage as part of the Gordon Dadds website² (tab 3) [Reference is to documents that have not been published] it states that “*I was appointed by Gordon Dadds in June 2016 to act as the firm’s Global and Government Adviser.*” The fact that Gordon Dadds are acting for the Telegraph Media Group Limited in this matter is manifestly apparent from the front page of the Open Judgement;
4. An extract from the website of Gordon Dadds LLP (tab 4) [Reference is to documents that have not been published] where “*Reputational issues and defamation*” is clearly listed as one of the firm’s services, together with the profile of Robin Shaw, the Partner instructed by the Defendant in the Action;
5. The statement by Lord Hain (“the Statement”- tab 5) [Reference is to documents that have not been published] in the House of Lords at 2.43pm on 25 October 2018 which Hansard records as follows:

“My Lords, having been contacted by someone intimately involved in the case of a powerful businessman using non-disclosure agreements and substantial payments to conceal the truth about serious and repeated sexual harassment, racist abuse and bullying which is compulsively continuing, I feel that it is my duty under parliamentary privilege to name Philip Green as the individual in question, given that the media has been subject to an injunction preventing publication of the full details of the story which is clearly in the public interest.”

It is clear from Hansard that Lord Hain did not, at any stage, disclose his interest as a paid adviser to Gordon Dadds prior to or after making his Statement in the Lords. The public interest test was considered extensively by the Court of Appeal and their detailed reasoning as to why the Telegraph’s public interest defence did not succeed at this stage of the Action is set out

2 <http://www.gordondadds.com/people/peter-hain/>

in detail in the Open Judgment. It is somewhat surprising that Lord Hain felt certain that his disclosure was “*clearly*” in the public interest, when three senior judges in the Court of Appeal had not taken this view despite having heard detailed evidence from the parties on the particular facts of the case.

The *sub judice* rule of the House of Lords has been flagrantly breached by not only the content of Lord Hain’s statement, but also by Lord Hain’s apparent failure to comply with the rule’s procedural requirement that 24 hours’ notice be given to the Speaker of the House where a potential statement may potentially breach the *sub judice* rule. The content of the *sub judice* rule of the House of Lords has been stated most recently in the 25th edition of the Companion to the Standing Orders of the House of Lords (2017) (the “Companion”) which is issued under the authority of the Procedure Committee of the House of Lords: the rule provides as follows:

“4.62 The privilege of freedom of speech in Parliament places a corresponding duty on members to use the freedom responsibly. This is the basis of the sub judice rule. Under the rule both Houses abstain from discussing the merits of disputes about to be tried and decided in the courts of law.

4.63 The House of Lords adopted a resolution on sub judice on 11 May 2000. The resolution, as amended, is as follows:

‘That subject to the discretion of the Lord Speaker, and to the right of the House to legislate on any matter or to discuss any delegated legislation, the House in all its proceedings (including proceedings of committees of the House) shall apply the following rules on matters sub judice:

(1) Cases in which proceedings are active in United Kingdom courts shall not be referred to in any motion, debate or question.

...

(b)

(i) Civil proceedings are active when arrangements for the hearing, such as setting down a case for trial, have been made, until the proceedings are ended by judgment or discontinuance.

(ii) Any application made in or for the purposes of any civil proceedings shall be treated as a distinct proceeding.

*(c) Appellate proceedings, whether criminal or civil, are active from the time when they are commenced by application for leave to appeal or by notice of appeal until ended by judgment or discontinuance. **But where a ministerial decision is in question, or in the opinion of the Lord Speaker a case concerns issues of national importance such as the economy, public order or the essential services, reference to the issues or the case may be made in motions, debates or questions.**” (Emphasis added.)* Moreover, in relation to *sub judice*, the Lord Speaker made a statement on parliamentary privilege on 29 October 2018, which provides that “*as parliamentarians we should be keen to respect the proper business of the courts, just as we expect the courts to respect the authority of Parliament. In particular, we should be careful that in exercising our undoubted*

right to free speech in Parliament we do not set ourselves in conflict with the courts or seek to supplant them.”

Lord Hain has denied any improper behaviour on 26 October in a statement, as set out below (and enclosed at tab 6) [Reference is to documents that have not been published]:

“I took the decision to name Sir Philip Green in my personal capacity as an independent member of the House of Lords.

I categorically state that I was completely unaware Gordon Dadds were advising the Telegraph regarding this case.

Gordon Dadds, a highly respected and reputable international law firm, played no part whatsoever in either the sourcing of my information or my independent decision to name Sir Philip.

They were completely unaware of my intentions until after I spoke in the House of Lords”

Lord Hain is further quoted as having said the following:

- (a) In an interview on the BBC programme Newsnight³ (and at a transcript at tab 7) [Reference is to documents that have not been published]

At the start of the interview Lord Hain states that

“Parliamentary privilege is something to be used with integrity, very sparingly and very responsibly”.^f

At 0:15 Evan Davies asks *“A lot of people will say this is a case where judges have made one decision, a politician has now come up and made a different decision and undermined the decision that the judges had made. This is an awkward constitutional clash. This isn’t like a libel case where you’ve said I want to denounce someone for bad behaviour, this is a case where the judges have applied an injunction, an interim injunction”.*

Lord Hain replied *“Well the judiciary, in this case judges, have their role to play. It’s a very important independent role. The rule of law depends upon them exercising it carefully and responsibly in accordance with legal precedent, but parliamentarians also have their role to play. It’s for members of the public and others to judge whether what I’ve done in this case is right or wrong. I believe it was the right thing to do. I considered it extremely seriously before I said it as anyone using Parliamentary Privilege always does.”*

At 3:31 that Lord Hain reiterated that parliamentary privilege *“is to be used as I’ve said extremely carefully, with integrity and very responsibility ... responsibly”*

- (b) In an interview with the Observer, as reported in The Guardian⁴ (and at tab 8) [Reference is to documents that have not been published]

“Parliamentary privilege is a precious part of our constitution and an expression of Parliament’s absolute sovereignty, but it should only ever be used sparingly, with total integrity and responsibility. It is not something that on should ever

3 <https://www.bbc.co.uk/news/av/uk-45988253/lord-hain-on-sir-philip-green-accusations-sometimes-you-have-to-take-tough-decisions>

4 <https://www.theguardian.com/business/2018/oct/27/philip-green-to-lodge-complaint-against-peer-who-named-him>

abuse and it should never be used randomly. I took a judgment, which others will, in turn, assess as being right or wrong and I respect that. I respect the view of lawyers who criticise it, though others have supported it” and that he used Parliamentary Privilege to name Sir Philip Green only “after deep consideration.”

