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Summary

The inquiry concerned the alleged misuse of the royal badge, the crowned portcullis. It was alleged that the Member used an envelope embossed with the crowned portcullis to distribute material of a party political nature, in breach of the rules. The
5 Member said that this did not and could not have happened, and that it was possible that the envelope sent to the Commissioner had been swapped with one used for a parliamentary mailshot from her office.

Following several rounds of inquiries, including an interview with the Member, it was not possible to say whether the Member's account or that of the complainant
10 was more likely to be true. I concluded there was no reasonable prospect that further enquiries would elicit evidence which would result in such a conclusion. In the absence of evidence to substantiate the allegation, it is not upheld.

Michelle Donelan MP: Resolution letter

Letter from the Commissioner to Ms Clare Cape, 29 January 2018

5 The work is now complete on the inquiry into your allegation that Ms Michelle Donelan MP breached paragraph 15 of the House of Commons' Code of Conduct for Members. In the course of the inquiry my predecessor, Kathryn Hudson, corresponded with Ms Donelan and interviewed her. In addition to giving her comments on the allegation and the background to it, Ms Donelan provided answers to Mrs Hudson's specific questions. Mrs Hudson also raised some questions with you and gave you the opportunity to provide further evidence.

10 Decision

Having reviewed all of the material collated in the course of the inquiry, I have decided not to uphold the allegation.

Reason for decision

15 Paragraph 3 of the *Commissioner's Information Note* (a copy of which was sent to you on 28 April 2017) says that an allegation will be upheld if, "*having investigated and considered the evidence, [the Commissioner] is satisfied that it is more likely than not to be true.*"

20 After several rounds of enquiries, I have two conflicting accounts which cannot be reconciled. The evidence available to me does not enable me to reach a conclusion as to which of those accounts is more likely than the other to be true. I do not think that there is any reasonable prospect that further enquiries would elicit evidence which would enable me to reach such a conclusion. In the absence of evidence to substantiate the allegation, I cannot uphold it.

25 I appreciate that this is an unsatisfactory outcome for you and for Ms Donelan. The inquiry might have been concluded sooner but for the General Election. Ms Donelan might also have responded rather more promptly to some of the enquiries made of her. However, I do not think that the delays have had any significant impact on the outcome, given the fundamental disagreement on the key fact.

30 In such circumstances, it is not appropriate for me to seek an apology from Ms Donelan. In common with all Members, Ms Donelan should use House-provided stationery in accordance with the rules laid down for its use and I have no doubt she will bear this experience in mind in future.

This letter and the evidence I have taken into account will be published on my webpages shortly. The matter is now concluded.

35 29 January 2018

Written evidence

1. Letter from Ms Clare Cape to the Commissioner, 14 April 2017

5 I write in connection with letters received from my MP, Michelle Donelan MP. I and some of my neighbours have received these letters during the current local election campaign. While the letters and attached surveys were printed on plain paper, both were enclosed in hand-delivered envelopes with the crowned portcullis motif embossed on the sealing flap.

10 I note that a number of residents across the Chippenham constituency report receiving similar letters with similar surveys over the past few days. I note the timing of these letters and the timing of the local elections.

I understand that these letters breach the rules for the use of the crowned portcullis motif, as detailed on the webpage <http://www.parliament.uk/documents/facilities/Accommodation-and-Logistics/Stationery-rules-March-2015.pdf>. Accordingly I wish to raise this as a formal complaint.

20 Rule 9 of the Stationery Rules state that the motif is used under licence from HM The Queen, and that it should only be used on House business. "It should not be used where its authentication of a connection with the House is inappropriate, or where there is a risk that its use might be wrongly regarded or represented as having the authority of the House."

Because this motif was used in connection with surveying on behalf of the Conservative Party during a local election campaign, it is my belief it has been used inappropriately.

I thank you for your consideration of this matter.

25 *14 April 2017*

Enclosure 1: letter from Ms Michelle Donelan MP to Ms Cape, 3 April 2017

30 Earlier this year, whilst out speaking with Pewsham residents with your local Councillor [name redacted], it was brought to our attention that many local residents are concerned about the volume of heavy traffic which passes through Pewsham. Understandably residents are upset by the noise and the frequency of these vehicle movements and are concerned about the potential risks to school pupils at the beginning and end of the school day.

The lorries are training vehicles from MOD Lyneham and the drivers are either undertaking lessons or advanced military driving exams.

