

Police and Crime Committee - Thursday, 9 February 2017
Transcript of Item 7 - Tackling Allegations of Electoral Fraud and Malpractice –
Part Two

Steve O’Connell AM (Chairman): Can I welcome our other invited guests? Thank you so much for your patience in bearing with us for the first session.

First of all, we have Sir Ken Knight CBE QFSM, Tower Hamlets Commissioner; Mayor John Biggs, my old comrade --

Caroline Pidgeon MBE AM: And the Mayor of Tower Hamlets.

Steve O’Connell AM (Chairman): -- Councillor Peter Golds CBE, a Tower Hamlets councillor; and Francis Hoar, Barrister, Field Court Chambers.

We are now going to address a case study. I am bound just to read out the statement, if you do not mind bearing with me. Before we begin the discussion, I would like to say:

“There is an important role for the Tower Hamlets Commissioners who have powers to appoint persons to, and remove persons from, the statutory offices of Electoral Registration Officer and Returning Officer. It will be important for the Committee to hear about the work done by the Commissioners to ensure that the election process in Tower Hamlets can now command public confidence, particularly as the Government looks to hand control back to the local authority in March 2017.

I would like to remind the Committee that the decisions of the Elections Commissioner, sitting as a High Court judge, are a matter of public record and can be referred to as such. If there are, however, further allegations of election fraud or malpractice about which determinations have not been made, this is not the appropriate place to hear them.

I must emphasise that the Police and Crime Committee is not tasked to investigate specific cases and/or allegations, but is expected instead to scrutinise the policies and procedures under which such matters are or are not investigated. Therefore, as Chairman, I will need to prevent the discussion going into areas which are not within the Committee’s remit.”

I was instructed to read that and it was appropriate to do so for this second part of the morning. Again, can I thank the guests for attending this morning?

The next set of questions, which is around the Tower Hamlets case study, is going to be led by Andrew.

Andrew Dismore AM: This is a question for Mr Cundy. According to your data, there were 164 allegations of electoral fraud related to Tower Hamlets in the run-up to the elections and, quote, “every allegation reported to the police was recorded and investigated” and “advice was sought at various stages from the CPS”. That is what you have told us.

Can you tell us now what the investigation of each of those allegations consisted of and, as you do so, can you tell us when timewise each of those steps took place?

Commander Stuart Cundy (Special Enquiry Team, MPS): Of course, the 164 allegations you referred to are all allegations connected to the elections in 2014.

Andrew Dismore AM: The 2014 mayoral elections, yes.

Commander Stuart Cundy (Special Enquiry Team, MPS): Some were reported in advance of the election date, some on the election date and some subsequent to the election date. I could not sit here and say, "There were 164 investigations and they all occurred like this", but I can talk about some general principles to that.

In fact, there were 208 allegations across London on that day and 164 pertained to Tower Hamlets. In terms of the nature of those allegations, if I talk about the Tower Hamlets cases, 47 of those allegations were about undue influence or intimidation at polling stations - if I do the top three - 27 referred to tampering with postal ballots and 17 related to 'ghost' voters. As we described earlier, each of those allegations would have its own investigation and, yes, each one was recorded and then each one would be investigated particular to the nature of the allegation itself.

Obviously, it is not appropriate to talk about individual cases but it might assist if I describe some of the investigations from an anonymised perspective to explain the types of investigative activity that would be undertaken. If I talk about an impersonation offence, for those types of allegations, some of the first steps that we would undertake would be [to identify] what we have about any named individuals both from our police intelligence systems and from crime reporting systems; we would make contact with the local authority - with Tower Hamlets - to identify what it has and to identify what documentary evidence exists, which you alluded to much earlier.

Then each case may follow a different path. We have one case - without going into the name of the individual - where we were able to identify that the individual who originally the information was about was not in this country when the election occurred. We were able to establish through that person who the potential suspect is and, in fact, we were able to prove that they were indeed in London at that time of the election and not abroad, as was first considered.

Some individuals within those impersonation offences were interviewed under caution and they were identified through those interviews as to what they have to say for the events pertaining to them. Of course, that is going to be very case-specific.

What we did find, as alluded to earlier in terms of some communities that we have, in some of our investigations, with English not being a first language, some individuals have misunderstood some of the rules. Indeed, one of those impersonation offences did result in a caution, having consulted with the CPS.

In terms of imprints, again, as DI Granville referred to earlier, we take those initial steps. What is the material? We will seize that material. We will identify whether there are offences within it and, if the imprint is not as it should be, then we will investigate by going through to the printers. We will make inquiries with the printers of the leaflet or whatever the material may be and establish from them who commissioned it. Then we will go back to the individual who did commission it and make inquiries of them. If there have been problems with it and if the imprint is not correct, then that is the consultation with the CPS. We will identify whether it is sufficient to justify a criminal prosecution and that is going to be very case-specific, each one according to its merits.

I touched on residency earlier, which is undoubtedly a challenge for us from an investigative point of view. As part of the investigation into that, it is trying to define what 'residency' means within the bounds of the law and it is not a strict definition that says, "If you tick these three criteria, it is evidence". As you will be aware, an individual can have two addresses and, provided they vote only once from one address, then they have not broken the law around it.

With the cases where residency is an issue, as the MPS - and indeed some of our inquiries took us beyond London to other forces - we will make inquiries at each address and establish the circumstances within that. We will speak to the individual involved and try to establish through them and through documentary evidence - and documentary evidence can be much more powerful than witness testimony when it comes to this - the connection to that address and the residency around it. We will use everything from bank bills and driving licences to what is on registers, etc. We know from a police perspective - again, not unique to London - that sometimes with multiple registrations of voters, the purpose is often not for electoral fraud but for other fraud purposes. We see that through other fraud investigations, which, clearly, we can be very mindful of.

We had other investigations in relation to multiple voting. Again, it is a similar process. It is the work that we will do from the police in conjunction with Tower Hamlets as the local authority. In one of the cases around multiple voting, as you referred to earlier, there can be certain circumstances where we can secure court orders to go beyond the secrecy of the ballot box. In some of our investigations, one investigation in particular, that is exactly what we did. We pursued the investigation as far as we could possibly and reasonably go, which did include securing a County Court order to go back to the original ballots. Our officers then spent a whole day trying to find the individual ballot paper that was required for that particular investigation. I am just trying to explain the lengths that we will go to. Once the ballot paper is identified, we would then submit it for forensic examination to identify if we can get fingerprints from it, which of course is an ideal aspect of evidence for us.

All the way through that process, as you have heard, we will be engaging and liaising with the CPS. It will give us advice around steps that we may not have considered ourselves. It goes back to the SET. The officers there are specialist investigators; they are not specialist lawyers. The specialist lawyers sit within the CPS, which is why we engage, we consult and we get the advice from them.

Of those 164, there were investigations that were conducted and you have in the material that has been provided through to the Deputy Mayor [for Policing and Crime] the outcomes of those. When it comes to an outcome decision, we will always consult with the CPS. The charging decision is a matter for the CPS but, again, with its advice, there were a number of individuals who received warning letters or words of advice from us as the police in addition to the charging of one individual and the cautioning of two other individuals.

Andrew Dismore AM: What is the timetable for these investigations?

Commander Stuart Cundy (Special Enquiry Team, MPS): Of the investigations, some would have commenced before election day in May 2014 and others would have commenced on the day and then subsequently.

Andrew Dismore AM: How many witnesses did you interview?

Commander Stuart Cundy (Special Enquiry Team, MPS): Gail, can you help with this one?

DI Gail Granville (Special Enquiry Team, MPS): I do not have the figures for 2014, but I know that in the review in 2015 we interviewed in excess of 70 witnesses.

Andrew Dismore AM: You do not know how many you did in 2014?

DI Gail Granville (Special Enquiry Team, MPS): I do not have that. I would not like to mislead you but --

Andrew Dismore AM: You do have that record, presumably --

Commander Stuart Cundy (Special Enquiry Team, MPS): We have that record, yes.

Andrew Dismore AM: -- back at the office? All right. You could let us have that figure?

Commander Stuart Cundy (Special Enquiry Team, MPS): Yes. Every single one of those 164 allegations received an investigation. Some would have been much more comprehensive than others by the very nature of what they were and the serious nature of the offences.

Andrew Dismore AM: We then come to the Election Court. Judge [Richard] Mawrey QC gave his judgment on 23 April 2015. He said, not very pleasantly about the MPS:

"... an unkind person might remark that the policemen and polling staff had appeared to take as their role models the legendary Three Wise Monkeys."

What do you say to that?

Commander Stuart Cundy (Special Enquiry Team, MPS): That was very particular to what was occurring at polling stations and in the preceding paragraphs of the judgment he refers to, in essence, what were two halves in terms of describing the events that occurred. As you said, it did not refer to just the MPS. It also referred to the polling staff on the day as well. We had officers at each of those polling stations. I know we were talking in general terms earlier. It is a phrase that Judge Mawrey gave us and the Commissioner [of Police of the Metropolis] was before you in May 2015 and it is on public record the letter that Judge Mawrey wrote to the Commissioner with his views of the MPS in that his judgment was not intended to criticise the MPS's response.

I do accept - and it is back to what we were discussing earlier - that the role of police officers at polling stations does need them to be aware of electoral offence matters and to understand what steps they can take. I know how I would have been as a young police officer standing at a polling station where my only experience was going in to vote myself and thinking, "If I do something, am I going to be judged for trying to impede free and fair elections?"

That is why, particularly when it comes to Tower Hamlets, the work that we have done with the local authority and the joint training between our officers and the polling station staff to try to prevent that type of activity and make clear what the individual roles can be.

Andrew Dismore AM: We also have a memorandum from Mr Erlam [Andrew Erlam, Electoral Petitioner in Tower Hamlets] of 11 January this year [2017] and he said that six days before the Election Court case, the police tried to arrest him as a suspect for seeking to pervert the course of justice, although they later admitted that there was never a complaint, not even a bogus one, about this. What was all that about?

Commander Stuart Cundy (Special Enquiry Team, MPS): It would be highly inappropriate for me to talk about an individual investigation around any person. What I can say for the record is that Mr Erlam has not been charged or convicted in relation to any offence relating to these matters.

Andrew Dismore AM: We then come to the Election Court. After the Election Court's judgment - and it is not a report; it is a judgment --

Commander Stuart Cundy (Special Enquiry Team, MPS): A judgment, yes.

Andrew Dismore AM: -- what happened next? You sought the extension to the time limit. What happened after that?