Turning now to the House of Lords Code of Conduct, the objectives of the Code are helpfully stated in paragraph 3 as follows:

“The purpose of this Code of Conduct is: (a) to provide guidance for members of the House of Lords on the standards of conduct expected of them in the discharge of their parliamentary duties; ... (b) To provide the openness and accountability necessary to reinforce public confidence in the way in which members of the House of Lords perform their parliamentary duties.” (Emphasis added.)

It is clear that Lord Hain was discharging his parliamentary duties when he made the Statement in the sense that he was speaking in the House. The objectives of openness and accountability in relation to public confidence in the discharge of his duties are arguably called into question given Lord Hain’s direct financial and adviser relationship with Gordon Dadds whose client was the Telegraph Media Group. These objectives are considered below in the context of the following specific allegations of breaches committed by Lord Hain of the Code of Conduct:

1. Paragraph 8(c)-(d) stipulates that a Member “*must never accept or agree to accept any financial inducement as an incentive or reward for exercising parliamentary influence; [and] (d) must not seek to profit from membership of the House by accepting or agreeing to accept payment or other incentive or reward in return for providing parliamentary advice or services.*” In the present case, we are concerned that Lord Hain has breached paragraph 8(c) and/or 8(d) of the Code. It is clear from the Register of Interests that Lord Hain does indeed “accept payment or other incentive” from Gordon Dadds. On any view, the direct financial and adviser relationship that Lord Hain enjoys with Gordon Dadds raises a serious issue, despite his denial, whether Lord Hain made his statement (a “*parliamentary service*”) as a direct or indirect consequence of his financial arrangement with Gordon Dadds in breach of paragraph 8(c) and/or 8(d) of the Code. It certainly appears that Lord Hain’s title is an important part of his role at Gordon Dadds: his title “*The Right Honourable Lord Peter Hain of Neath*” is prominently displayed on the Gordon Dadds website directly above his position with the firm “*Global and Government Adviser*” and his self-description on the same Gordon Dadds webpage states in terms that he joined the House of Lords in 2015⁵ (also at tab 4) [Reference is to documents that have not been published] Lord Hain’s position as “*Global and Governmental Adviser*” raises the question whether Lord Hain had a pre-existing contractual or other understanding with Gordon Dadds which stipulates that he should seek, whether on his own initiative or under instruction, to act in the interests of Gordon Dadds and its clients. To the extent that there was such an understanding, then this combined with Lord Hain’s Statement which was certainly in the interests of Gordon Dadds’ client (the Telegraph Media Group) arguably provides evidence of a breach of paragraph 8(c) and/or 8(d) of the Code. Given the Code’s objectives of openness and accountability which are necessary “*to*

5 <http://www.gordondadds.com/people/peter-hain/>

reinforce public confidence in the way in which members of the House of Lords perform their parliamentary duties”, we respectfully request that your Office investigates the precise details of Lord Hain’s relationship with Gordon Dadds in order to decide whether a breach of paragraph 8(c) and/or 8(d) of the Code has taken place. Indeed this level of scrutiny is mandated by paragraph 9(b) of the Code which provides: “Accountability: holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.”

2. Paragraph 14 of the Code provides “*A member must not act as a paid advocate in any proceeding of the House; that is to say, he or she must not seek by parliamentary means to confer exclusive benefit on an outside body or person from which he or she receives payment or reward.*” It is clear that Lord Hain receives payment from Gordon Dadds. What is not clear is whether Lord Hain sought to confer an exclusive benefit on Gordon Dadds by making his Statement in the Lords. Again, this is a matter upon which your Office is respectfully requested to investigate given the importance of ensuring public confidence in the way that Members perform their parliamentary functions, free from any payment or reward.

3. Paragraph 9 of the Code stipulates that a number of principles will be taken into consideration when any allegation of breaches of the provisions in other sections of the Code is under investigation, and that these principles should act as a guide to Members in considering the requirement to act always on their “*personal honour*” (a stipulation also provided by paragraph 8(b) of the Code). Lord Hain himself said that his Statement was made only after, in his words, “*extremely carefully*” and “*after deep consideration*”. Given the circumstances surrounding Lord Hain’s Statement, your Office is respectfully requested to investigate whether Lord Hain did indeed comply with the principles set out in paragraph 9 of the Code. For example:
 - 3.1 It is difficult to reconcile a clear and knowing breach of the House of Lords’ *sub judice* rule as being an “*honourable*” exercise of Parliamentary Privilege. Lord Hain in his ***Newsnight*** interview, quoted above, seeks to argue that the Courts have a separate role to play from that of Parliament in evaluating and responding to cases, but yet Lord Hain knows full well that the way that Parliament has chosen to deal with matters *sub judice* is for Members “*not*” to make “*reference*” to “[c]ases in which proceedings are active in United Kingdom courts”. Furthermore, Lord Hain clearly failed to comply with the *sub judice* rule’s procedural requirement that 24 hours’ notice be given to the Lord Speaker where a Member wishes to make a statement that may potentially breach the rule. As such, the Statement by Lord Hain was not honourable since at a basic level it was contrary to his own obligations as a Member of the House thereby undermining public confidence in the Lords, but also having a broader pernicious effect in terms of undermining respect for Court decisions and the Rule of Law. Indeed the Lord Speaker in his statement issued on 29 October 2018 provides that “*as parliamentarians we should be keen to respect the proper business of the courts In particular, we should be careful that ... we do not set ourselves in conflict with the courts or seek to supplant them.*” Moreover, as a distinguished lawyer, you will yourself be well aware of this pernicious effect. Indeed a number of other senior lawyers have stated

as much, including Lord Judge, the previous Lord Chief Justice (BBC⁶ - transcript included at tab 9) [Reference is to documents that have not been published]; Lord Macdonald of River Glaven (The Times⁷ - tab 10) [Reference is to documents that have not been published]; Dominic Grieve QC, the former Attorney General (The Times⁸ - tab 10) [Reference is to documents that have not been published] (“*I would make a formal complaint if I was a member of the House of Lords... publicly to flout court rules in this way is a shameless assault on the rule of law*”); Lord Woolf, a former Lord Chief Justice and former Master of the Rolls (“*an abuse of parliamentary privilege and damaging to the rule of law for a peer deliberately to frustrate an injunction imposed by the courts*”)⁹ (tab 10) [Reference is to documents that have not been published] and David Gauke, the current Lord Chancellor and Secretary of State for Justice (The Times¹⁰) (tab 11) [Reference is to documents that have not been published] (“*I have serious concerns about the use of parliamentary privilege to undermine the rulings of our independent judiciary. Where judges have seen fit to make a court order, their rulings should be respected*”). The matter cannot rest there with public denunciations by the Speaker and fellow Members of the Lords. In order for public confidence in the Lords to be restored and upheld at the very least a public reprimand of Lord Hain’s actions should be recommended and effected by your Office.