[Name redacted] and I are very concerned from a safety perspective and have been working to find a solution. I am delighted to inform you that I have managed to persuade the MOD Officer in charge of this training that changes do need to be made. I echoed the concerns of local residents and he recognised these. He has now asked the company who delivers the training to avoid the Pewsham area, particularly near the school. Additionally, he has asked the driving examiners to avoid the area during busy times, such as the start and end of the school day.

[Name redacted] has arranged for the training company to give a presentation as part of the agenda at the next Chippenham Town Council meeting on 20 April, 7pm. Any residents with concerns are welcome to attend and I hope this resolves the issues.

Enclosed is a short survey about your views about local issues. I genuinely am interested in what you believe is in the best interests of our town. I will use the information to ensure that I continue to deliver on local priorities.

If you provide me with your email address, I will respond directly to the points you raise and ensure that you receive a report of the results of this survey.

Thank you very much for your time in completing the survey. I very much look forward to hearing your views.¹

Printed and promoted by [name redacted] on behalf of Michelle Donelan MP and [name redacted], both of 12 Brown Street, Wiltshire SP1 1HE

Enclosure 2: Survey

NAME:

ADDRESS:

EMAIL:

PHONE:

1. Which three of Michelle Donelan's pledges to Wiltshire do you think are the most important?

- Providing security in retirement, protecting pensions and pensioner benefits
- More local jobs

¹ Also enclosed, a plain cream-coloured window envelope, embossed with the crowned portcullis

- Supporting hardworking families
- Develop a long-term plan to rejuvenate our towns
- Protect our countryside and village communities
- Improve our transport network (Roads, rail, buses, cycling)

5 2. Which three of Michelle Donelan's local campaigns do you believe to be the most important?

- Fair-funding for Wiltshire schools
- Re-opening Corsham station
- Reducing traffic congestion

10

- Strengthening the support for the homeless
- Improving local train services
- More local jobs
- Improving broadband services and mobile coverage
- First aid in local schools and more defibrillators

15

- Campaigning to support WASPI women
- Improving internet security for children
- More investment in mental health services
- Working the police to reduce anti-social behaviour

20 3. What currently are the most important local or national issues to you or your family?

4. What should be the priority for Chippenham infrastructure improvement?

- Chippenham Hospital
- The Bridge Centre

- The Train Station
- The Town Centre
- More leisure activities
- Reduce traffic

5 5. Turning to national issues, do you think the country is broadly going in...

- The right direction
- The wrong direction
- Unsure

6. In the EU referendum last June, did you vote to...

- 10
- Leave
 - Remain
 - Did not vote

7. With reference to Q6, has your view changed in the months since the referendum?

- Yes
- 15
- No

8. Explain your answer to question 7

How we use your data. Some data we receive from you will probably comprise personal data about you and may include sensitive personal data. The types of information I may collect about you will probably include your name, address and contact information and information about your ethnic origin, opinions, and religious, philosophical and other beliefs. The data you provide will be retained by Michelle Donelan ("the data holder") in accordance with the provisions of the Data Protection Act 1998 and related legislation. The data holder will use the data for the following purposes: (i) to improve our understanding of political life in Wiltshire; (ii) to compile and provide anonymous statistics about residents; (iii) contact you in the future by telephone, text, or other means, even though you may be registered with the Telephone Preference Service, without asking for further permission. Your data will not be sold or given to anyone not connected to the Data Holder. If you do not want the information you give to us to be used in these ways, or for us to contact you, please indicate by ticking the relevant boxes: Post Email SMS Phone"

2. Letter from the Commissioner to Ms Michelle Donelan MP, 28 April 2017

5 I would welcome your help with an allegation I have received from Ms Clare Cape about your compliance with paragraph 15 of the House of Commons Code of Conduct for Members. I enclose a copy of Ms Cape's letter and the enclosures she sent with it.

The scope of my inquiry

The scope of my inquiry will be, in essence, to establish whether you have used parliamentary resources to confer an undue advantage on a political organisation.