Commander Stuart Cundy (Special Enquiry Team, MPS): Nick Vamos can articulate it much clearer than I. Within the Representation of the People Act, the Director of Public Prosecutions (DPP) can refer offences to the police to investigate. His Honour Judge Mawrey within his judgment or indeed in court did not make any direct referrals to us as the MPS or to the DPP. We did not receive any referral from the DPP for any matters to investigate, but - and I know that many might not agree with this statement - we as the MPS fully understood the serious nature of all of the offences and all of the allegations that were pertaining to Tower Hamlets.

We did a review of that 200-page judgment to identify if there were new offences or, indeed, if there was evidence in there of which we had previously been unaware. That was a review process. Going back to what Mr Duvall was asking earlier about review processes, that was a critical point in time. As part of our ongoing investigation, we identified that with the time limitations, we would need to get an extension, which we did. We brought in a new Detective Superintendent and a new investigation team, who were not involved in the original investigations before the Election Court judgment.

We identified five new offences or five new allegations. One of those was technically out of time but we investigated it anyway. We also identified - sorry, I am just referring to this to make sure I get the right figure - 47 cases that we had previously had reported to us and had investigated, which in reality related to polling stations where we considered there might be potential new evidence. We then, as the MPS, commenced another investigation - or reinvestigation, depending on whether it was a new offence or one of the other matters - and then we went back again. In terms of the five new offences, I mentioned one that was out of time but we still investigated it, nonetheless, to see if we could identify any other potential offences and the other four offences, which included an allegation of perjury. Each of those was individually investigated by new officers now connected with the investigation, as I explained, and out of the 47 cases that were re-examined/reinvestigated, we made enquiries in relation to every single one of those. There were 36 potential witnesses pertaining to those 47 cases and 29 of those were willing to speak to us. None of those new enquiries established new evidence that would enable us to go for a charging decision to the CPS. What we did with those post-judgment investigations, new or reinvestigations, was close consultation and getting advice from the CPS along the way, all the way through them, in terms of making the best informed decisions.

Andrew Dismore AM: I think you spoke to 70 witnesses. How many statements did you take?

Commander Stuart Cundy (Special Enquiry Team, MPS): As I alluded to earlier, what we did encounter was there were a number of witnesses who gave evidence within the election court who were unwilling to give statements to the police as part of a criminal investigation.

Andrew Dismore AM: But how many statements did you take?

Commander Stuart Cundy (Special Enquiry Team, MPS): I can get that figure for you if you wish, Mr Dismore. We can provide it.

Andrew Dismore AM: I think that would be helpful.

Andrew Dismore AM: Again, going back to the memo from Mr [Andy] Erlam. He says in June 2015 he personally delivered two files of evidence of fraud in Tower Hamlets to the Commissioner, New Scotland Yard, together with the names of about 20 witnesses prepared to help the police with any enquiries. He says:

"I have never heard from the police neither have the witnesses to my knowledge."

What happened to those files that he identified?

Commander Stuart Cundy (Special Enquiry Team, MPS): I have before me the documentation that Mr Erlam provided, which included a list of 17 witnesses. We spoke to every single one of those 17 and in fact identified another potential witness to the matters that he related to us. Some of those witnesses were unaware their names were being put forward via Mr Erlam but every single one of those was spoken to.

Francis Hoar (Barrister, Field Court Chambers): In response to that answer by the Commissioner, I note that the Commissioner did not mention in the 160 additional offences that were identified in the judgment electoral expenses offences. The Commissioner will be aware that the petition, which I presented to the election court, did not allege election expenses and could not have been amended to allege them. Nevertheless, it is of note - and the Commissioner should note and will be aware from the judgment - that at paragraph 533 Commissioner [Richard] Mawrey [Deputy High Court Judge] notes that the guest of honour at a meeting at the Jagroto rally hosted by an organisation called Jagroto at the Water Lily on 4 May 2014, the guest of honour was Mr Rahman [former mayor of Tower Hamlets]. The event was avowedly a political rally in his support. There were videos of that meeting presented before the election court. In addition, there was a Facebook reference to a speech by one of the people there heavily in support of Mr Rahman who was cross-examined and accepted that he had given this speech which was supporting Mr Rahman's re-election.

At 3,394 of the transcript, 5 March 2015 - something which was referred to in my submissions to the Commissioner - the manager of the Water Lily gave evidence that the usual rate for two hours was £750, £350 were paid by Jagroto. Councillor Golds in May, shortly after this meeting --

Andrew Dismore AM: Can I interrupt you? Remember, we are not sitting in judgment and you heard my earlier statement.

Francis Hoar (Barrister, Field Court Chambers): No, I understand that, but the point I am making is this is evidence of an offence which was within time at the date of the judgment. In addition, I understand that all Representation of the People Act 1951 (RPA) offences were given the extension by the Magistrates' Court before the expiry. I think that is right, is it, Commander or was it in relation to specific offences?

DI Gail Granville (Special Enquiry Team (Metropolitan Police Service): It was in relation to specific offences.

Francis Hoar (Barrister, Field Court Chambers): In any event, the date of the judgment was well before - one year - after the election returns were returned. That meeting was not declared, so that is one piece of evidence potentially of an election expense non-declaration which could have been prosecuted.

Commander Stuart Cundy (Special Enquiry Team, MPS): If I may, Chair, on that point?

Steve O'Connell AM (Chairman): Yes. I would rather you did not have conversations across but do you want to respond?

Commander Stuart Cundy (Special Enquiry Team, MPS): Yes.

Francis Hoar (Barrister, Field Court Chambers): Right, but something that did not feature in those offences that were supposed to be --

Steve O'Connell AM (Chairman): We understand the context.

Commander Stuart Cundy (Special Enquiry Team, MPS): Without going into individual investigation, so the MPS was not a party to the election court. The DPP had a lawyer within court to listen to the evidence so the MPS was not sitting there listening to that evidence. Therefore, we did not get any allegations referred to us to investigate ultimately via the DPP from within that hearing.

Steve O'Connell AM (Chairman): We do have a set of questions about burden of proof.

Len Duvall AM: It begs the question then, did your review throw that up? Did your review throw up that --

DI Gail Granville (Special Enquiry Team (Metropolitan Police Service): I can say that the event at the Jagroto was one of the new offences that we did investigate.

Commander Stuart Cundy (Special Enquiry Team, MPS): I think for the record - because the judgment is a public record as we know - so the five offences which I referred to within the judgment were in relation to 37 Cavell Street. The cases that have just been referred to by Mr Hoar and DI Granville one related to a false statement of fact as to candidate. That was the one that was out of time but we investigated nonetheless and then in relation to the polling stations that I talked about. There were three allegations relating to undue influence and the perjury allegation I mentioned as well.

Andrew Dismore AM: We will go into some of the details of this later on and probably go more into Mr Gold's memorandum shortly, but can I follow the timeline? You have done this further review. Why, despite the election court's findings, and your subsequent investigations and all of the things you were doing, were you not able to secure the prosecution of any of the respondents to the petition? Bearing in mind we can also look at the issue of conspiracy, for example, which I referred to earlier on and we have had this exchange about that with Mr Duvall as well.

Commander Stuart Cundy (Special Enquiry Team, MPS): Mr Dismore, we can only go where the evidence takes us.

Andrew Dismore AM: Yes.

Commander Stuart Cundy (Special Enquiry Team, MPS): These were comprehensive investigations, as I alluded to, some getting County Court orders to go and secure particular votes that were cast on the day. I know the difference in procedural rules between an election court has been talked about. That is primarily a civil hearing where the judge is sitting there and, as Judge Mawrey explained in his judgment himself early on in the judgment. Therefore, he has an inquisitorial function, I think - as he describes it - some way between a civil court judge and a coroner. From a criminal investigation perspective, the rules are quite different. I talked about hearsay earlier this morning. That is just one aspect of it and, of course, we must prove beyond reasonable doubt --

Andrew Dismore AM: Yes, he is working to the standard of proof but he can take hearsay evidence. You cannot take hearsay evidence?

Commander Stuart Cundy (Special Enquiry Team, MPS): I think hearsay evidence is one element. It is not the only element within it.

Andrew Dismore AM: OK. You are saying there was insufficient evidence to put before the CPS to found a prosecution, or did you put the evidence to the CPS and they decided there was insufficient evidence?

Commander Stuart Cundy (Special Enquiry Team, MPS): We talked about it earlier in general terms and I talked about case specific. For these allegations there was ongoing engagement with the CPS, right from the very start with the investigations, as was described earlier, which is regular contact. Individual files for a charging decision were very few because getting to that point, the CPS would know all about cases before it got to that point in the first place.

As I described earlier, it is not like a police investigation into a theft where you will put one file in on the case. If we think it passes the threshold test in relation to a charging decision then the CPS will do the test for it to go to the Crown prosecutors.

Sorry, I have lost track of what your original question was, Mr Dismore.

Andrew Dismore AM: The question is: why no prosecution and was that decision taken by you or by the CPS?

Commander Stuart Cundy (Special Enquiry Team, MPS): The decision to prosecute would be for the CPS. [In relation to] the decision for a lot of these individual cases - as was explained earlier - there always needs to be clarity. It is a police decision, if we do not consider there is enough evidence to pass that threshold test.

Andrew Dismore AM: OK. If we follow through the timetable, there is then a hearing before the Lord Justices on appeal from Mr Rahman. Then in July 2016 there is a meeting with Assistant Commissioner (AC) [Helen] King [MPS] attended by Mayor Biggs, the Chief Executive, Mr Golds, three Commissioners - presumably that includes you, Sir Ken [Knight CBE], DI Granville and Mr Vamos. What was that about?

Commander Stuart Cundy (Special Enquiry Team, MPS): That was a meeting literally as you have articulated. In March of that year - looking at my timeline - following the advice that we had received as the police from the CPS, from a meeting we had with them on 18 February 2016, on 16 March 2016 the MPS put out its press statement. That made it clear that - following a review of the judgment and the re-investigations - no individual was to be charged. That meeting in July [2016] was with those individuals, as you have just described them, to endeavour to explain what the MPS had done as part of the investigations and the reasons the decision had been made.

Andrew Dismore AM: Why were the petitioners not invited?

Commander Stuart Cundy (Special Enquiry Team, MPS): I cannot say personally why the petitioners were not invited to that. Mr Erlam, as you have read out and stated, he was under investigation.

Andrew Dismore AM: There was an investigation in July 2016?