- 3.2 The “*principle*” of “*integrity*” pursuant to paragraph 9(b) of the Code requires that “***holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.***” (Emphasis added.) As explained above, to the extent that Lord Hain had a contractual or other “*obligation*” to act in the interests of Gordon Dadds and its clients, then there is a question whether Lord Hain’s behaviour in making his Statement in the House involved the performance of an “*obligation*” in breach of paragraph 9 (b) given Gordon Dadds direct involvement as solicitors for their client the Telegraph Media Group in the Action. This is a very serious issue, which deserves careful investigation and consideration by your Office.

It is at best surprising that having been contacted by “*someone intimately involved in the case [ABC & Others v Telegraph Media Group]*” that Lord Hain had not read or even seen the Open Judgment (which was extensively referred to in the media and is readily available on a Google search). Indeed how could Lord Hain be said to have acted honourably and with integrity by relying and acting, as it seems, simply on an unnamed individual’s word and in so doing going against the considered judgment of the Court of Appeal. If Lord Hain had seen the Judgment,

6 <https://www.bbc.co.uk/news/av/uk-45997657/lord-hain-was-wrong-to-name-sir-philip-green-says-ex-top-judge>

7 <https://www.thetimes.co.uk/article/top-lawyers-attack-lord-peter-hain-over-naming-of-sir-philip-green-v9qqzs5h>

8 *Ibid.*

9 *Ibid.*

10 <https://www.thetimes.co.uk/article/lord-hain-disrespected-our-laws-by-outing-sir-philip-green-says-justice-chief-david-gauke-rr0c9t5j2>

then it is readily apparent from its front page that Gordon Dadds are instructed by the Telegraph Media Group Limited.

- 3.3 Paragraph 9(e) stipulates the principle of “*openness*” which places Lord Hain under an obligation to “*act and take decisions in an open and transparent manner.*” This principle is given further concrete expression in paragraphs 10(b), 11, and 12 of the Code which provide that:

“[10(b)] In order to assist in openness and accountability ***members shall declare when speaking in the House ... any interest which is a relevant interest in the context of the debate or the matter under discussion***”. (Emphasis added.)

“11. ***The test of relevant interest is whether the interest might be thought by a reasonable member of the public to influence the way in which a member of the House of Lords discharges his or her parliamentary duties:*** in the case of registration, the member’s parliamentary duties in general; in the case of declaration, his or her duties in respect of the particular matter under discussion.” (Emphasis added.)

“12. The test of relevant interest is therefore not whether a member’s actions in Parliament will be influenced by the interest, ***but whether a reasonable member of the public might think that this would be the case. Relevant interests include both financial and non financial interests.***” (Emphasis added.)

In our view “*a reasonable member of the public*” would consider that Lord Hain’s “*remunerated employment*” relationship with Gordon Dadds would have “*influenced*” his decision to make his Statement. This view is further buttressed by the fact that the Statement made in relation to the Action was made entirely out of context to what was being debated in the House which at the time was debating “Brexit: People’s Vote” and was about to move onto a debate on immigration after a brief announcement from the House of Commons on the Northern Ireland (Executive Formation and Exercise of Functions) Bill. We understand that it is unheard of a Member to stand up between two debates and make a statement which is wholly unrelated to the matters under discussion in those debates.

As such, we consider there is a clear breach of Article 9(e) and also - subject to the result of your Office’s enquiries - potentially of Article 10(b) of the Code. As Lord Macdonald of River Glaven (The Times¹¹ said: it is “*to say the least surprising that he didn’t declare his employment with solicitors instructed in the case while making his intervention in the House*”.

In the circumstances, we should be grateful if you would investigate and take appropriate action in response to these serious alleged breaches of the Code, at your earliest convenience.

We look forward to hearing about the progress of your investigation and should your Office require any further information or clarification please do not hesitate to contact those with the conduct of this matter: [redacted] all of whom are available on [redacted].

11 *Ibid.*

APPENDIX 2: LETTER FROM LORD HAIN TO THE REGISTRAR OF LORDS' INTERESTS, 30 OCTOBER 2018

Following our telephone conversation and email exchange on Friday 26th October [Reference is to a document that has not been published], I thought it important to reaffirm that I could not have breached the Code by which Peers are bound, simply because I had no idea whatsoever that the firm to which I have properly declared (in accordance with the rules) I am an adviser – namely Gordon Dadds LLP – represents the Daily Telegraph in its dispute with Sir Philip.

Having been alerted to this on Friday afternoon 26th October, both I and Gordon Dadds issued to the media the two statements reproduced below, and I wish to place these on the record for you.

Statement from Lord Hain

“I took the decision to name Sir Philip Green in my personal capacity as an independent member of the House Of Lords.

“I categorically state that I was completely unaware Gordon Dadds were advising the Telegraph regarding this case.

“Gordon Dadds, a highly respected and reputable international law firm, played absolutely no part whatsoever in either the sourcing of my information or my independent decision to name Sir Philip.”

“They were completely unaware of my intentions until after I spoke in the House of Lords”

Statement from Gordon Dadds:

“Peter Hain is a self-employed consultant who provides occasional advice to Gordon Dadds LLP relating principally to African affairs. Any suggestion that the firm has in any way acted improperly is entirely false. Peter Hain did not obtain any information from Gordon Dadds regarding this case, including any information which would enable him to identify Philip Green as having any involvement in it. He has not had any involvement at all in this case, nor in any of our work for The Telegraph newspapers.”

I repeat that the source to whom I referred in my statement in the Chamber on Thursday 25th October as being ‘intimately involved’ in the Philip Green case is emphatically neither an employee nor partner, consultant or contractor of Gordon Dadds.

APPENDIX 3: LETTER FROM THE COMMISSIONER FOR STANDARDS TO LORD HAIN, 17 JANUARY 2019

Dear Lord Hain,

I am writing because I have received a number of complaints from members of the public and Schillings International LLP alleging that you have breached the House of Lords Code of Conduct. The complaints relate to your statement concerning Sir Philip Green on 25 October 2018. A copy of the complaint from Schillings International LLP is enclosed.

I have carried out a preliminary assessment of the complaints. I have decided that there is sufficient *prima facie* evidence to investigate whether the House of Lords Code of Conduct may have been breached. In particular, it appears that the following provisions of the Code of Conduct are engaged:

“10. In order to assist in openness and accountability members shall:

...

(b) declare when speaking in the House, or communicating with ministers or public servants, any interest which is a relevant interest in the context of the debate or the matter under discussion;”

I also draw your attention to the seven general principles of conduct identified by the Committee on Standards in Public Life and incorporated into the Code of Conduct.

I am aware of your letter to the Registrar of Lords’ Interests but for the purposes of this investigation I invite you to respond in writing with a full and accurate account of the matter in question. Without limiting what you wish to say in your response, please could you confirm whether, as Schillings argue was clear from the front page of the judgment, you were aware of the involvement of Gordan Dadds LLP in the case before making your statement to the House. It would also aid me if you could describe your understanding of why someone involved in the case contacted you.