The relevant rules and guidance

10 Paragraph 15 of the Code of Conduct (copy of Code enclosed) says that:

15 *"Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their parliamentary duties. It should not confer any undue personal or financial benefit on themselves or anyone else, or confer undue advantage on a political organisation.*

20 The Rules for the use of stationery and postage-paid envelopes provided by the House of Commons, and for the use of the Crowned Portcullis (the stationery rules) say, at paragraphs 2, 3 and 9:

25 *"2. The rules cannot be expected to cover every eventuality; Members should therefore always behave with probity and integrity when using House-provided stationery and postage. Members should regard themselves as personally responsible and accountable for the use of House-provided stationery and postage. They must not exploit the system for personal financial advantage, nor (by breaching the rules in paragraph 3 below) to confer an undue advantage on a political organisation.*

30 *3. House-provided stationery and pre-paid envelopes are provided only for the performance of a Member's parliamentary function. In particular, this excludes using stationery or postage:*

35 *In connection with work for or at the behest of a political party (including fund-raising for a political party, advocating membership of a political party or supporting the return of any person to public office;."*

5 “9. The principle emblem of the House is the crowned portcullis. It is a royal badge and its use by the House has been formally authorised by licence granted by Her Majesty the Queen. It should not be used where its authentication of a connection with the House is inappropriate, or where there is a risk that its use might be wrongly regarded or represented as having the authority of the House. It may be used by Members on their stationery provided by the House or used for their parliamentary functions; by registered All Party Groups (APGs) on their official stationery, reports and websites”

10 A list of examples of the proper use of stationery and pre-paid envelopes is found in paragraph 8 of the stationery rules. This list, which includes “*questionnaires and surveys*” is to be read in the context of paragraph 2 of the stationery rules and paragraph 15 of the Code of Conduct.

Next steps

15 I would welcome your comments on the allegation that your letter amounts to a breach of the House’s rules and the Code of Conduct for Members. In particular it would be helpful to have the following information:

- how the database for the distribution of this letter was populated;
- 20 • whether the paper used to print this was part of your House-provided allocation of stationery;
- whether the envelope in which this letter was sent was part of your House-provided allocation;
 - if it was a House-provided envelope, how the letter and survey came to be sent in such an envelope;
- 25 • whether you consider this letter read either separately or together with the survey could reasonably be considered to be in connection with work for or at the behest of a political party and/or might confer an undue advantage on a political organisation;
 - 30 — if you do not think it could reasonably be interpreted in this way, the reason(s) for that belief;
- how many such letters were distributed as part of this mailing; and
- whether you have used House-provided stationery and/or House-provided envelopes (including postage pre-paid envelopes) to distribute communications containing similar messages and/or surveys since May 35 2015;

- if so, please provide details, including the number of such letters distributed and, if possible, copies of the communications.

I enclose a copy of the *Commissioner's Information Note*,² which sets out the procedure I follow. I am writing to Ms Cape to let her know that I have decided to begin an inquiry into this matter. I will shortly update my parliamentary web pages to show the fact that I am conducting an inquiry into an allegation into an alleged breach of paragraph 15 of the Code of Conduct. My office will not comment further on any aspect of the inquiry to third parties. (They will, however, confirm that I have begun an inquiry if asked before this information is posted on my webpages and they will answer factual questions about the processes I follow and the standards system more generally.)

As you will be aware, my inquiries are conducted in private. This letter and any subsequent correspondence between us is protected by parliamentary privilege until such time as a final report is published. (Any such report will include all the relevant evidence, including our correspondence.) I would, therefore, ask that you respect that confidentiality.

As a matter of courtesy, I should say now that I may make enquiries of the relevant House authorities in due course. If I do so, I will share that correspondence with you. While I do not, at this stage, know whether it will be necessary to interview you about this matter, it would be open to you to be accompanied at any such interview. I am, of course, very happy to meet with you at any stage if you would find that helpful.

I would appreciate your help and co-operation, and welcome your comments on the allegation, together with any evidence you feel may assist my investigation, as soon as possible. Given the proximity of Dissolution, when I will have to suspend my work on this matter, if you are returned to Parliament on 8 June, I would expect a reply no later than 23 June 2017.

28 April 2017

3. Letter from Ms Michelle Donelan MP to the Commissioner, 20 June 2017

Thank you for your letter detailing the allegations made by Ms Clare Cape, raising concerns that I may not have complied fully with paragraph 15 of the House of Commons Code of Conduct for Members. I can categorically say that this is not the case and at all times I have complied fully with the regulations regarding the use of House of Commons stationery and the Portcullis logo.

In April I undertook two separate, and very different, mailing projects.

² <http://www.parliament.uk/documents/pcfs/New%20Website%20Documents/PCS-Information-Note.pdf>

5 Firstly, using parliamentary resources, I wrote to a number of local residents surveying them about what improvements they would like to see in Chippenham. These questionnaires were to inform me in my work as a Member of Parliament. The surveys made no mention of the Conservative Party, any candidates in the local election and did not seek to ask for people's party political views. They fully complied with all regulations regarding House of Commons stationery.

- The database used for this project was Cross Reference. A sanctioned casework management tool paid for using the Independent Parliamentary Standards Authority (IPSA) expenses system.