Commander Stuart Cundy (Special Enquiry Team, MPS): Mr Erlam has said that he was under investigation. The petitioners were not at that meeting so, in terms of the review process, as the new Chief Officer now with responsibility for electoral fraud matters in London, I think one of the things that has not gone well from the MPS's perspective is to try to explain - as you have just asked me the question - the whole process and why the outcome is what it is. I think we could have done more and should have done more in terms of engaging with the four petitioners before and after that judgment.

Andrew Dismore AM: OK. Mr Vamos, do you want to add anything? Have you read the judgment yet, Mr Vamos?

Nick Vamos (Head of Special Crime (Crown Prosecution Service): I am very glad you asked me that, Mr Dismore, because Mr Golds has very fairly set out the correspondence that he and I had in his letter, which I have only just seen today. The specialist prosecutor who advised the MPS throughout this process, not only read all of the judgment. She received daily transcripts and regular reports from the counsel who we instructed to attend the petition.

What I said, which I volunteered at the meeting in July - contrary to what Mr Erlam seeks to suggest in his letter that has been somehow winkled out of the CPS - is that in advance of that meeting, although I had not read the whole judgment, I had been fully briefed by the specialist prosecutor. That is the explanation for that comment and I am grateful to Mr Golds for setting out the correspondence in full. I did not think it was such a big issue but obviously it has been misinterpreted since I said it.

Andrew Dismore AM: OK. The purpose of that meeting in July 2016, presided over by AC King, was to try to convince everybody else that you had done your job right. Is that it?

Nick Vamos (Head of Special Crime (Crown Prosecution Service): Those are probably your words rather than mine, Mr Dismore, but it was part of that engagement with some of the critical stakeholders connected to the case study that we are talking about today.

Andrew Dismore AM: Do you think you got the message over?

Nick Vamos (Head of Special Crime (Crown Prosecution Service): No, I do not. As I said a few moments ago, talking about a fresh pair of eyes, you come into this, as I did, with a fresh pair of eyes very much post event. I think there are some things that we could have done much better in terms of that communication and engagement with a number of different individuals.

Andrew Dismore AM: As far as the enquiry is concerned, obviously there are a lot of criticisms in Mr Golds' memorandum, which pre-date 2014. He refers to specific officers, though not by name. I am sure Mr Golds would give you the names if requested, should you wish to follow those up.

Mayor John Biggs (Tower Hamlets Executive Mayor): I want to record that I think all of us came away from that meeting rather confused and frustrated that the record of actions, from the prosecution and those of the CPS, did not seem to coincide with each other. AC King was very clear that the MPS had passed all sorts of information and recommendations in conversation with the CPS. The CPS did not seem to have the same recollection of what had happened. It left us wondering what had actually happened with the case.

Nick Vamos (Head of Special Crime (Crown Prosecution Service): Can I come in on that, please?

Andrew Dismore AM: Yes.

Nick Vamos (Head of Special Crime (Crown Prosecution Service): There obviously is confusion over this and I think - well, I would say - it is a red herring but I think it is very easy to clear it up and it is really what Commander Cundy and I have been saying from the start. That the CPS and the MPS worked side by side in these investigations. Although from a legal perspective it is important to identify the decision-maker, in terms of then whether that decision can be challenged. We agreed with the MPS's decision not to refer the files to us and it was informed by the advice that we had given them throughout.

If Assistant Commissioner King and I did not explain that satisfactorily at the meeting in July, then I hope Commander Cundy and I have done that today, and in subsequent correspondence I hope we have tried to make that absolutely clear.

Unmesh Desai AM (Deputy Chair): I think it is really important to clarify this point because on Budget day the press office of Scotland Yard issued a press release basically saying that, after full consultation with the CPS, a decision had been made that there was insufficient evidence that criminal offences had been committed. Jim Fitzpatrick [MP], Poplar & Limehouse, was told by the CPS - and I do not know who within the CPS, I should have found out - that they had never seen the file.

Nick Vamos (Head of Special Crime (Crown Prosecution Service): Right. It is important to be precise about the terms we are referring to here. As Commander Cundy said I think at some point during the first session, when we talk about a full file being received from the police that is a term of art referring to a file of evidence that the police have decided discloses a realistic prospect of conviction and they are referring it to the CPS for a charging decision, so at that point the responsibility for the decision passes to us. We apply the code for Crown Prosecutors and we make that decision.

I do not know who said that. I am not quite sure where it is from. I am very happy to look at it.

Unmesh Desai AM (Deputy Chair): I shall certainly provide you with that information.

Nick Vamos (Head of Special Crime (Crown Prosecution Service): Yes.

Unmesh Desai AM (Deputy Chair): "Term of art" that is an interesting phrase. You just used the phrase "term of art". What does that mean?

Nick Vamos (Head of Special Crime (Crown Prosecution Service): I am trying to define for you what we mean by a file in that context. It means very specifically a file of evidence, which the police have assessed discloses a reasonable prospect of conviction that they are then passing to us for us to make a charging decision. We did not receive a file in that sense because the police had already decided not to refer. That is not the same as saying we did not ever see any evidence. We did not have exchanges of correspondence. We did not discuss endlessly and frequently the evidence in this investigation.

Andrew Dismore AM: In the end, therefore, it was the police's decision not to prosecute?

Nick Vamos (Head of Special Crime (Crown Prosecution Service): Yes, correct.

Unmesh Desai AM (Deputy Chair): You acted --

Nick Vamos (Head of Special Crime (Crown Prosecution Service)): -- on the police's decision not to refer a file to the CPS for us to make a decision.

Andrew Dismore AM: De facto, as far as the public is concerned, that means the police made the decision that this was not going to go anywhere. Let us put it like that.

Nick Vamos (Head of Special Crime (Crown Prosecution Service)): Yes.

Unmesh Desai AM (Deputy Chair): Can I put this that you acted on the police's assessment of the situation?

Nick Vamos (Head of Special Crime (Crown Prosecution Service)): No, we did not have to act because --

Unmesh Desai AM (Deputy Chair): Failed to act, rather.

Nick Vamos (Head of Special Crime (Crown Prosecution Service)): No, we did not have to. It never got to that. That is the point. Ultimately, it was the police who made the decision that this is not going to go to the CPS for a prosecution. The decision about all of this was made by the police.

Steve O'Connell AM (Chairman): That is a clear point that we have just gauged now. We do have a set of questions about burden of proof but, Tony, did you want to come in briefly?

Tony Arbour AM: Yes, precisely on that point. This is the first time we have heard about the continuous conversations between the police and the CPS. One of the catalysts for this meeting was when we had the Deputy [Commissioner] here we also had a letter from the Commissioners referring to the fact that the police had not referred the matter to the CPS. The Deputy said that he believed he understood that the matter had been referred by the police to the CPS. Subsequently, I think in Parliament [Sir] Eric Pickles asked the same question and there appeared to be a similar dispute. It is clear, is it not, that in this case the police and the CPS were one?

Nick Vamos (Head of Special Crime (Crown Prosecution Service)): As I have already said, we agreed with the decision that the police made and it was informed by the advice that we gave them. I have said that on previous occasions and I said that at the meeting in July.

Tony Arbour AM: Are you telling us that what happened was the police came along and said, "Do you agree that we do not have sufficient matters for you to take the matter any further?" Is that what happened?

Nick Vamos (Head of Special Crime (Crown Prosecution Service)): No.

Tony Arbour AM: Then how did you come to this agreement? Are you saying the police did not come to you with any kind of recommendation at all? They said, "Here are the papers, Mr Vamos. Do you agree with us that it should not go any further?"

Nick Vamos (Head of Special Crime (Crown Prosecution Service)): No, we came to it in precisely the way that I have described on several occasions already this morning.

Tony Arbour AM: They asked for your advice and you gave them advice and in the end they decided not to send you a file for a decision?

Nick Vamos (Head of Special Crime (Crown Prosecution Service)): I think that is a fair summary but I would not want to speak for Commander Cundy.

Steve O'Connell AM (Chairman): I think that is quite clear although, Commander Cundy, briefly - because we are moving on to burden - is that fair? Just your confirmation: is that a fair analysis? You were in discussion with Mr Vamos or whoever. The CPS were giving you advice and, on the basis of the advice and the discussions you had with the CPS, you - the MPS - decided not to refer a formal file to the CPS for a prosecution decision?

Commander Stuart Cundy (Special Enquiry Team, MPS): In the majority of cases, yes.

Unmesh Desai AM (Deputy Chair): Just one more question. Commander Cundy, you talked about - and this is also in the appendix to the letter that you sent to the Deputy Mayor [for Policing and Crime] - someone being cautioned for impersonation.

Commander Stuart Cundy (Special Enquiry Team, MPS): Yes, if I just get that document up if I may.

Unmesh Desai AM (Deputy Chair): This is one of the most serious issues that could undermine confidence in the democratic process; a matter of this nature. When was the decision to issue a caution made? Was it done at police level, because inspectors cannot raise a caution?

Commander Stuart Cundy (Special Enquiry Team, MPS): To be really clear, the decision to give a caution is only made after consultation with the CPS.

Unmesh Desai AM (Deputy Chair): Right. I know that each case varies in specifics. You have to look at the age of the offender, the first time offenders, there is a code for Crown Prosecutors and there is also reference to whether a police caution should be issued or not issued or whether there should be a full-scale charge.

Commander Stuart Cundy (Special Enquiry Team, MPS): Yes.

Unmesh Desai AM (Deputy Chair): A matter of this nature - impersonation - is one of the most serious offences that undermine confidence in the whole democratic process. Why a caution? Why not a charge?

Commander Stuart Cundy (Special Enquiry Team, MPS): If you are talking about an individual case then you need to ask that of the CPS, because that is a decision that comes from the CPS to us. There are other investigations within the ones that we have referred to where individuals receive warning letters or word advice, which is below the level of a caution.

Unmesh Desai AM (Deputy Chair): This one case alone for me illustrates exactly what has gone wrong with this whole sorry saga.

Steve O'Connell AM (Chairman): We are now moving on to a set of questions particularly around the point, which is around burden of proof.

Unmesh Desai AM (Deputy Chair): A question to Peter and to John. Can you tell us about your experiences of making a complaint to the MPS about electoral fraud?

Mayor John Biggs (Tower Hamlets Executive Mayor): I personally have not taken a complaint to the MPS about electoral fraud. I felt because of my role as a candidate and, arguably, a competitor with Mr Rahman and others, it was not really appropriate for me. One of the problems with the electoral accusations is sometimes they are a proxy battle that should be fought through the electoral process, so I kept out of that but I have observed the process very closely.