A response by 6 February would greatly assist me in investigating this matter in a timely fashion.

As an investigation is underway there is a requirement for all evidence and correspondence relating to the case to remain confidential unless and until it is published by the Committee for Privileges and Conduct. In accordance with paragraph 122 of the Guide to the Code of Conduct a webpage on the parliamentary website will include basic information about the case.

**APPENDIX 4: LETTER FROM INCE GORDON DADDS LLP TO THE
COMMISSIONER FOR STANDARDS, 28 JANUARY 2019**

I am writing in relation to the current investigation into whether there has been a breach of your Code of Conduct and Lord Hain's statement on Sir Philip Green on 25 October 2018.

I would like to confirm our firm's statement issued on 26 October 2018 as follows:

“Peter Hain is a self-employed consultant who provides occasional advice to Gordon Dadds LLP relating principally to African affairs. Any suggestion that the firm has in any way acted improperly is entirely false. Peter Hain did not obtain any information from Gordon Dadds regarding this case, including any information which would enable him to identify Philip Green as having any involvement in it. He has not had any involvement at all in this case, nor in any of our work for The Telegraph newspapers.”

The case was widely reported at the time and it was necessary for Gordon Dadds LLP to issue this statement due to press speculation into Peter Hain's source and his relationship with our firm. Please note that on 31 December 2018 the name of Gordon Dadds LLP was changed to Ince Gordon Dadds LLP.

APPENDIX 5: LETTER FROM LORD HAIN TO THE COMMISSIONER FOR STANDARDS, 31 JANUARY 2019 [REDACTED]¹²

In response to your letter of 17 January 2019, I most strongly refute the complaint that I have breached the House of Lords Code of Conduct.

As I stated in both my email to the Registrar on Lords' Interests on 26th October 2018 (the same day Sir Philip Green made his complaint against me) and my letter of 30th October, when I spoke in the House on 25th October revealing that he was the person in whose favour the injunction against the *Daily Telegraph* had been obtained, I had absolutely no idea that the firm acting for the *Telegraph* was Gordon Dadds LLP – the firm which I advise, as properly declared in the Members Register.

Indeed, had I known that I would either not have made the statement at all, or in doing so made a reference to the Members Register in accordance with the Code of Conduct.

From time to time I am contacted by Partners at Gordon Dadds who seek my assistance or advice for a client. I have no involvement in, or knowledge of, the vast majority of cases in which the firm are involved. (In October 2018 year there were 75 Partners, each with many cases.)

Before I made the statement in the House identifying Sir Philip Green as the person covered by the injunction I did not know that Gordon Dadds LLP were acting for the *Telegraph* in this case or indeed in any other case or had ever acted for the *Telegraph* or had any involvement whatsoever in the case.

I had no contact with Gordon Dadds LLP about the case before I made my statement on the 25th October 2018.

Gordon Dadds LLP had no idea whatsoever that I was making that intervention until it was reported later in the media. They have made this clear in a media statement on 26th October which they have repeated in a letter to you dated 28 January 2019 and now enclosed [Appendix 4]. It is simply a straight lie for Sir Philip to suggest otherwise.

Addressing other specific matters:

1. I did not read the front page of the judgement before making my statement to the House and therefore could not have known of Gordon Dadds's role from it. The accusation in the Schillings letter of complaint is therefore entirely false.
2. The person who contacted me explained ... [that the decision to contact me was] because I had a public reputation as a campaigner for human rights and social justice going back nearly fifty years to when I first came to public attention as a leader of the British Anti-Apartheid Movement.
3. That person ... described to me [sexual harassment and bullying] in very great and troubling detail ... I pledged not to reveal [the person's identity] for fear of retribution ... That person also made clear that ... [others had had similar experiences]. Frankly it was disgusting, and I spent some time satisfying myself that it was credible before deciding to make my statement.

¹² Some text has been omitted to maintain confidentiality. This is shown by the use of ellipses ... and square brackets [].

In doing so I was concerned on the basis of [the person's] evidence that the behaviour was continuing. My motive was to stand up for ordinary employees against a very powerful and wealthy Boss who, as described to me, seemed to think he was above the rules of decent respectful behaviour.

4. That person is not a lawyer, or anybody connected with Gordon Dadds LLP.
5. [The person] was confidentiality introduced to me by someone of credibility whom I knew and trusted, who also has no connection with Gordon Dadds.
6. Until [the person] spoke to me, I had no idea of the name which the source of much social (and private mainstream) media speculation including most unfairly targeting a very prominent Crossbench Peer. However, I was aware of widespread media coverage about the case.
7. I think I may have met Sir Philip once when I was a Cabinet Minister at a business reception, but I have otherwise had no involvement with him nor do I recall commenting publicly upon the various controversies which have surrounded him. In other words, contrary to what he has alleged, I have no 'agenda' against him.

I believe I acted honourably in naming him on 25th October and in full compliance with the duties and rules of a Member of the House of Lords. Obviously, I did not declare my relationship with Gordon Dadds orally when I identified Sir Philip Green because I had no knowledge of their relationship with the case.

I used parliamentary privilege, as I have done on only two previous occasions in nearly 30 years as a Member of the UK Parliament, first in the Commons then in the Lords. The first was in 2000 when I named traffickers selling arms for "blood diamonds" fuelling wars in Africa, and the second in 2017–18 when I named British corporations and individuals complicity in former President Zuma's deeply corrupt activities in South Africa.

As in the Green case, those two cases were responsible uses of parliamentary privilege in the public interest.

In every one of these three cases I thought very carefully before I made the relevant statement in Parliament. Those who want cover-ups always resent use of such privilege. But a parliamentarian's right to exercise privilege sparingly and conscientiously is crucial to protect the liberty of individual citizens. The sovereignty of judges is vital but should never override the sovereignty of parliament. Although that is not the focus of your investigation I therefore flatly refute that in naming him I abused parliamentary privilege in any way, although I accept and respect that others, including members of the judiciary, disagree.

Can I add one other pertinent point? Since making his complaint against me, Sir Philip Green announced on 28th January 2019 that he was withdrawing his legal injunction against the *Telegraph*, without settling with it, or providing any explanation about why he did not pursue his claims. On the face of it he had been able to use the legal system to get some degree of confidentiality without subsequently showing his claims were well-founded. That suggests he may never have been serious and was using his considerable financial muscle to try to intimidate his victims. That may also be the motive in deflecting attention from the allegations against him by making this spurious complaint against me and informing the media he was so doing.

I therefore invite you to reject his complaint and would of course be happy to clarify any other matters or answer any other questions.