10 • The paper and pre-paid second class postal envelopes were House-provided stationery from my annual allocation.

15 • A freepost envelope was included with this letter. The freepost address was my registered constituency office and the freepost returns will be claimed through the normal expenses channel and publicly published in due course.

- My parliamentary office staff were responsible for coordinating this project during office hours.

- This letter did not carry a political imprint because there was no requirement to do so. It was not a party-political campaigning letter.

20 • The letter conformed with all regulations.

- This was *not* the letter received by Ms Cape, but it may have been received by some of her friends and neighbours.

25 Concurrently, I undertook a separate mailing project in partnership with [name redacted] who was, at the time, a local Chippenham Town Councillor. This letter, a copy of which you have been sent by Ms Cape, was about a significant local issue in the Pewsham area of Chippenham which a number of local residents had raised with both myself and [name redacted]. I have been working with [her] to find a resolution for many months.

30 In March 2017, my office had discussions with the Ministry of Defence and received assurances that they would address the concerns of local residents. Naturally, I wanted to inform residents of the estate of this development at the earliest opportunity.

35 Mindful of the fact that we were within relatively close proximity to a local election campaign, I was very conscious that I did not want to, or be seen to, misuse any parliamentary resources. With that in mind, I:

- Used plain paper and envelopes for the mailing, purchased through and by the local Conservative Party office using Conservative Party funds. If necessary, I will supply a copy of those invoices.
 - The database used was the Conservative Party's Vote Source tool.
- 5
- The Freepost envelope included was returned to, and paid for by, the local Conservative Party.
 - The letters were distributed by hand by local party volunteer activists.
 - Approximately 1500 of these letters were distributed.
 - These letters contained a legal imprint.
- 10
- It is worth noting that, despite being perfectly within my rights to, I made no reference to the Conservative Party, nor the local elections within these letters. Within the survey I did not ask for people's voting intentions or party-political views. You will also note that I did not use the House of Commons Portcullis motif in this correspondence.
- 15
- I took this decision to ensure that, despite the letters being paid for by the Conservative Party, local residents did not think I was using the issue in order to campaign in the local election and took significant steps to ensure that these letters could not be seen as in any way party political.
- 20
- Parliamentary Commissioner for Standards regulations would not apply in connection with the letter received by Ms Cape because neither the letter, nor the envelope were House of Commons supplied stationery.
- In summary, I undertook two separate, and very different, mailing projects; one in full accordance with all House of Commons regulations and the other paid for and organised completely separately, paid for and distributed by the Conservative Party.
- 25
- It is highly unlikely, but not impossible, that an individual constituent may have received both of these letters. If they had done so, they would certainly have been in different envelopes and different times.
- 30
- It is worth noting that Ms Cape was the Liberal Democrat candidate in the recent local elections and was successfully elected. I trust that you can see Ms Cape's claims are utterly baseless and look forward to receiving formal confirmation of this.

20 June 2017

4. Letter from the Commissioner to Ms Michelle Donelan MP, 3 July 2017

Thank you for your letter of 20 June, which was emailed to me on 26 June 2017. I am grateful to you for the information you have provided.

5 You offered to provide a copy of the invoice for the paper used to distribute the mailshot which Ms Cape received.

10 It may be helpful to say now that I accept that the paper on which the letter was distributed was plain paper, and that it was not part of your House-provided allocation. However, I am less clear about the envelopes used. The envelope which Ms Cape provided was a plain cream-coloured window envelope, with the crowned portcullis embossed on the flap on the back. It is not clear from your letter whether you accept that the envelope(s) used were so embossed. It would, therefore, be very helpful to have as much detail as possible about the relevant purchase and the envelopes you used for this mailshot.

15 I should also draw to your attention that Ms Cape's complaint is specifically about the alleged misuse of the crowned portcullis (paragraph 9 of the stationery rules refers) rather than a more general allegation of misuse of House-provided stationery. If you have paid for and used plain envelopes bearing the royal badge, it would be helpful to have your comments on that point specifically.

20 It is likely that I will need to seek the advice of the House authorities on this matter in due course and that my inquiry will not, therefore, be concluded before summer recess. I will, nonetheless, continue my work on this inquiry and would be grateful for your response to this letter as soon as possible and no later than 17 July 2017.