Unmesh Desai AM (Deputy Chair): You may not have made a specific complaint, John, but --

Mayor John Biggs (Tower Hamlets Executive Mayor): OK. I am a man with several hats on, I suppose, and one of them is I am the properly elected Executive Mayor of Tower Hamlets. I know that there is a lot of anxiety in Tower Hamlets. That people feel that there has not been a proper closure of this matter. An example of that would be what we perceive to be the confusion between the CPS and the MPS about who said what and who decided things should be progressed, the feeling that the electoral court judge was very unequivocal in his findings, and yet nobody seems to be held to account on a personal level through the criminal justice system. I suppose I am expressing - on behalf of a lot of my constituents - the frustration about that and a feeling that it was not taken assiduously and seriously. I am interested to hear today about how many people were questioned. I have spent quite a lot of time thinking about this. If you think, for example, of postal vote fraud, the Electoral Court judge found that in his view there had been such fraud. That does not mean that he could identify individuals, and people might be interested to know what efforts were made to try to identify individuals who might have carried out that activity.

We are all aware of people who might have been expected to be questioned about this, including people who felt they had evidence about it, very few of whom seem to have been asked to give statements.

Unmesh Desai AM (Deputy Chair): In fact, before I bring Peter in, can I put that question to you then, Commander? There are many people - as we have just heard from John and from correspondence that we have had from various parties - who wanted to be interviewed. Why were so few then interviewed?

Commander Stuart Cundy (Special Enquiry Team, MPS): I do not agree with the statement that so few, if any, were interviewed. A lot of people were interviewed as part of the overall investigations, both before the electoral judgment and, indeed, afterwards as well. I want to speak to Mayor Biggs and others outside of this around particular individuals. As I said, there were some individuals who gave evidence to the petition hearing who we approached to speak to us about information that they had. Some of those refused to speak to us. Some of those did speak to us but would not give a statement for criminal investigation purposes.

Francis Hoar (Barrister, Field Court Chambers): This is relevant to this issue because it concerns evidence. A lot of what the MPS has said in the past about this issue has been relating to hearsay and a lot of evidence was given by hearsay, which was eligible. Of course, there is a large body of hearsay evidence that has always been admissible in the criminal courts, even before the 2003 Criminal Justice Act, which includes business hearsay and that includes, for example, grants; grants that were given and the decisions that were made, meetings that were held and so on.

If you look in the judgment - which of course the MPS has studied assiduously, I am sure - between paragraphs 460 and 525, the Commissioner goes through in great detail evidence, most of which is evidence that is business hearsay, which would be admissible in a criminal court, about the grant process. He also analyses in detail the evidence given by witness Deborah Cohen, an officer in Tower Hamlets, who he believed and who gave evidence of two meetings. The Mayor, Lutfur Rahman, and his agent, who was at that time in charge of the finances in Tower Hamlets, denied these meetings took place. He goes through the

documentary evidence that she gave of those meetings, notes taken contemporaneously and notes taken on the next day in a meeting with her manager, and he said at paragraph 479:

“Having heard the evidence of Ms Cohen, Mr Rahman, Mr Assad and Mr Choudhury on these incidents, I have not the slightest doubt that Ms Cohen was telling the truth and that the three men were quite deliberately lying.”

That raises an additional issue of perjury of course, which is definitely something that was referred to the police. I know for a fact it was referred to [DI] Gail Granville. I also know that Ms Cohen was spoken to by the police. No proceedings have been instituted on that.

I note also that the Commander has said in all those new offences that were brought to the attention of the MPS through this judgment, has not mentioned the offence of bribery. Of course, Lutfur Rahman was found guilty of the electoral offence of bribery and, in the judgment, the Commissioner also noted that the 2010 Act Offence of Bribery would also have been met by the evidence that he assessed and found proven to the criminal standard. It is not for me to question the Commander but it might be that Members of the Assembly might want to ask questions about that.

Commander Stuart Cundy (Special Enquiry Team, MPS): Chair, I am willing to respond to that.

Steve O’Connell AM (Chairman): We are quite capable of framing our own questions but that was most instructive.

Councillor Peter Golds CBE (Tower Hamlets): There are a number of observations here, and I should declare one particular interest. I was very pleased when I heard Assembly Member Dismore earlier this morning, having been a former qualified agent. Certainly Mr O’Connell and Mr Arbour and Mr Prince know that I have been an agent, both professionally and voluntarily. I was a professional constituency agent for 17 years. I know how to fill in a form of election return.

There are a couple of things before I move on where we have heard - and I have to say, Commander Cundy, a slight movement of the actuality. You have said that on a nomination paper we have to test residence. Actually, the nomination paper at the top says - and Mr Dismore will know - “Home address in full”; not residency, home address.

There is case law on this. I was approached by one of your officers - on one of the only two occasions I have ever been asked for a statement - who spoke to me at great length and said, “I do not understand the law on this”, so I wrote him the case law. He then investigated the person we were talking about and produced a letter, which I think reduced the election court to hysterical laughter because here it is and on the [letter to the] fraudster he could not put his address on because, of course, if he put his real address on it would have confirmed it and if he had put his false address on it would have done something. He actually wrote to a fraudster without his address on. Presumably he stood outside Bethnal Green Police Station handing it around saying, “Would you like to a letter saying you are going to be let off”?

Let us now turn to imprints. The police officer at the end mentioned this. I am not talking about thousands of leaflets where an imprint gets left off. During the beginning of selection there were tens of thousands of A3 multi-coloured leaflets produced, folded into three, full of pictures, and it said on the bottom, “Printed and published by Alibor Choudhury, 5 Jubilee Street, East 1.” That is his mum’s house. Now, if he had in his mum’s house a mainframe printer that can print tens of thousands of multi-coloured leaflets, the poor woman

would be dead now because she would be dead of the smell of it. She is alive and there is no printer in the house.

I wrote to Sir Bernard Hogan-Howe QPM [Commissioner of the MPS]. I explained the election law and I put the pitfalls on, because there are two things of defrauding and imprint: (1) you are using it for money laundering because you can say, "I printed these leaflets and spent 10 quid on it", or you can actually have the printer and say you spent 10,000 quid on it. That is one thing. The other one is you are getting a mate to print them for you and of course they are doing it in goods in kind, both of which are illegal. I wrote to Sir Bernard Hogan-Howe QPM. I enclosed the leaflet. I identified the law. I never heard a thing until eventually somebody called by the name I think of DS Smith and said, "Oh, we have spoken to Mr Choudhury and he is not going to do it again".

Let us now turn to the things of bribery. If you look at the Commissioner's judgment, we talk of the bribes that were given to TV channels. At the beginning of it it says, "In answer to a member's inquiry". The member concerned was me and those who do know me know that I am pretty thorough and I am known for writing detailed letters. I enquired how much money was bunged to these TV stations. I got the result. I wrote to Office of Communications (Ofcom). I had witness evidence of every broadcast, how much was given by the council and so on. Ofcom censured the council and said this was illegal and it is illegal to put adverts in favour of, effectively, a governing official on a TV channel. It is said to be illegal. Ofcom said that. I duly wrote to Sir Bernard Hogan-Howe QPM and I enclosed everything, including the Ofcom judgment in all its details. I never heard a word.

Let us turn to the Jagroto event. I was handed a copy of the advert of this, so I wrote in May [2014] - two weeks before the election - to Sir Bernard Hogan-Howe QPM pointing out: (1) the meeting was taking place; (2) the only guest named was Lutfur Rahman; (3) that if it were a public meeting it had to be declared as an election expense; (4) in the event of it not being an election expenses, if it were a joint meeting, everybody else would have been invited. I rang up Mayor Biggs's agent, Chris Weavers [Chair of the Tower Hamlets Labour Party], and Chris had heard nothing from it. I contacted the UK Independence Party (UKIP) agent. The UKIP agent had heard nothing from it. I contacted the Liberal Democrat agent. He had heard nothing from it. Sadly, for Assembly Member [Sian] Berry, I could not get hold of the Greens, but I got hold of all of those. None of them had heard anything from it. This meeting took place, so I wrote to Sir Bernard Hogan-Howe QPM and told him of the event and, surprise, surprise, I heard nothing.

After the election I had all of this material. I would have given admissible witness statements - if necessary in a police court accompanied by a lawyer - that would have been admissible evidence. Nobody asked me for it. Furthermore, I had corroborative evidence. If you look behind you, Commander Cundy and your police colleague, there are people sitting there who would have given admissible evidence from my party, from the Labour Party, and from no party, all of who witnessed it. Names were given. Not one of us has ever been asked to provide a witness statement, so where is your investigation?

Steve O'Connell AM (Chairman): Councillor, this is really, really helpful. In a minute we are going to give the Commander the opportunity to respond.

Unmesh Desai AM (Deputy Chair): There is a question through us to you from Francis [Hoar] and also the points raised by Councillor Peter Gold. Can I also put it to you about what you said in your letter to MOPAC that no evidence had been found of an orchestrated system of political malpractice, either by geographical location, for example, Tower Hamlets, by any specific political party, do you still stand by that statement? Do you still stand by the other point you make in the letter?

“In relation to electoral fraud and malpractice allegations, Tower Hamlets, the MPS has been both robust and proactive.”

Everything we have heard so far suggests the contrary.

Commander Stuart Cundy (Special Enquiry Team, MPS): In relation to the first statement, and bear in mind the police role is in relation to criminal offences, so, yes, I stand by the statement from the criminal perspective. Yes, that is our role. That is not to say from another perspective there might be views around something that has been widespread, but we have to follow the criminal investigations and the evidence for criminal purposes. That is our function.

The second question?

Len Duvall AM: The points made by Mr Hoar and Mr Golds, and the follow up question from Mr Vamos, did you know that these people had not been interviewed?

Commander Stuart Cundy (Special Enquiry Team, MPS): The purpose of today is not to go into individual investigations. I have legal disclosure obligations that I cannot share certain things for obvious reasons. All of us in this room - particularly Mr Hoar - will be aware of that. The perjury allegation, which was eloquently put by Mr Hoar was fully investigated. He has already identified that Ms Cohen was spoken to. The outcome of that investigation - I will not go into the details of it - did not identify sufficient evidence that we could take to CPS for a decision to charge an individual. That is not to say that the finding of His Honour Judge Mawrey was not the correct finding in terms of what he found in relation to that particular set of incidents.