APPENDIX 6: TRANSCRIPT OF COMMISSIONER FOR STANDARDS' INTERVIEW WITH LORD HAIN, 1 MARCH 2019

Present

Lucy Scott-Moncrieff (House of Lords Commissioner for Standards)

Lord Hain

Lord Monks

James Whittle (Clerk assisting the Commissioner)

The Commissioner for Standards (Lucy Scott-Moncrieff): To help the transcriber, can we please go round the room saying who we are? I am Lucy Scott-Moncrieff. I am the Commissioner for Standards.

Lord Hain: I am Lord Hain—Peter Hain—a Member of the House of Lords.

Lord Monks: I am Lord Monks, a friend of Peter Hain, and—not really on this occasion—shop steward.

James Whittle: I am James Whittle, the clerk assisting the Commissioner.

Lord Hain: As I indicated to James, I wondered whether I may make one or two remarks at the beginning.

The Commissioner for Standards: Please do.

Lord Hain: Approaching this, perhaps the only way to definitively refute the complaint would be to bring in the individuals, whose identity I have pledged to protect and therefore to keep their anonymity, because of the predicament that one of them, who is my source, would otherwise be in, and because then the person who introduced me to that source could also be compromised. As we know from the media various people claiming to be victims—and certainly his employees—have been harassed and intimidated by Sir Philip's lawyers.

There are various aspects of confidentiality associated with that. I have retrieved a contemporaneous note, which I am handing to you, of what I was told by the source—they are staccato notes [Reference is to a document that has not been published]. Depending on your advice, I could go through them; otherwise, there they are on the record for you as a confidential note.

In respect of the substance of the complaint, I think that it bears out the adage that truth is stranger than fiction. As I said in the letter, the first time I knew that Gordon Dadds—the firm that I advise and that I declared properly in the Members' Register from the outset of that arrangement—was representing the Daily Telegraph or was in any way involved in the case was when I arrived at Malaga Airport as part of a parliamentary delegation on the afternoon of 26 October, the day after I had spoken in the Lords, switched on my phone and found a series of missed calls from the managing partner, Adrian Biles, who got through to me almost straight away and told me that the firm was acting for the Telegraph, and that the media were chasing the firm. That was the first time that I knew about it or had any idea that that was the case. In terms of this complaint, I am being criticised for not declaring what I did not know. Another way of saying it is that I am being potentially rapped on the knuckles for not knowing what I did not know.

If you consider Gordon Dadds' position in this, it would have been preposterous for them to use me as a conduit to surface his name when the immediate response from the judge, I would think, not being a lawyer, would be to have disbarred them from representation in the case, because they had gone outside, as it were, the non-disclosure agreement remit and the terms of confidentiality in the proceedings to deliberately confound all that. I would have thought that that would have invited at least a reprimand or suspension by the Solicitors Regulation Authority, let alone expulsion from the case. It is just preposterous to think that they would have somehow tipped me off or asked me to do this.

The Commissioner for Standards: Can I make a suggestion? Let us put that on hold just so that James and I can read this document you have given me, because it may allow me not to ask you some questions that I was going to ask you, so give us two minutes.

Lord Hain: Okay.

[Pause]

The Commissioner for Standards: Okay. That is really helpful. Are you happy for me now to go back to my opening?

Lord Hain: Of course.

The Commissioner for Standards: As I explained to you in my letter of 17 January, I am investigating a complaint made by a number of members of the public and Schillings solicitors on behalf of Sir Philip Green that, in making your statement on 25 October naming Sir Philip Green as the person accused of misbehaviour in the litigation attempting to keep his identity secret, you breached the requirement in the Code of Conduct that, "In order to assist in openness and accountability members shall ... declare when speaking in the House ... any interest which is a relevant interest in the context of the debate or the matter under discussion". The basis of the complaint is that Gordon Dadds, solicitors for the Telegraph Media Group, which is the respondent in the proceeding, pays you for advice and consultancy. It is said that you should have declared this before making your statement, which you did not do. That is that particular complaint.

Another complaint was that you had breached the part of the code that prohibits paid advocacy—you have just referred to that. For reasons that I will set out in my report, I do not consider that, whether or not you knew of the involvement of Gordon Dadds in the litigation, your statement would have breached this part of the code.

Finally, a complaint was made that you had breached the sub judice rule of the House. I am not investigating that complaint, as what is said in debate in the House is outside the remit of the Code of Conduct, unless it engages the parts of the code dealing with declarations of interest or paid advocacy. So I am not looking at the fact that you made the statement, the contents of the statement or the consequence that flowed from it.

The issue as far as I am concerned is this: you have said throughout that you were not aware that Gordon Dadds were acting for the Telegraph Media Group, even though their name is on the front page of the judgment of 23 October. You have also said that your decision to name Sir Philip was made after deep consideration—you said that in an interview with the Guardian. In your "Newsnight" interview on 27 October, you said that you had made the disclosure under privilege "extremely

carefully with integrity and very responsibly”. Those two positions—you did not know and you were very careful—are not necessarily inconsistent with each other, but certainly require exploration, so that I can form a view. So that is what this is all about. The headings that I have for the questions that I want to ask you are: timing, procedural matters and how you satisfied yourself that your source was reliable. All of these play into that.

On timing, we know, because you mentioned it in your letter to me, that there was widespread media coverage about this case. Can you remember how long before the judgment on 23 October you knew about the litigation?

Lord Hain: I cannot remember exactly, but I think that it had been in the news for a number of weeks. I knew that there was quite a lot of speculation and reporting about who the mystery person was, but I did not know who it was.

The Commissioner for Standards: So when were you told that Sir Philip Green was the businessman at the heart of the litigation? Was that here?

Lord Hain: It was at the beginning of an interview with my source that took place. I was in my office in Milbank House and the interview took place that day.

The Commissioner for Standards: On 25 October.

Lord Hain: On the morning of 25 October. Subsequently—I forget the exact time, but I think it was around 4 o’clock in the afternoon—I made my intervention.

The Commissioner for Standards: Okay. When did you decide to name him?

Lord Hain: That day.

The Commissioner for Standards: So that day, but can you remember how long after the interview you thought, “Well, I’ve simply got to do this”?

Lord Hain: I was approached by the person whom I knew, who was somebody of credibility and honesty and whom I trusted, I think the day before. Arrangements were made for this interview to take place. To be frank, I was very reluctant to get involved, because I was not sure whether it was somebody I knew. I had no idea of the identity. If it had been somebody I knew personally, I doubt that I would have proceeded—I cannot say exactly.

The Commissioner for Standards: Why would you not have proceeded if you had known them personally?

Lord Hain: It would not have felt right to me.

The Commissioner for Standards: If it had been the person who made the introduction who had said, “Actually, it’s me”, then you would not have gone ahead, but the introducer introduced you to someone you did not know and you felt that you could go ahead.

Lord Hain: I was in the position where I had no idea who it was. The person who was introducing me to...

The Commissioner for Standards: I am calling that person “the source”.