3 July 2017

5. Email from Ms Michelle Donelan MP to the Commissioner, 24 July 2017³

25 Thank you for your letter requesting additional information regarding case PCS020 which originated from a complaint by Mrs Cape the Liberal Democrat Councillor candidate and now Councillor for Pewsham ward within my constituency. As stated in your letter you agreed the paper was plain but sought clarification on the envelope used. I am sorry if I was not clear enough but I did not want to appear to
30 be accusing a political opponent.

35 As further clarification is needed I would now like to reiterate that the envelopes used for the political mailings (which is what Mrs Cape received) were on plain non-embossed and non-parliamentary envelopes paid by my campaign funds not Parliament. However as I noted in my original statement we did two types of mailings and therefore I believe that Mrs Cape must have invertible or deliberately interchanged the envelopes used with another local resident especially given the

³ This email was received twice in rapid succession

source of the complaint. They were both window envelopes and the same size so this is plausible.

The invoice is attached for the purchase of the envelopes.

24 July 2017

5 **6. Email from the Commissioner to Ms Michelle Donelan MP, 24 July 2017**

This is just to acknowledge receipt of your three emails.⁴ However, you have not attached the invoice which you mention. Please would you send it to me. I will then be in touch again when I have considered your response.

24 July 2017

10 **7. Email from the Commissioner's office to Ms Michelle Donelan MP, 2 August 2017**

15 The Commissioner is away from the office this week and, in her absence, I am emailing to let you know that we have not yet received the missing invoice (referred to in your two emails of 24 July) regarding the complaint from Ms Cape - in case you have put it in the post and it has gone astray. (I have checked Kathryn's inbox and haven't been able to identify a reply email from you; if you have sent one already, it would be helpful if you could forward a copy to me.)

20 Kathryn will be back in the office on 14 August and it would be helpful if you were able to let us have a copy of the invoice before then, so that she may consider your response without further delay. If you are able to send a scanned copy, I think that should be fine.

2 August 2017

8. Email from Ms Michelle Donelan MP to the Commissioner, 16 August 2017

25 I am so sorry for the delay I was on the Parliamentary trip to the USA when you emailed. Please find the invoice attached.⁵ Do let me know if you need anything else – for speed you can always call me on [redacted].

16 August 2017

⁴ Ms Donelan emailed the Commissioner about another matter on the same day

⁵ Enclosure: Invoice for 2,000 cream envelopes at a cost of £270.00

9. Letter from the Commissioner to Ms Clare Cape, 22 August 2017

When I wrote to you on 28 April I explained that I would cease work on my inquiry during Dissolution and, if Ms Donelan was re-elected, I would continue my work after the General Election.

5 My inquiry is progressing and, unusually, I need to seek some further information from you before I may conclude my work. In the course of my inquiry, Ms Donelan has told me that she sent out a number of different mailshots at about the same time as the letter about which you wrote to me (which was dated 3 April 2017). Ms Donelan has also told me about the different despatch arrangements for each of
10 these mailshots.

I would, therefore, be grateful if you would let me know whether there is any possibility that the envelope you sent to me with Ms Donelan's letter of 3 April might have been muddled with the envelope used by Ms Donelan for a letter about a different subject sent at around the same time. Any information you are able to give
15 me which would help me to understand the full circumstances and the degree of confidence you have in your recollection of events would be helpful.

I would be grateful if you would reply as soon as possible and, in any event, no later than 15 September 2017. In the meantime, I should remind you that this matter and all correspondence relating to it remains protected by parliamentary privilege. This
20 means you should not share or discuss the contents of this letter with any third party.

22 August 2017

10. Letter from the Commissioner to Ms Michelle Donelan MP, 22 August 2017

25 Thank you for your email of 16 August providing a copy of the invoice I had requested.

I am writing to let you know that, in light of your previous email (dated 24 July), I have today written to Ms Cape to seek more information from her. I enclose a copy of my letter to her for your information.

I will write to you again as soon as I am able to do so.

30 *22 August 2017*

11. Email from Ms Clare Cape to the Commissioner, 29 August 2017

Thank you for your letter following up on your letter of 28 April.

I can confirm that I only received the one (hand delivered) letter (with survey) from Ms Donelan (dated 3 April), so I have absolutely no doubt that this letter was in the House of Commons envelope previously provided.

5 All the other national and local election related material I received around that time was as printed leaflets without envelopes.

Other people who told me they'd received the same correspondence and envelope did not tell me that they had received more than one letter from Ms Donelan; I believe that if that had been the case they would have said so at the time.

10 The subject of this letter was specific to this ward in the Chippenham constituency; I was aware that a similar mailshot (letter and survey) referring to issues in at least one other ward were also sent to addresses in that ward, using similar envelopes, at around the same time.