Len Duvall AM: Why was Mr Golds not interviewed? He has told us that he was not, so there is no secrecy about that. Either he was or he was not. He would know if he was. It sounds like he has a lot to say. Why was he not interviewed?

Unmesh Desai AM (Deputy Chair): He could be here for the whole day.

Commander Stuart Cundy (Special Enquiry Team, MPS): I do not want to get into individual circumstances.

DI Gail Granville (Special Enquiry Team, MPS): We are in regular contact with Mr Golds and some of the individuals who are here, who are saying that they --

Steve O'Connell AM (Chairman): As a Committee, if we sense that there has been some issues and shortcomings we will reflect on them in our report.

Nick Vamos (Head of Special Crime (Crown Prosecution Service): Councillor Golds will be aware that, having come in and used that fresh pair of eyes, which I have had, I do not think some of the engagement, some of the key individuals - and Councillor Golds is definitely one of them - has been appropriate and in terms of some of the other offences, not just the electoral matters that we have investigated --

Andrew Dismore AM: Will you interview Mr Golds and his colleagues now - not now this minute - that it has been raised with you? Will you now have a proper discussion and interview with Mr Golds and with the other potential witnesses?

Commander Stuart Cundy (Special Enquiry Team, MPS): Yes, we will meet with Mr Golds.

Len Duvall AM: The witnesses who put their hands up in the public gallery here, you will speak to them and take proper statements from them?

Commander Stuart Cundy (Special Enquiry Team, MPS): Yes.

Len Duvall AM: Very good.

Steve O'Connell AM (Chairman): Hang on, let us not all talk. We have noted that and we will take that one certainly.

Mayor John Biggs (Tower Hamlets Executive Mayor): We are at risk of repeating the same point but, very simply, the Election Court judgment was passed and we understood that the whole of that judgment, which I assumed included all the subsidiary papers we passed to the Mayor, and I took some pity on him because there were thousands of pages of it, but I assume it would just be a question of looking at the seven findings against the previous Mayor and others. It would also be looking beneath the surface at the various other offences, which it was suggested had been carried out. I come away from this wondering whether that was ever really done because Mr Golds has illustrated that point.

Francis Hoar (Barrister, Field Court Chambers): As a matter of fact, it is important to note that there were 27 lever-arch files, all of which were in the hands of the DPP, and the purpose of the DPP being represented by counsel, which as Mr Vamos said they were was in order to assess that evidence, so the MPS had at its disposal from the outset 27 lever arch files, all of which were referred to, not directly but they were referred to in submissions and they were referred to by the Commissioner in his judgment. It is not right to say that the MPS needed to seek those. They did not.

Andrew Dismore AM: Mr Cundy, do the police have those files and has somebody read them?

Commander Stuart Cundy (Special Enquiry Team, MPS): Those files, as Mr Hoar said, went to the DPP. We have not had any referrals from that hearing.

Andrew Dismore AM: You have not had those 27 files?

Commander Stuart Cundy (Special Enquiry Team, MPS): They went to the DPP as I said.

Andrew Dismore AM: You have not had those 27 files?

Commander Stuart Cundy (Special Enquiry Team, MPS): They went to the DPP, Mr Dismore, as I said.

Andrew Dismore AM: They have not come to you?

Commander Stuart Cundy (Special Enquiry Team, MPS): No, they are with the DPP.

Andrew Dismore AM: Right. So, Mr Vamos CPS, why were those files not given to the police?

Nick Vamos (Head of Special Crime (Crown Prosecution Service): I would need to go and check what happened to those files.

Andrew Dismore AM: This is all Inspector Clouseau [A fictional character in The Pink Panther series], is it not?

Sir Ken Knight CBE QFSM (Tower Hamlets Commissioner): You will understand that as the lead Commissioner in the direction that has been put in place, this is not directly my responsibility but I have made strong observations publicly and have had good conversations with, of course, the Mayor and those interested and, indeed, the MPS.

Just to go back if I might for 30 seconds, you will know that it is very unusual, thankfully, for a council to be put into directions by any Government, and it is not done lightly. It is not done lightly because it slightly flies in the face of democracy. The people have voted and, therefore, they have got what they deserved. In this case - and in each case of course - a Government puts in a very robust inspection regime. There are only two councils that are currently under directions and have Commissioners, for very different reasons. One is Rotherham and one is Tower Hamlets.

My role, of course, is there to not only see through the specific directions, which are quite different from Rotherham of course, but also to work with the Mayor and to return Tower Hamlets to the proper home of proper local democracy in London and take its place as a respected London Borough.

If I could just say as a preface, therefore, to what I am going to say on this part, what I found was anything but that. The challenge I took in December 2014 was a shock even to me to find that there was an organisation that was supposed to be a local authority but actually was full of secrets and transparency and not trusted, not trusted internally. Even elected members within the Council - would you believe - having to put in Freedom of Information Act requests within their Council for information about their Council. A mayor who actually refused to stand up and speak at scrutiny because he said it was against his human rights to do so, so never did answer questions at his own scrutiny committee, and in that period having to take out further directions because we got no co-operation in those early days. I am pleased to counter that by saying that since the new Mayor has been - not very new now, of course - properly elected we have been able to reduce some of those directions and I will come on to that.

Let me talk, if I may quickly, Chairman, about how we got involved. One of the issues that we found ourselves embroiled in was taking information from whistle-blowers, both inside and outside the organisation, who felt that they could not trust the procedures within Tower Hamlets and came to the Commissioners - which was good but not our main role - to talk about some of the information talked about before, and felt that justice had not been seen to be done and they were not being heard properly and yet had a voice to say.

We had throughout the process a good communication point with the MPS and AC Helen King was appointed as that point of contact, not just on electoral fraud but there were a range of other issues that were going on in the background. In fact, one of those you will know - and we have touched on it - was the very point about grants being given, and only in the last month have I given the chairing of that transparency grants committee back to the elected Mayor, but prior to the arrival of the Commissioner there was nothing transparent and nothing open about giving grants at all and I was pleased to make it a very open, transparent process.

There is some confusion, Chairman, and I would like to touch on that and how we became concerned. One was about the whistle-blowers telling us things that were going on and the conversation we had. This is purely a professional observation as a Commissioner that we found in place. First of all, you will know that the Mawrey hearing also had in its first instance allegations against the Returning Officer, which the petitioners dropped on the first day of the hearing. In discussion with [AC] Helen King we found that all of the evidence that was against the returning officer nevertheless was about corruption in the election. We were advised by the AC

that no new interviews were undertaken with those people. Those interview statements were dropped and not revisited because they were not in Mawrey, so we felt there was evidence in there that might have been worth looking at again, even though they may not have appeared in the Mawrey judgment.

The confusion that we have talked about - and I will remember the discussion with AC King, where that confusion occurred and I recall it occurring - happened this way, and the MPS will know this. The first press release by the MPS after deciding to take no action was that the CPS decision was to take no action. When we had that further discussion with AC King - as the CPS have quite rightly clarified, and clarified at that meeting after some confusion - the cases were never formally referred to the CPS and they did not need to. We still had a feel about the public interest in all of this, in terms of democracy and openness. Also the reverse, of course. It being prayed in aid because of lack of CPS action and its defence that it was an establishment that was getting rid of the former Mayor.

One of my roles is Lead Commissioner. My background, of course, is as a firefighter. There is something relevant about that, I guess. My role is also to have a liaison, not only with the elected Mayor and lead members, but obviously with key players, including Government officials, the Minister, and the two MPs. I was taken by the letter to one of those MPs from the DPP, in which she says:

“Electoral malpractice is not always captured under that particular legislation of the Representation of the People Act and may be best reflected as an offence of corruption, bribery and conspiracy, where no time limit applies for bringing charges to these offences.”

I might have added to that, in my innocence, misconduct in public office and perjury. However, I think the DPP makes a very good point. I come back to Mr Duvall’s questions which I think are absolutely right. The offences - for me as a very keen observer now being brought up to speed very quickly - are not about offences on the day of election. It strikes me that elections are not just stolen on the day. They can be stolen before by what happens.

Chairman, I am happy to come back another time and tell you what changed in elections from 2014 to the elections that happened in 2015. A considerable amount did change, including the close work of the Electoral Commission and the MPS with some really different procedures. However, I think my focus has been what happened before the election and around the election, not just on Election Day, when the election was democratically stolen from the proper democratic control. I hope that clarifies the Commissioner’s position.

Andrew Dismore AM: Did [AC] King say she was now going to ask the police to look at this whole issue of bribery and all these other things as well or was your impression it was simply just left?

Sir Ken Knight CBE QFSM (Tower Hamlets Commissioner): No, it was one of the letters that I was interested in. I had made a public statement myself, as you recall, in a letter to the Mayor and the Secretary of State that it felt like justice denied to the community. I was feeling that from the complaints I was getting. Amongst those 45 various letters that have gone to the MPS from MPs, and myself are those sort of observations. The DPP did not propose a solution to that but she made the telling point for me that the RPA clearly is time limited and gone. However, there are other offences that are not time limited and have not gone.

Andrew Dismore AM: Are the police looking at these things now?

Commander Stuart Cundy (Special Enquiry Team, MPS): There are a number of other matters that are not RPAs, as Sir Ken has explained, that we have already investigated.

Andrew Dismore AM: Finished investigating?

Commander Stuart Cundy (Special Enquiry Team, MPS): There are a number of other investigations. This is things that extend from that.

Andrew Dismore AM: Are they ongoing or are they finished?

Commander Stuart Cundy (Special Enquiry Team, MPS): The most significant ones are concluded. We looked at grant allocations in relation to new services which was a particular issue which was raised by PricewaterhouseCoopers, from their best value audit. That investigation did not establish sufficient evidence to charge any --

Andrew Dismore AM: You have not seen the 27 lever-arch files, have you? The DPP/CPS have got them and haven't given them to you to look at.

Commander Stuart Cundy (Special Enquiry Team, MPS): No, as I said earlier, that is --

Steve O'Connell AM (Chairman): We know that. It is pretty clear that you may have come to an end of your extant investigations but there are the files, you are going to interview Councillor Golds, and there are other discussions to take place. We need to move this on. Caroline, do you have some questions around this?

Caroline Pidgeon MBE AM: I wanted to this pick up with Francis Hoar. You are listening to this. Thank you, Councillor Golds, for this fantastic letter. There is so much in here that, as an ordinary person, you think, "Well, justice needs to be done". There is clearly evidence there. You have an address. You have whatever. Yet we have not seen these prosecutions. I wonder whether, as a barrister, you can explain to us how the burden of proof differs between that which is sufficient in an election court and that needed for a conviction in a criminal court, particularly when Judge Mawrey made it clear he used the criminal burden of proof for his findings?