Lord Hain: The person introducing me to the source said, “When you are told by the source, you will, I’m sure, want to do something about it. When you listen to the source, I’m sure you’ll want to do something about it”. I was very cautious and

reluctant throughout. First of all, I took some persuading to conduct the interview in the first place and, secondly, I probed in advance why the person whom I knew was so certain that I would want to do something about it.

The Commissioner for Standards: We will come back to that. Did you read the judgment before you made your statement on 25 October?

Lord Hain: No.

The Commissioner for Standards: Not at all.

Lord Hain: No.

The Commissioner for Standards: Okay.

Lord Hain: I have not said that before, but I did not. As I said in my letter to you, I was asked whether I had read the front page, which apparently mentions Gordon Dadds. No.

The Commissioner for Standards: You had not read it. Okay. Did you understand that the injunction order by the Court of Appeal was an interim injunction, preserving confidentiality until the full hearing, which was going to be this year?

Lord Hain: Yes. Indeed, I probed the person who introduced me to the source on that. Yes, I did understand that.

The Commissioner for Standards: Were you influenced in any way by all the publicity after the injunction was reported? I have not seen it all—I have only seen what has been searched for and so on—but it seemed to be generally very critical both of the injunction and of the argument about the NDAs. People were saying, “It’s not really a free choice”, and so on and so forth. Did you read any of that stuff?

Lord Hain: Yes, I was aware of it, but I stress that I did not approach this from the point of view of seeking to challenge the judiciary or to question the interpretation of the law, although I had my own views on whether an NDA is appropriate in this case—I do not think that it is, but that is a separate matter. I think that it is more appropriate in proper commercial situations, where it is an appropriate vehicle. I quite accept that members of the judiciary and many lawyers have been critical of me. I quite understand that and respect that point of view. For me, in the end, this is a matter of human rights, morality and justice. I think subsequent events have, if I may say so, proven my assessment correct.

The Commissioner for Standards: With hindsight, do you wish that you had read the judgment, or would it not have made any difference to you?

Lord Hain: I do not think that would have made any difference. I was not pretending to insert myself as a lawyer in this. I was seeking to put it on record, as a result of very powerful evidence that I heard in the interview—I have given you a flavour of it in the contemporaneous note I made—and it was pretty shocking. I did not think that it should be suppressed.

The Commissioner for Standards: Did you discuss your decision? Once you had made the decision that you were planning to reveal his identity, did you discuss it with anybody before you did it?

Lord Hain: You mean apart from the source and the person—

The Commissioner for Standards: Yes. Did you discuss it with colleagues?

Lord Hain: After the interview, I discussed it at quite some length with the person who had introduced me to the source and I went over it in my mind, because it is a pretty serious thing to do. I did not do this on a whim and I did not, as it were, immediately after the interview had been concluded, march into the Chamber, stand up and make this statement. I did not do that at all. I wrestled with it for a number of hours.

The Commissioner for Standards: In your letter to me, you refer to previous occasions when you have named people using parliamentary privilege. I have read those occasions. As far as I can tell—I think that you will probably agree with me—on these occasions there was no question of there being litigation that you would be, in a way, short-circuiting or anything like that. You were naming people who you thought were behaving in a terrible way, but there were no court proceedings going on at the same time. Is that right, as far as you are aware?

Lord Hain: Yes, but can I just stop you for a moment? Is this investigation and any of your conclusions about challenging my judgment on the proceedings, or is it on whether I was right or wrong in respect of the Gordon Dadds matter? I am not on trial for—

The Commissioner for Standards: No, you are absolutely not. That is why I tried to explain at the beginning. It is quite awkward. I do not have anything to say at all about whether you should have done it or anything of that nature. That is nothing to do with me. But you said that you had taken great care and that you had thought about it a lot and so on. I now understand that that was a fairly compressed period of thought and I am just trying to explore whether any of the complexities of the situation were in your mind at the time. That is all.

Lord Hain: Yes. They were. You do not lightly stand up in Parliament and say what I said when the entire media apparently knew the identity—they knew that the name concerned was Philip Green. I did not. You do not suddenly, as it were, push yourself into the limelight. It was not done for that reason. In fact, I was pretty reluctant about it. It was the powerful case and experience of the source that really moved me.

The Commissioner for Standards: Absolutely. I suppose that what I was trying to get at—obviously, I was being a bit clumsy about it—was that it is one thing to name a powerful person who, if you named him outside Parliament, it is highly likely would sue you. Let us assume that that is the case. That might have been the case with the blood diamonds case and with the Zuma and Gupta cases.

Lord Hain: It would have been in both those cases, yes.

The Commissioner for Standards: I completely accept that there is an element of bravery in doing it in those cases. I know that you are doing it in the House, but it means that you are then a sort of marked man.

Lord Hain: A target: hence Sir Philip's complaint which you are now investigating.

The Commissioner for Standards: I completely accept all that. In this particular case, there was all of that—there appears to be plenty of evidence that Sir Philip is very happy to use the law to protect himself; lots of people are—but in addition the

courts had made a decision. Was that in any way in your mind when you decided to do what you were going to do?

Lord Hain: Yes, it was. I was aware of the consequences, but I am not a surrogate lawyer and I was not acting as one. I was not challenging the court in that sense. I was doing what I thought was morally right for the source, who had been treated terribly, and many others, according to what the source said and has subsequently been revealed on the record in a number of newspapers, shortly after what I said. I was not trying to second-guess the court, the lawyers or the judiciary at all.

The Commissioner for Standards: I expect that you know, because I am sure that it has been brought to your attention, the sub judice rule in the House—24 hours’ notice and so on. Were you aware of that at the time? Did you know that there was a sub judice rule?

Lord Hain: I did not, as it happens, know about the specifics of that rule.

The Commissioner for Standards: Can I read it out, as I would like to read it into the evidence? The sub judice rule is set out in the 25th edition of the Companion to the Standing Orders of the House, 2017: “The privilege of freedom of speech in Parliament places a corresponding duty on members to use the freedom responsibly. This is the basis of the sub judice rule. Under the rule both Houses abstain from discussing the merits of disputes about to be tried and decided in the courts of law ... But where a ministerial decision is in question, or in the opinion of the Lord Speaker a case concerns issues of national importance such as the economy, public order or the essential services, reference to the issues or the case may be made in motions, debates or questions ... The Lord Speaker must be given at least 24 hours’ notice of any proposal to refer to a matter which is sub judice. The exercise of the Lord Speaker’s discretion may not be challenged in the House”. You are saying that you did not know that.

Lord Hain: No, I knew about the general rule. As to whether I had consulted that particular text beforehand or was word perfect on it, no. But I have been in Parliament for 30 years and I know the rules and protocols on these things such as sub judice, yes of course I do. But I was not aware particularly that I needed to give 24 hours’ notice.