I am not aware of any other letter style mail shots sent out by Ms Donelan at or around that time.

15 As requested I have not discussed this matter since receiving your response to my initial letter.

29 August 2017

12. Letter from the Commissioner's Office to Ms Michelle Donelan MP, 22 September 2017

20 The Commissioner wrote to you on 22 August to let you know that she was writing to Ms Cape. We have since received a reply from her and, in the Commissioner's absence from the office, I enclose a copy of Ms Cape's email for your information.

25 The Commissioner has asked me to seek your comments on Ms Cape's recollection and the possibility that you are mistaken about the likelihood that the mailshot she received was sent in House-provided portcullis-embossed window envelopes. Please would you let the Commissioner have your thoughts on this matter as soon as possible and no later than 4 October 2017.

22 September 2017

13. Letter from the Commissioner to Ms Michelle Donelan MP, 5 October 2017

30 [My Complaints Manager] wrote to you on 22 September 2017 enclosing a copy of an email I had received from Ms Clare Cape, and inviting your comments by 4 October 2017. At your request, a scanned copy of that letter was emailed to your email account on 26 September 2017.

I have not, as yet, received a response from you.

In view of the time that has now elapsed since I began this, and my second, inquiry, I would be grateful if you would, as soon as possible, contact my PA, [name redacted], to arrange an appointment in week commencing 30 October, ideally at a mutually convenient time on Tuesday 31 October. I would expect an hour to be
5 sufficient for a meeting in my office (detail redacted) to discuss the outstanding issues arising from the two inquiries.

I would like to understand better:

- how often and on what subjects you have previously sent mailshots of this kind;
- 10 • the criteria for inclusion on the distribution lists for these two mailshots in particular;
- how you envisaged the mailshots contributing to your parliamentary activities between 19 April and 2 May 2017; and
- 15 • the administrative arrangements you had in place to ensure that party political and parliamentary activity was kept separate so that resources provided from the public purse would not be used inappropriately.

In the meantime, if you would provide any comments you wish to make on Ms Cape's email that would be helpful.

5 October 2017

20 **14. Letter from the Commissioner to Ms Michelle Donelan MP, 13 November 2017**

Thank you for coming to see me on 31 October. As agreed, I enclose a draft note of our meeting which I hope captures all of the key points.

25 Please let me know whether you have any corrections or points of clarification as soon as possible and by 27 November 2017 at the latest. Some of the text is in red. (Unfortunately, neither [my Complaints manager] nor I caught [the] second name of [your member of staff] and it would be helpful to have that to complete the note. There were also a couple of points on which [he] offered further information and I would be grateful to have that material with your reply to this letter.)

30 Once I have your reply and any further evidence/information you wish to submit, I expect to make a decision on each of the allegations. I will write to you to tell you my decisions as soon as possible after that.

As you know, each decision will in due course be published, alongside all the relevant evidence. It is likely to include all of our correspondence as well as the

meeting note. (The initials of your office manager will be redacted in the published material.)

Enclosure with letter: note of meeting of 31 October 2017

5 Present: Kathryn Hudson (KH); Michelle Donelan MP (MD); MD's member of staff and the Commissioner's Complaints Manager

Background

The meeting was held at KH's request to seek further information from MD about the background to two allegations of misuse of House-provided stationery.

10 KH asked first about the allegation made by Ms Clare Cape. She reminded MD that she (MD) had telephoned KH at the outset and said that it was possible some of the letters in that particular mailshot might have been put in embossed envelopes by mistake. MD said that there had been two separate mailings. One was party political (the one which Ms Cape had received) and another was parliamentary in nature. 15 These had been prepared for distribution in separate buildings – one political and the other parliamentary. MD said she had checked with her staff and they also recalled this separation of activity. She did not see how the envelopes could have been confused, as she had initially thought might have happened.

20 KH referred to MD's suggestion that in making the complaint, Ms Cape had submitted an envelope which had been used in connection with a different mailshot. MD said that Ms Cape is a local Liberal Democrat Councillor and MD thought that provided motivation; she said that she found the wording of Ms Cape's response to KH odd (the email of 29 August) – in that she refers to "other people" telling her about similar correspondence they had received. MD said she thought it was significant that Ms Cape was the only person to complain; surely others would have 25 done so too?