Francis Hoar (Barrister, Field Court Chambers): Well identified. The answer to that is no, there is not a difference as, to be fair, the police have acknowledged. What the police say, of course, is that hearsay evidence cannot be admitted. Of course, the hearsay rules have become quite significantly more lax since the Criminal Justice Act 2003. There were always rules, as I said, in relation to bribery. It has always been the case that business hearsay, i.e., documentary evidence, has always been admissible in a criminal court. That is why I really wanted to identify that between paragraphs 460 and 512 of the judgment a lot of what has gone into there are Ofcom judgments and advertisements. All admissible. There is admissible documentary evidence in relation to grants and admissible documentary evidence in relation to meetings that occurred. There are Councillors who were at the meetings who can affirm the minutes that took place there. There is, of course, the evidence of Deborah Cohen, evidence substantiated by contemporaneous notes. There is evidence of two meetings both of which were denied. Not just, "I don't remember this happening" but Alibor Choudhary, Mr Asad and Mr Rahman saying they did not occur. Apparently, the police reached the decision - which, again, you might be interested in - that that does not amount to a reasonable prospect of success in relation to perjury. I think is the answer we got from Commander Cundy just now.

That goes to two different types of offences. One is bribery. The Commissioner outlined in detail the evidence he took into account. Of course, bribery does not require evidence that somebody has actually been bribed, it is simply an offence of intent. Providing steps are taken by somebody in order to bribe is sufficient in the criminal law if the intent is there. In terms of what the criminal law is and what the election law is, of course

the election offences that were established were all criminal offences. In addition to that there is the 2010 Bribery Act. The Commissioner went into detail as to why the 2010 Bribery Act would be met by the evidence he considered, in addition to the RPA offences. It is a matter of public record that Lord Justice Lloyd Jones and Mr Justice Supperstone in the Divisional Court not only rejected the application for judicial review, but by rejecting the application for permission they found it was not arguable the Commissioner had made an error of law or had made findings of fact that were not substantiated by the evidence in relation to bribery. They specifically agreed, at paragraph 23 onwards of the judgment of the Divisional Court, with Commissioner Mawrey's finding as to the legal test for bribery in this particular instance. All of that was, of course, available. That was only available from 26 January 2016, when we had the judgment in the Divisional Court. Commissioner Mawrey's judgment was available since 23 April 2015. The extension was applied for well before the one year time limit was up. If it was not applied for in relation to bribery it could have been and, in any event, you have the 2010 Bribery Act offence.

Steve O'Connell AM (Chairman): That was useful but I am conscious we are moving into the fourth hour and I do not want to lose anybody.

Caroline Pidgeon MBE AM: The evidence, obviously, was very strong from the court case. Is it possible to turn more hearsay issues into hard evidence that could stand up in a criminal court?

Francis Hoar (Barrister, Field Court Chambers): The question in terms of the bribery is what evidence of hearsay do you need?

Caroline Pidgeon MBE AM: Some of the other of evidence that was given, softer stuff, things people have said. Is it possible to turn that into hard evidence? Could the MPS have done that following this court case with some of the other issues that were raised?

Francis Hoar (Barrister, Field Court Chambers): If you read those paragraphs there is very little reference indeed to evidence of individuals. It is either witness statements of people who did not give evidence in court or other evidence that would count as hearsay that would not be admissible in a criminal court. The vast majority of the evidence referred to in those paragraphs is documentary evidence that is admissible in a criminal context, and also the evidence of a senior officer in the organisation who gave evidence in the election court proceedings and there is no reason to think would not be prepared to give evidence. When it comes to witnesses an important consideration is that witnesses who are unwilling to give evidence can be summonsed. The petitioners had to summons a number of witnesses, successfully, in the election court proceedings. Those powers, of course, exist in a criminal context too.

Caroline Pidgeon MBE AM: The MPS wanted to respond to that. There was clearly strong evidence that could have been taken forward in a criminal court. Why was it not?

Commander Stuart Cundy (Special Enquiry Team, MPS): Two comments from myself, if I may? The burden of proof is exactly the same as it is from a criminal proceedings perspective. There is a difference of sufficiency of evidence between the evidence that is available - which is what His Honour Judge Mawrey has explained in his judgment - and the evidence he heard from individuals with which to seek a CPS decision to charge. I am not going to get into individual case circumstances. It would be wholly inappropriate of me for reasons which you all understand. The allegations Mr Hoar has gone through were fully investigated. There are reasons why there is insufficiency of evidence from a criminal perspective.

Steve O'Connell AM (Chairman): Mr Vamos wants to respond as well no doubt?

Nick Vamos (Head of Special Crime, CPS): Yes, I wanted to make three points. Obviously I am not going to get into individual cases either. Of course, Mr Hoar is correct that hearsay is admissible in a criminal trial. As a general proposition it is equally correct that the Civil Rules of Evidence make far more evidence admissible in an election petition than they ever would in a criminal trial. It is a question of looking at each individual piece of evidence and deciding whether it would be admissible.

The second point is that you cannot summons somebody until you have actually commenced proceedings. If somebody is not willing to give a statement that would enable you to charge somebody there are really no coercive measures you could use to force them to provide evidence.

The final point - and I am not going to argue with Mr Hoar about the details of the judgment - is Commissioner Mawrey himself gives a very good example at paragraphs 338 to 341 of why he was able to draw inferences with his inquisitorial role that would not be available to a criminal jury to find on a criminal standard. It is not a question of the burden or standard of proof, it is a question of the ability to make and draw inferences and the different roles in the court.

Francis Hoar (Barrister, Field Court Chambers): In relation to Councillor Shahed Ali who the Commissioner said --

Steve O'Connell AM (Chairman): Mr Hoar, this is not a courtroom.

Francis Hoar (Barrister, Field Court Chambers): Yes, I understand.

Steve O'Connell AM (Chairman): I have not called you anyway.

Keith Prince AM: I did have some questions, most of which seem to have been asked during the process. However, there is a couple I would like to ask. Firstly, this is of the CPS and MPS as well. I am sure when you came here today you had a view on this but I would like to ask you, in view of what you have heard today what lessons you think can be learned from this case?

Commander Stuart Cundy (Special Enquiry Team, MPS): The main one - which I explained right at the very start and what Councillor Golds eloquently put before us today is a good example of - is coming with a fresh pair of eyes, looking at it from the commencement of the investigations all the way through to the present day and what you see are a lot of things. It is about that communication and engagement to explain things.

There are procedure rules, as Mr Merrett has so eloquently put, that we have to work within. However, there are definitely lessons around that engagement as Sir Ken has already referred to. Lessons from the May 2014 elections in Tower Hamlets were learnt quite quickly, to evolve and develop our collective response to Election Day for 2015. Indeed, there is a planning meeting later this month to plan ahead to May 2018. Undoubtedly there are lessons that have been learnt there.

From an internal policing perspective - and it was touched on a few times in some of that last discussion - it is not all about electoral fraud offences. It is not all about the RPAs [offences under the Representation of the People Act 1983], as we have all acknowledged. There are other offences that the MPS has investigated through other specialist officers, fraud investigators and the like. There is always the need to take that step back. A member of the public who makes an allegation does not know the law. They will say, "This has happened. I think it is this offence." You then rely on investigators with their knowledge and experience and specialist lawyers to say, "Well, actually, there are other offences which you can consider". That is what we

endeavour to do throughout the life of all the investigations. That is a key thing looking ahead to any other election. Yes, it is about events on the day, particularly things around RPA, but it is taking that broader step back as well.

Nick Vamos (Head of Special Crime, CPS): I can well understand, from the outside, somebody looking at Mr Mawrey QC's judgment and then seeing no prosecutions would fail to understand how those two situations can be reconciled.

Tony Arbour AM: That is very astute of you to make that observation.

Nick Vamos (Head of Special Crime, CPS): I completely understand that public perception. However, the CPS can only follow the evidence and apply the law as it stands. As a result of the investigation the MPS conducted, in which we were involved throughout --

Keith Prince AM: I do apologise for interrupting. I am not asking you to justify it. I am asking you the lessons you have learnt, if any.

Nick Vamos (Head of Special Crime, CPS): Yes, sorry, I should have got straight to it. I apologise. The lessons learnt are about engaging with the stakeholders in this process and explaining, as far as possible, within the confines of the law how decisions have been reached or our role in decisions made by the MPS. Obviously, there was confusion about who the decision maker was which was unhelpful. The main lesson for us, as Commander Cundy said, is about engagement and being as open and transparent as possible, as far as the law permits.

Keith Prince AM: In your opinion, at this moment in time, you do not see anything wrong with the process as it has been, and there are no lessons to be learnt for improving the process? It is only the fact you did not communicate how accurately you followed this process?

Nick Vamos (Head of Special Crime, CPS): I cannot talk about individual decisions we made or advice we gave and whether, in hindsight, we should have given different advice. I can only talk about the process as a whole. There was a thorough investigation which we advised upon. We made decisions following the evidence and based on the law.

Steve O'Connell AM (Chairman): That is very helpful, thank you.

Mayor John Biggs (Tower Hamlets Executive Mayor): I am trying to put my finger on where the frustration lies in this. I do understand the points that have been made but as far as a lot of people are concerned, including a lot of people in this chamber today, the Electoral Court judge was very clear that there were 19 people who, in his view, were unlawfully elected. There was the Mayor plus 18 Councillors. Of those the Mayor and one Councillor were disqualified because they were named on the petition. The other 17 were not named on the petition and nothing happened to them. Of those 17, one went to jail because he was found to be guilty of other criminal offences. There are 16 councillors in the Tower Hamlets Council chamber collecting their expenses and participating in decisions who have not really been held to account for anything. Some of them are fairly contrite and recognise that things were wrong. I guess there was an expectation that if the party they were elected under was an improper organisation, as the judge said, that it was not properly registered and did not do things properly, then something further should have happened.

I appreciate all the constraints but there are 27 lever-arch files or whatever. There is a lot of information about what people did or did not do. Although it is very time consuming there is a public interest in terms of

understanding and learning from that, holding people to account and making sure we learn lessons about how a system, which is generally based on trust, may need to be better regulated in the event that other instances like this occur.

Steve O'Connell AM (Chairman): That sums it up perfectly.

Caroline Pidgeon MBE AM: Very, very helpful.