The Commissioner for Standards: Right. So you knew that you were doing something—I do not want to use pejorative language—that was frowned on but you felt that it was worth doing anyway.

Lord Hain: I knew that I was doing something that might be frowned on. I did not know whether it would be frowned on or not.

The Commissioner for Standards: “Frowned on” in the sense that there is this rule that you are meant to comply with. I know that it is not an absolute rule, but there it is.

Lord Hain: You know, in my experience you have to make difficult decisions about what the most important issue before you is. I have had to make quite a lot of those decisions in my life, rightly or wrongly. In the end, I thought, on the basis of being moved by what I had been told and had had explained to me, that this was the right thing morally to do.

The Commissioner for Standards: And you were not aware of the 24 hours’ notice rule.

Lord Hain: Not specifically, but I knew from my time as an MP that, generally speaking, if you were going to raise a matter, you tended to give notice to the Speaker's Office—not in this context, necessarily, but in most cases. If you were going to make a point of order in the Commons, for example—it is a point of order to the Speaker; you do not have them in the Lords—you tended to notify the Speaker's Office so that the Speaker knew what was coming and had a chance to treat you in a more understanding way, as it were.

The Commissioner for Standards: And respond appropriately, because not everyone can know everything all the time.

Lord Hain: Exactly. There is not that arrangement in the Lords, because the Lord Speaker does not have the powers that the Speaker in the Commons has. You can get up and say it, as I did in the Lords, and nobody can do anything about it, whereas the Speaker would either have responded or made a comment, because those are the powers that the Speaker in the Commons has, whereas the Lord Speaker does not have those powers. Very shortly before my intervention I did however notify the Deputy Speaker Lord Haskel who was presiding at the time that I was intending to intervene very briefly as happens periodically. I did this as a matter of courtesy and to confirm I would do so at the end of the proceedings going on in the House at the time and before another item of business was taken so as not to disrupt the flow of business; but I did not inform him as to the contents of my statement.

The Commissioner for Standards: Okay. I want to talk about your source now. I am just going to put on record what we were discussing earlier:

I know that you have consistently said that you will not reveal the name of your source, and I do not seek to persuade you as it does not seem central to the investigation. However, I do need to understand his or her situation and I hope that you will help me with this. I confirm that I will ensure that no identifying details are published. If necessary, the recording can be paused. Obviously, I want as much as possible to be publishable so that anyone reading my report will be able to understand the evidence and how I reached my conclusion.

You have already told me a good deal about the circumstances. You were contacted on the 24th by someone you know.

Lord Hain: I am not prepared to say, on the record.

The Commissioner for Standards: Okay. That is fine.

Lord Hain: But it is not someone connected with Gordon Dadds in any way whatsoever.

The Commissioner for Standards: Okay, but how could you be so sure? Once again, you were right; I do not dispute that. But in deciding how you fulfilled your duty to be very careful about it all, these were obviously all issues that you had to be sure of.

Lord Hain: Let me put it this way: supposing I had named the wrong person; that would have been a terrible stain on my reputation and my credibility as a politician of some years.

The Commissioner for Standards: Yes.

Lord Hain: If you look at it from that side, I had to satisfy myself that the individual—whom I trusted and who introduced me to the source—was acting with absolute integrity, and that the source was somebody of absolute integrity and credibility as well. So, of course, I was very careful about both those things.

The Commissioner for Standards: Yes.

Lord Hain: I am not willing to say who the person is who identified me, because I think that could be prejudicial to the confidence and anonymity that I pledged to uphold. But in strict confidence to you I have identified the source's exact employment though not the source's name, partly to confirm conclusively that the source had nothing to do with the Telegraph's lawyers Gordon Dadds.

The Commissioner for Standards: That is fine.

Lord Hain: And given that there have been severe consequences for some of the people associated with this, who have been at the end of Sir Philip's activities and harassment by his lawyers and agents.

The Commissioner for Standards: You also said in your letter to me that the source contacted you because of your public reputation as a campaigner for human rights and social justice going back nearly 50 years. Maybe you have already answered this, if slightly obliquely, but I will ask you to say it again. Did you ask why she or he did not contact you directly rather than going through an intermediary?

Lord Hain: Well, first of all, I asked the person I knew—I do not know what the term is, the "introducee" or whatever—

The Commissioner for Standards: The intermediary.

Lord Hain: Yes, the intermediary. I said, "Why me? I am a Member of the Lords. Presumably there are MPs you could go to, and there are MPs who have been vocal in criticising Sir Philip Green before; I have not been. Why are you coming to me?" That was then explained: "Because you have a reputation for speaking fearlessly and defending human rights".

The Commissioner for Standards: Was that during the conversation on the 25th?

Lord Hain: No—although it was also said also during the conversation on the morning of the 25th—this was beforehand, when the meeting was arranged. I said, "Why me?"

The Commissioner for Standards: To pick up on this, were you told on the 24th, when the intermediary got in contact with you, that it was about Philip Green?

Lord Hain: No.

The Commissioner for Standards: Right, okay.

Lord Hain: I was told it was about this case, but nobody mentioned his name at all until the source revealed it.

The Commissioner for Standards: That is fine. I was just trying to clarify, because you said, "Why me? There are lots of other people who are interested in Philip Green". But that was not until during the interview. Previously, the

conversation had been about you defending human rights and having a reputation for it, but no names were mentioned. Is that right?

Lord Hain: No names were mentioned. The first I knew of the name was when the source told me—and I had not agreed to meet or interview the source until it happened on the day.

The Commissioner for Standards: I had some questions to ask you about the source but I think your statement covers all of those, so I am not going to do that. I now come back to timing. What was the hurry? Why did you feel that you had to do it straight away? You interviewed the source in the morning and you made the disclosure in the afternoon in a completely unrelated debate. What was the hurry?

Lord Hain: The interview took place in the morning and I cogitated on it both beforehand and during the interview—including on the question of why they were approaching me. I asked the source repeatedly, “You are really pleading with me to do this, are you?” Not least because there had been some media reporting that victims involved in the case did not want the NDAs lifted. That is what the source was doing, pleading with me to name them; the source told me that the sexual harassment, bullying and intimidation by Sir Philip was still going on—the harassment that I was told about in graphic detail. I have given you an indication of it. It was horrifying, and it was still going on.

The source had suffered a great deal in very many ways, and these were explained to me in disturbing detail. Sir Philip Green had top lawyers and so on. There were all these issues that, in the course of the interview, made me think, “I want to do something about this”. Even then, I was wrestling with it for some time afterwards, including talking to the intermediary who had introduced the source to me.