30 MD said she recalled that, at the time, she was conscious that she had worked on the issue of heavy traffic in Pewsham with a local councillor, and that she had felt it wasn't appropriate to use parliamentary stationery because of that. She said she did not know how Ms Cape would have got the embossed envelope from but, in her view, switching the envelopes would not be "out of kilter" with the general conduct of Liberal Democrat activists locally. She said that she could provide KH with a long list of examples that would demonstrate they do not "play by the rules". KH told MD that she need not provide the suggested list.

35 MD said that she sent out parliamentary correspondence in both pre-paid envelopes and plain embossed envelopes. The latter would be used, for hand-delivery, to keep down costs, where the mail was destined for high density housing except in the most distant parts of the constituency.

KH asked if Ms Cape was on both parliamentary and political mailing lists at the relevant time. MD said she would have been on only the political mailing list at that time but a few months earlier might have been on both. KH asked how these mailing lists were compiled. MD explained that they use separate software packages. [Ms Donelan's member of staff] explained that both were populated using the Electoral Roll. The parliamentary database had fewer options for filtering the data, in particular the political database (Votesource) could be filtered on the basis of party political allegiance where known. KH asked how individuals could be removed from the database and MD explained that names could be completely removed only if the individual was made invisible on the Electoral Roll. However, if an individual asked not to receive mailshots, the databases could be annotated to prevent further mailings. MD said that the political mailing about which Ms Cape had complained had been sent to everyone on the Electoral roll in that ward.

KH asked if that mailshot had been hand-delivered in Ms Cape's area. [Ms Donelan's member of staff] said Pewsham had a fairly high concentration of housing and since 1 July this year (when he had been appointed) hand deliveries were routine there. (He could not say for sure whether that would have been the case in April.)

MD said she really could not explain how the letter to Ms Cape could have been put into an embossed envelope, nor could she explain how Ms Cape would have had one available to her (which could then have been swapped deliberately or otherwise). She said that in future she would keep more thorough records of what had been sent when and by what method.

Vis-à-vis her second telephone conversation with the Commissioner's office, MD said that when she had asked for a duplicate of the Commissioner's original letter about this allegation, her comment that her house looked like a leaflet factory was not relevant to this inquiry. The reference to leaflets was specific, in that leaflets would definitely be party political and the conversation had taken place after the election when she had boxes of unused leaflets at home. The letter to Ms Cape and parliamentary letters sent out before the election would all have been dealt with from the relevant offices.

[The Commissioner's Complaints Manager] asked if it was possible to interrogate the database/find an audit trail which would show which mailing Ms Cape received. [Ms Donelan's member of staff] agreed to check. He later reported that it was very difficult to do, as his predecessor's "log-on" had been removed from the system in the interim.]

KH explained that she would share a draft note of the meeting with MD, for her to comment on factual accuracy. She would also be able to clarify any of the points or to add any further evidence she would like considered. KH would then form a view on each of the allegations and share those with MD.

**15. Extract from email from Ms Michelle Donelan MP to the Commissioner,
28 November 2017**

Thank you for your letter summarising our meeting. [Administrative detail redacted.]

- 5 There were a few things that I felt lacked information that I had given in the meeting or needed further clarity. Please find the comments below and let me know if you have any questions.

10 I do feel that your summary about [this] case does not reflect or in fact mention the point I made a few times, that I did make an initial call saying that a very small number of the envelopes could have possibly been used for the political mailing but I needed to look into the matter and investigate before I could confirm this was the case. I did investigate and do the due diligence in place and given that the two separate mailings (one parliamentary and one political) were indeed organised and administered separately I am confident that they could not have been mixed. In my
15 investigation I spoke with staff and my volunteers and considered that there was no way the embossed envelopes could have got into the production run for the political mailing which was done at my home and campaign office.

To be clear it is the investigation I undertook and explanation of this above that I feel is lacking in the summary.

20 The text states I did not know how Mrs Cape got the embossed envelope - this is true but I did highlight that she could have kept it from a previous political hand delivered mailing or ascertained it from a friend who received a political mailing around the same time. I obviously do not want to guess where she got the envelope but I do think these very reasonable explanations should be noted as I did suggest
25 them in the meeting. This point is referenced again on the second paragraph page 2. The text states that I could not explain how Mrs Cape could have come to have an envelope - I actually gave the possible explanations stated above. The point regarding records is fine but it must be noted that all the notes in the world does not stop people swapping and giving others their envelopes.