Keith Prince AM: This question has already been asked of Commander Cundy but I would like to ask this question of Robin Merrett, bearing in mind you have not had a lot of time to prepare. You will be aware, I am sure, that the Deputy Mayor for Policing and Crime, said in her letter to this Committee, that the MPS has been both robust and proactive in this investigation. Would you have any idea how MOPAC reached that conclusion?

Robin Merrett (Head of Operational Oversight, MOPAC): Not specifically to that letter dated 21 December [2016]. It is fair to say the conversations and enquiries I have been able to make since I started to be involved in this have certainly given me no reason to doubt the quality of the investigation.

Keith Prince AM: Are you saying that, having heard what you have heard today in this meeting, that you still believe that the MPS has been both robust and proactive in this investigation?

Robin Merrett (Head of Operational Oversight, MOPAC): When taken in the round with the other information I know, yes, I am.

Keith Prince AM: Despite the fact they have not interviewed people, have not taken witness statements, have not investigated 17-plus councillors who are not actually eligible, the fact they have not followed through a raft of other evidence as Mr Hoar has put it, you still believe that their investigation was both robust and proactive, and also the fact they have not been given 27 lever-arch files?

Robin Merrett (Head of Operational Oversight, MOPAC): I said when you take everything in the round. I do not accept the statements you just made in your question. If you listen to the evidence in the round and take in mind the fact I have done enquiries outside this meeting, yes, my position remains that.

Keith Prince AM: Incredible, thank you. Finally, I would like to ask of you, Mr Merrett, how was the MPS held to account following Mawrey's judgment?

Robin Merrett (Head of Operational Oversight, MOPAC): There certainly were conversations between the Deputy Mayor [for Policing and Crime] and the Commissioner over this matter, the exact detail of which I was not privy to. Certainly, there were conversations between the Deputy Mayor [for Policing and Crime] at that time and the Commissioner regarding these matters, and maybe other senior officers.

Keith Prince AM: That is how you believe they were held to account? That is fine, because if you were not there you do not know.

Robin Merrett (Head of Operational Oversight, MOPAC): Yes.

Andrew Dismore AM: Were they minuted?

Robin Merrett (Head of Operational Oversight, MOPAC): I do not know, to be honest.

Andrew Dismore AM: If they were minuted, can we see the minutes?

Robin Merrett (Head of Operational Oversight, MOPAC): I think it is unlikely, to be honest, of that nature.

Steve O'Connell AM (Chairman): If you could confirm that, that would be important.

Andrew Dismore AM: If it was, can we see the minutes, please?

Steve O'Connell AM (Chairman): Yes, that was the point we made.

Tony Arbour AM: I want to ask Sir Ken and Mayor Biggs what has been the result of there not being a prosecution and whether there has not been collusion in some way or another not to bring a prosecution? When I first raised this matter more than a year ago with the previous Mayor I suggested maybe a reason there had not been a prosecution possibly was the 'Rotherham syndrome' where a prosecution may have been misinterpreted or there may have been fear of bringing a prosecution because of community reaction. I want to ask Mayor Biggs and the Commissioner what do they think in Tower Hamlets about the fact there has been no closure, that there has not been a prosecution? Do residents perhaps think that some people have got away with things simply because the police and CPS have decided not to take the matter further?

I have to say, if I may, referring back to the point that I made earlier, that this is the first we have ever heard that there were these extensive conversations between the CPS and the police as to whether or not a prosecution should be brought. We always thought that evidence was presented to the CPS and the CPS decided whether or not there was a case to go on. From what we have heard today it looks as though both of you have decided that there was not anything to go on. That really gives rise to my question, what do the residents of Tower Hamlets think about this?

Mayor John Biggs (Tower Hamlets Executive Mayor): There is no such thing as "the residents of Tower Hamlets" with a single view, obviously. There are quite a lot of people who feel dissatisfied. People who are active citizens in the borough who feel that something went wrong and very few people have been held to account for it, as I have said already.

There is some frustration, and I share some of this, about the competence and willingness of the police to investigate matters. That is not because, in my view, they are politically correct or sensitive to cultural sensitivities. In my view it is because it was not adequately thoroughly prioritised and investigated. There is a question of whether there should be some review. I know I have had this conversation with you at the weekend, Mr Arbour, whether there should be some review of the way in which the MPS investigated this. I think this was first put in my mind by the Commissioner and I am sure that Sir Ken will speak in a minute about the possibility of referring this matter to the HMIC. I have discussed that with the Deputy Mayor for Policing [and Crime] as well. I know that she is minded that is not an appropriate action. I am not persuaded that it is not an appropriate action. There is merit in looking - this is of public interest - at the thoroughness with which this very sensitive matter was investigated.

There is another attribute of this which is that some of the people around the former Mayor have used the absence of prosecutions - and this does not mean there should be a prosecution without evidence - as evidence that nothing was actually wrong. There is a fairly steady rumour in bits of the town and its community that says, "Well, no one's gone to jail, no one's been prosecuted", and therefore this was just some sort of political conspiracy with racist overtones. That strays so far away from the evidence that there is a

public interest in emphasising that people were properly held to account to some degree for this. However, there is a lot of unfinished business there.

Sir Ken Knight CBE QFSM (Tower Hamlets Commissioner): Thank you, Mr Arbour. I entirely agree with that. It is of two halves. In some aspects not just the physical change of direction is required. Underpinning that is cultural change within the whole of Tower Hamlets and at officer level particularly. The culture has changed to trust and openness and one of transparency. Anything that can continue to encourage that journey would be tremendously helpful. Some still are in denial and some would see it slipping backwards to one that is of the secrecy and corruption that, frankly, some of which I found in my grants-making procedures and background.

There are very clear messages about what is right in local government more generally. There is a very keen public interest in doing so across the whole of London, so it is very clear about messaging.

The whistleblowing has been really important. Not only has Mayor Biggs now completely updated, refreshed and changed the whistleblowing policy, which I very much welcome, but actually has a team in at the moment. It is looking at specific areas, over a period, going through those issues where those outside still did not trust the organisation inside, even though we had appointed new statutory officers. That procedure is bearing fruit. Anything that damages that and the implication it is not a trustworthy organisation and the former Mayor was somehow wronged and therefore there was no police prosecution has not been helpful.

The point Mayor Biggs raised is fair. I am aware, as you no doubt are, Chair, that Police and Crime Commissioners can commission HMIC to look at specific areas in their police force and do so. They have done so in a number of other police forces. In the case of London the Deputy Mayor for Policing has the remit and power of the Police and Crime Commissioners. That is an avenue open to the Deputy Mayor for Policing if she so wished to take that view.

Francis Hoar (Barrister, Field Court Chambers): There is one more effect that it is quite important to note of fact that Mr Rahman has not been prosecuted. He has made an application to the Divisional Court to have his disqualifications removed because he has not been prosecuted, arguing that that should be treated like an acquittal in a criminal court. That is obviously a matter of *sub judicæ*. It has not been determined. He has not got permission yet but that is the application he has made directly as a result - I think you are aware of that, Mr Chairman - of not being prosecuted.

Steve O'Connell AM (Chairman): That is very helpful.

Len Duvall AM: Can we now go back to that proactive review you did? I was quite taken by that. I will look at the transcript a bit more closely. Would it be fair for me to come away from this meeting and say that review may be somewhat limited if it did not check the files that were available to the DPP?

Commander Stuart Cundy (Special Enquiry Team, MPS): We would not know if it was going to be limited until we know what other information is available, I think would be the answer. So, the short answer is yes, a review is always going to be limited if it does not look at other material that is then there.

Len Duvall AM: So what is best practice?

Commander Stuart Cundy (Special Enquiry Team, MPS): Those files that were received from the judgment went through to the DPP. My understanding is that they were fully considered and then there were no referrals from that.

Len Duvall AM: Yes, there were no referrals from the Mawrey Committee but you set up a review because you were quite keen to tell me that you were being proactive and following up. Would it not be fair then for me to ask you why you were not proactive in seeking out the files from the DPP in the same vein that you sought to do some work from the Mawrey thing that you were not asked to? I welcome you doing the work because I think that is what proactive policing is about and prevention is about.

Commander Stuart Cundy (Special Enquiry Team, MPS): The files that came out of the judgment are with the DPP who had a counsel sitting within court throughout that judgment. The judgment that was publicly available is what we reviewed. We were not required to do that. As I said earlier, the reason we did that as the police was because of the nature and the public interest factor surrounding that review. I do not sit here to profess that the review that was done would be completely exhaustive, looking at every single thing connected to all the events that have gone on in Tower Hamlets. I listen to what Sir Ken has said about holding to account. There are different ways that individuals can be held to account. It is not just through the criminal process and that is what the police are here for. It is about criminal investigations. Evidence being available is not the same as sufficiency of evidence for a criminal investigation.

Len Duvall AM: But we are looking at the police actively today, but you are right. The Commissioner himself is aware of holding people to account because the intervention there was to hold to account local politicians who were doing wrong. In terms of this, what we need to understand around this Committee is that did the police do the thorough investigation, as one of your colleagues said from the CPS, that we are told that you did, and the evidence in terms of being said here, there is a gap in terms of following through on information that you may have had access to. I would like to move on because I think you have answered that question. Can I just ask, is there, in terms of best practice, who decides to interview whom during an investigation and who do you say, "No, we are not"? Therefore, in that sense, if someone provides evidence, detailed or not, why is that person not interviewed at all, because they are the complainant, they are the potential victim of whatever, or the person bringing the issue. Who decides and at what level is that decision made? How does that work? Is there a policy?

Commander Stuart Cundy (Special Enquiry Team, MPS): There are two answers I can make, so firstly a lot of allegations or referrals that we receive would be third party allegations rather than the individual that was party to whatever occurred. The role of investigators as Investigating Officers, the investigative decisions rest with those individuals. They will seek advice, they will seek guidance from supervisors, managers, CPS if appropriate, in order to make the best informed decisions, but that is the role of an Investigating Officer.

Len Duvall AM: Do you accept that making a judgement call then on who you interview could skewer an investigation? It could skewer an investigation or could it not? What are the checks and balances? How do I know that I want to do this?

Commander Stuart Cundy (Special Enquiry Team, MPS): That is exactly why we have supervision of Investigating Officers who can do that; who can provide the checks and balances.