The Commissioner for Standards: Thank you. Having looked at what was in the papers over those couple of days, between the judgment on the 23rd and your statement on the 25th, there was obviously a huge amount of comment, debate and so on. I noticed that Jess Phillips MP was mentioned as someone who wanted to do something about it. The references to her are somewhat inconsistent. It is not clear whether she was saying, “If I knew who it was, I would say”, or she was not going quite that far. Anyway, she said that she did not know. Did it occur to you that one way forward might be, as it were, to let the cup pass from your lips and let someone else deal with it, such as Jess Phillips?

Lord Hain: Yes, it did.

The Commissioner for Standards: Okay. Why did you not do that?

Lord Hain: In fact, she contacted me the next day, saying, “Thank goodness you did it, because I was quite fearful of having to do it myself”.

The Commissioner for Standards: Right, okay.

Lord Hain: I had never discussed the issue with her before.

The Commissioner for Standards: And you had not discussed it with any of your colleagues?

Lord Hain: No.

The Commissioner for Standards: Why not? A trouble shared is a trouble halved and all that.

Lord Hain: I think, in these circumstances, it was a decision I had to make on my own. It was quite a lonely decision. I am not inviting sympathy for that; it was just something I felt I needed to do myself not least to protect vulnerable people who had suffered grave injustice, as the source described to me and was being widely reported in the Telegraph and other media.

The Commissioner for Standards: But still, why did you do it so quickly? Why did you not sleep on it, for instance, or have a look at the judgment?

Lord Hain: I have already answered the point about the judgment. I was not trying to second-guess the lawyers. For me, it was a matter of human rights and justice, as I saw it. As far as I know, in assessing the complaint, you are not actually judging me on whether I am a better lawyer than those in the appeal courts.

The Commissioner for Standards: Not at all.

Lord Hain: Because I am not.

The Commissioner for Standards: Absolutely. I am in no way concerned with the fact that you made the statement. Coming back to where I started, you said you did this after deep consideration, and you were being very careful and responsible and so on. It appears to me—tell me if I am wrong—that you are saying that you were engaging in a sort of moral consideration. You were not looking at the position of the court—I am not saying that you should have done—and not really considering the sub judice rule and so forth. You were thinking, “Is this the right thing to do? If so, I want to do it”. Is that right?

Lord Hain: Yes, exactly. As I have said, I was not seeking to challenge the decisions of the judges and I have never criticised them. In fact, everything I have said in public—which is not very much—and in private, is that I totally respect their authority on this and their right to condemn what I did. I thought I was doing this for moral and human rights reasons, but it is for others to make that assessment. What happened subsequently, including all the revelations and the fact that Sir Philip withdrew his case, the proceedings and against the Telegraph, rather supports my view that maybe he did not want to go to court himself and be cross-examined on his behaviour.

The Commissioner for Standards: That is all that I wanted to ask you. James, does anything occur to you that we have not covered or that leaves you with a query?

James Whittle: No.

The Commissioner for Standards: Okay. Before we finish, Lord Hain, if you would like to have a discussion with Lord Monks to see if there is anything else that he thinks should be raised—it has to come from you—you might want five minutes to chew it over. If so, we will turn off the recording and you can come back in. Would you like to do that?

Lord Hain: If that is okay.

The Commissioner for Standards: Yes, of course.

Lord Hain: That is very good of you.

[Pause]

The Commissioner for Standards: We have just had a short pause so that you could consult to see whether there is anything else you wanted to say.

Lord Hain: There is only this matter: having briefly consulted with Lord Monks, I want in a sense to ask a question—not to challenge you in any way.

The Commissioner for Standards: Of course.

Lord Hain: The burden of the questioning has moved on to the rules of the House in respect of sub judice and so on, whereas Sir Philip's complaint was that I failed to make a declaration of interest, a disclosure, about something that I did not know. I hope that I have answered that completely thoroughly; I have given a great deal of evidence on why the complaint against me that I breached the rules on declarations of interests from Sir Philip, and no doubt others, is simply false. Has this now gone wider, into how a Member of the House does or does not behave in respect of notification and so on?

The Commissioner for Standards: No. I will explain. Since you said that you had given this a great deal of thought—thought about it very carefully, been very diligent and so forth—the question that a reasonable member of the public might ask is: how come you missed that the solicitors for whom you work were involved in the case?

Lord Hain: I have answered that.

The Commissioner for Standards: Yes, you have answered it. That was the whole purpose of those questions: to go through and ask about this, and this, and this. You have said, "Actually, none of that was in my mind; I was just doing it on this basis". That is a perfectly valid answer. That is why I was asking those questions. I am absolutely clear that I am not here to form any view or give any opinion on what you did. It is simply to do with the disclosure.

Lord Hain: I am grateful. That is what I understood to the case.

The Commissioner for Standards: Yes, it is just that. Does what I have said make sense about why those questions came up?

Lord Hain: Yes, absolutely.

The Commissioner for Standards: Good.

Lord Hain: And there is nothing else that you feel I have not answered at this stage?

The Commissioner for Standards: No, it is fine.

Lord Hain: Okay, thank you.

The Commissioner for Standards: As I said before, we will send you the transcript when we have got it—by post or by hand, not by email. Have a look at it and correct any inaccuracies. If you want to phrase things slightly differently when you have had time to think about it—if you think, "I could have put that a bit better", or whatever—that is fine. If anything else occurs to you, feel free to add it in, but do so in such a way that we can see that it is an addition.

Lord Hain: Of course, yes, in a track changes sort of way.

The Commissioner for Standards: Track changes would work, or a covering note or whatever, so that what I get back from you are your considered thoughts on all this—not just your immediate answers to the questions that I have put to you. You might not have been expecting some of them and you might think, “I should have said this”, or whatever. What we want is your position. We have the letter, and this is an elaboration on that.

Lord Hain: That is very helpful. You have, in addition, the letter I wrote on, I think, 30 October, and the email from when Tom Wilson phoned me—I think it was Tom rather than you James—that afternoon of 26th to ask for my response to the media. The media were apparently inquiring of the Lords press office about the Gordon Dadds matter Sir Philip had publicly raised.

I repeat that I did not know Gordon Dadds were involved in the case, they never contacted me about it until after Sir Philip’s media statement about it. They have also comprehensively and publicly refuted that they contacted me in the way he falsely alleged, including in a letter addressed to you. I repeat it is preposterous to imagine that a highly reputable law firm like Gordon Dadds would ever have done that.

Can I add one other point? My source felt that he/she and Sir Philip’s victims would be protected if I did what he/she was urging me to do. That was a consideration at the time for me as well and, again, directly as a result of my disclosure we now know that other victims have spoken out and are better protected from bullying and harassment.

The Commissioner for Standards: Yes, but all that is more to do with the fact of what you did rather than the particular point here. On the point that I am focused on, I think I have all the answers that I need. As I have said, if when you read the transcript you feel there is anything else that will illuminate it, put it in.

Lord Hain: Fine, thank you.

The Commissioner for Standards: Thank you very much, Lord Monks and Lord Hain.