Len Duvall AM: I still have not understood why the level of people in terms of some of the evidence they were providing, OK, the third-party bit I might get and I do not know the full details, but why were such a number of key people -- I welcome you saying what you are saying and giving the commitment today to say you are going to see Mr Golds and individuals in the audience, however it is something that should have been done some time ago. Someone took a judgement call not to call these people. How does that work and do you not think that, going away from today, you might wish to review that of why you have had to give that commitment to this Committee that a number of people, including Mr Golds, who is quite well known, to be

fair, to the police on those issues that you have to do that. Do you not feel that is worthy of a review in terms of the whole issues around that?

Commander Stuart Cundy (Special Enquiry Team, MPS): As was said earlier, yes, I will speak to Councillor Golds after this, but Councillor Golds was contacted and spoken to a number of times throughout the life of this investigation.

Councillor Peter Golds CBE (Tower Hamlets): No, let us have the dates.

Len Duvall AM: It might not be helpful, but one of the things that we might want to ask and follow up, Chairman, one of the things we might want to follow up is these points, because I think they are quite material and in terms of the investigations that were carried out and I need - and I accept what you are saying - however I would like to see a bit more substantive information around that. Then, finally, I just want to ask in terms of the background, and you can only answer for your section that is doing this work, however a number of issues, a number of concerns arising from the community is the relationship between the police on the ground as well as their relationship with some of the individuals that were involved in the electoral petition around that. There have been subsequently a number of further police investigations I think around youth service fraud as well as grants. Was there a police investigation into grants or was there not?

Commander Stuart Cundy (Special Enquiry Team, MPS): The grants allegation in youth services, yes.

Len Duvall AM: Do those investigations fall under your specialist, not electoral team, but your wider issue in the MPS, or was that dealt with locally?

Commander Stuart Cundy (Special Enquiry Team, MPS): That was before I had taken over the post, however the investigation into the youth services reported through into AC King.

Len Duvall AM: Right, therefore some of your personnel under your command, albeit before you took over, would have been maybe involved in those issues.

Commander Stuart Cundy (Special Enquiry Team, MPS): The investigators from a different part of the MPS are not under my direct responsibility, but are specialist investigators from our Specialist Crime and Operations Business Group.

Francis Hoar (Barrister, Field Court Chambers): I think it might be helpful, Mr Duvall, the other major implications was the housing benefit fraud.

Len Duvall AM: OK. The reason why I am saying that, there are some wider issues, and I suppose the charge here, and I know the Chair will wrap up, however the MPS has a history of being over-sensitive sometimes on dealing with some issues and pulling their punches in internal matters at large, do you know what I mean, it is all there in the public if we want to Google it around those issues. I would like for you to provide in some information about those checks and balances that take place that you have said today to this committee about how these processes around who you consult on these investigations and whether in these particular cases you consulted others who you would not normally consult because it is a sensitive, it is a political case that happens to be Tower Hamlets, it might be those issues around relationships and that what the MPS et does not want to be seen entering into because it is a bit too difficult. How does that work and what do you say to that charge? Because a number of people, not around this table, but some will say it around this table, but others outside will say that the MPS did not do the thorough job that the MPS should have done on this particular occasion

and I think there are some other side issues as well but you are not being asked to account for that today. What do you say to that?

Commander Stuart Cundy (Special Enquiry Team, MPS): I am not quite sure what information you are seeking. You said to provide material, but I'm not quite sure what material you are --

Len Duvall AM: Are you sensitised enough to understand that others may have a view that the MPS did not do the full job because it did not want to upset or it did not want to enter a political environment, all right?

Commander Stuart Cundy (Special Enquiry Team, MPS): I will sit here and say that is most definitely not the case. Now clearly I am not going to provide a running commentary on individual investigations because you know I simply am not able to do that.

Len Duvall AM: I am not asking that.

Steve O'Connell AM (Chairman): I think it is about checks and balances, I think the point you were making.

Commander Stuart Cundy (Special Enquiry Team, MPS): Chairman, I am still not quite clear what is being sought.

Andrew Dismore AM: It is about political interference.

Steve O'Connell AM (Chairman): Yes, it is checks and balances against any temptation to be interfered with politically.

Len Duvall AM: Political with a small P, not necessarily a large P.

Steve O'Connell AM (Chairman): OK, got that.

Len Duvall AM: Within your organisation.

Commander Stuart Cundy (Special Enquiry Team, MPS): I am sorry, Chair, but I am still not clear what is being sought from us.

Len Duvall AM: OK, we might be clearer when we read the transcript and we come back and we will follow up with some further questions.

Steve O'Connell AM (Chairman): The work that is going to happen, and I will sum up, although I will ask one more question, is that we will go away and consider what we have heard this morning, which is thorough, and we will do a separate piece of work to see what recommendation we can make. My last question, because --

Andrew Dismore AM: Chairman, there is one specific question Mr Golds has put to Mr Cundy, which is, "Can you give us the dates when you say you interviewed Mr Golds?" because he says he was not.

Councillor Peter Golds CBE (Tower Hamlets): I am quite aware -- Let's have the dates --

Andrew Dismore AM: It is a simple question, you have made your point, he said he saw you, he wants the dates that he saw you.

Steve O'Connell AM (Chairman): Oddly enough, Andrew, that is going to be part of the summation, because there is a patent disagreement there. I do not want it expressed any further please. There have been two different opinions, we will have an expectation that when those meetings were made with the Councillor you can write to us to tell us when they were. I think that is ultimately very sensible. I do not want to short change anyone, however I am conscious that we are going to be bumped out of here for another meeting in a minute. However, is there anything particularly at perhaps this end of the table that has not been raised that you wanted specifically to see what could have been improved and what can be improved? Mayor?

Mayor John Biggs (Tower Hamlets Executive Mayor): I would like to share with you an anecdote, if you like, about the Electoral Commission code of conduct, which I am sure the Electoral Commission would accept is valid, which was during the election - I cannot remember which election campaign it was - an activist for one of the political parties was found in possession I think of what was alleged to be postal voting material. This appeared to be in breach of the code, which that party is signed up to. I discussed this with the Borough Police Commander at the time and he said, "Yes, there seems to be a clear breach of the code", and the evidence was there. I said, "What is the sanction?" to which the reply was, "Well, it is not a policing matter, therefore the police cannot do anything about it, what we need to do is refer it to the leader of the political party for him to carry out disciplinary action within his group". I think that showed the frailty of the process if you like, and I just wanted to share that with you because, if there is a code of conduct, then it needs to be placed on a more regulated footing in my opinion.

Steve O'Connell AM (Chairman): OK, I think that is a really helpful. Peter, I will give you the last comment.

Councillor Peter Golds CBE (Tower Hamlets): Very quickly, I mean we have the next elections next year, 2014 was merely a rerun of what we had seen before, everything was based around the non-existent unenforceable code of conduct. Let me read to you what the Rahman people are currently saying:

"For some, it is not enough that there was a politically-motivated stitch-up against him without any proof - beyond hearsay and a witch-hunt - as the final decision by the Metropolitan Police Service and the CPS clearly showed after their careful and exhaustive investigation."

In short, in the run-up to 2018, the MPS and the CPS are going to be effectively co-opted to the Rahman campaign. How will you deal with that?

Steve O'Connell AM (Chairman): You do not need to respond to that; however I think it is a point very well made.

Councillor Peter Golds CBE (Tower Hamlets): Suggest they read the report.

Steve O'Connell AM (Chairman): Got it completely, Peter.

Unmesh Desai AM (Deputy Chair): Chair, just two points very quickly, just to put it on record. The answers that you have given to the questions put to you, Commander, and we also have a letter to the solicitor acting for the petitioners sent very recently in fact and the reply is dated 7 February [2017], seeking to take a statement from one of the petitioners. I do not know whether there is a correlation between this correspondence and our investigation, however this is very much a live investigation now.

Commander Stuart Cundy (Special Enquiry Team, MPS): Sorry, it is not about taking a statement, if I can be clear. As part of the review that I have done, and I have been quite up-front throughout this session about

the engagement with key individuals, including petitioners, so that contact with one of the petitioners was at my request because it was clear we had not --

Unmesh Desai AM (Deputy Chair): Right, well it is very much a live investigation.

Commander Stuart Cundy (Special Enquiry Team, MPS): No, it is not about a live investigation at all, Mr Desai.

Unmesh Desai AM (Deputy Chair): No, sorry, I mean in terms of taking the statements from the people indicated in the gallery, from Councillor Golds and others, you are now actively pursuing this matter.

Commander Stuart Cundy (Special Enquiry Team, MPS): No, that is not -- we will engage with them to see what evidence they have, to see what we can then assess and see whether we can then do anything with it. That is not quite the same as a live investigation.

Unmesh Desai AM (Deputy Chair): Well whatever phraseology you would use, and I am going to put it to you directly, maybe more directly than some of my colleagues, that this whole case, and I do not expect you will agree with me, is a litany of incompetence and negligence at the very least.

Commander Stuart Cundy (Special Enquiry Team, MPS): I would dispute that.

Unmesh Desai AM (Deputy Chair): Obviously, you will dispute it. Finally, Chairman, can I also note the sterling work done by petitioners and the work that other agents were supposed to be doing and there are some considerable legal bills.

Sir Ken Knight CBE QFSM (Tower Hamlets Commissioner): I just wondered if I might finally, Mr Chairman, say that much has changed on the elections on the day issues and it is something the Committee might consider in a wider forum at some point. Firstly, there has been much better engagement with the MPS and their understanding and training of what is required, not particularly on their own in silos, but joint training with the council staff who are involved in those same polling stations, which has been essential. The Electoral Commission, which we have talked about, and that area of exclusion to avoid intimidation from outside, the practice of not allowing other languages other than English to be spoken within the polling station, so it was clear and obvious, and including notices, which is quite within the law of course, and indeed those lessons learned were not only orally given to Sir Eric [Pickles] by myself, but actually gave written evidence to his review. While I do not accept particularly that one could replicate that in every London borough polling station, I think on a risk basis it was good to see a police officer in every polling station at recent elections in Tower Hamlets and the new rules enforced. I think that bodes well for the future in that joint arrangement.

Steve O'Connell AM (Chairman): OK, that was obviously most helpful. Thank you for your time.

Unmesh Desai AM (Deputy Chair): It is our longest session.

Steve O'Connell AM (Chairman): It is our longest session, which is good. I think it needed that time. I think what has come out loud and clear is, in Mayor Biggs's words, the unfinished business, the fact that the good residents of Tower Hamlets, many of them do not feel they have had proper closure and I think these are things that we as a Committee will be thinking about. We are going to go away, consider what work we need to do, what other information we need from your good selves. Again, I would thank you very much for this morning.