30 I am very confused about the comment regarding my home and wonder if there has been some misunderstanding here? I am happy to speak again if so. I did say it was irrelevant because my home was piled with leaflets but not parliamentary stationary. If anything this highlights the separation because the parliamentary was in the office. If you are highlighting that the Commissioners letter was at my home
35 then I can simply inform you that given it was labelled as private and is of a confidential nature I took it home to respond. This does not mean that I do parliamentary surveys and mailings at home which under IPSAs rules can be done by staff in the office so it would be rather daft if I did. If the impression given was that my procedures are not as organised as they could be then I can assure you that
40 the snap election was somewhat of an unusual time - and we honestly had no idea of the volume of leaflets we could get out with no warning hence why there were a lot left over and were stored in my house.

[Remainder of email redacted as it relates to a different allegation.]

28 November 2017

**16. Letter from the Commissioner to Ms Michelle Donelan MP,
7 December 2017**

5 Thank you for your email of 28 November 2017. I have considered very carefully the comments you have made in response to the draft note of our meeting, as well as reviewing carefully all of the material I have collated over the past seven months.

10 As you are aware, Ms Cape has made a clear and unequivocal allegation that the letter she received from you, dated 3 April 2017, was hand-delivered in a plain cream coloured envelope, embossed with the crowned portcullis, and she provided at the outset the envelope in which she said that letter was delivered.

15 You initially told me that a very small number of House-provided envelopes could possibly have been used for this mailshot. After you had investigated you told me that there were two separate mailings (one parliamentary and one political) which were organised and administered separately, and that you were confident they could not have been mixed. You said in your email of 28 November that *“there was no way the embossed envelopes could have got into the production run for the political mailing which was done at my home and campaign office.”*

20 As you know, the rules under which I operate require that I make a decision based on whether it is more likely than not that a breach of the rules has occurred. At present, it appears that neither your, nor Ms Cape’s, accounts are fully evidenced and I am reluctant to make a decision based on the evidence I have so far.

25 While I note that you *“do not wish to guess”* you have suggested, as *“very reasonable explanations”* some scenarios which, if accurate would amount to serious attempts to mislead me by Ms Cape or others. In light of that, I have decided I should contact Ms Cape again, to give her the opportunity to provide the names and addresses of the other recipients of the same mailing whose details are known to her. (Ms Cape’s email of 29 August refers, where she says *“Other people who have told me they’d received the same correspondence and envelope did not tell me that they had received more than one letter from Ms Donelan....”*)

35 I thought it would be fair to tell you before I write to Ms Cape. I enclose a copy of the letter which I intend to send to her. While the content of my letter is for me alone, I wanted to give you an opportunity to provide any further evidence you might wish me to take into account before I write to Ms Cape. I would be grateful if you would respond to this letter, providing any further comments or evidence you would like me to take into account, as soon as possible and no later than noon on 21 December 2017.

Finally, I should perhaps draw to your attention again that while my inquiries are conducted in private, any report published at the end of an inquiry will include all of the relevant evidence, including our correspondence.

7 December 2017

5 **17. Email from Ms Michelle Donelan MP to the Commissioner,
20 December 2017**

10 Thank you for your letter regarding case PCS020 which originated from a complaint by Mrs Cape. I understand the complexities of the case as you have outlined in the letter and your role in resolving it. Therefore I fully understand why you plan to write to Mrs Cape regarding her suggestion that some of her friends also received the same mailing in embossed envelopes. Given that this was over 8 months ago I do ask that the focus be on a search for evidence and not people's memories. As discussed with you at our meeting - I have sent out a number of mailings since becoming a Member of Parliament both political letters (non-parliamentary and not funded by the tax payer) as well as parliamentary letters/surveys hence the importance after an 8 month time lag which may impede memories.

20 December 2017

18. Letter from the Commissioner to Ms Clare Cape, 21 December 2017

20 You may be aware that my term of office comes to an end on 31 December 2017. I will not be able to complete work on this inquiry before then and it will, therefore, be concluded by my successor, Ms Kathryn Stone. In the meantime, I need to seek some further information from you.

25 As you know from my letter of 22 August, Ms Donelan has told me that she sent out a number of different mailshots at around the time she wrote to you, and that the despatch arrangements varied according to the content of the mailshot. At present I have conflicting evidence about which letters were sent in envelopes embossed with the crowned portcullis, which I am trying to resolve.

30 In your letter of 14 April you said "I note that a number of residents across the Chippenham constituency report receiving similar letters with similar surveys over the past few days." In your email of 29 August, you said "Other people who told me they had received the same correspondence and envelope did not tell me that they had received more than one letter from Ms Donelan; I believe that if that had been the case they would have said so at the time. The subject of this letter was specific to this ward in the Chippenham constituency; I was aware that a similar mailshot (letter and survey) referring to issues in at least one other ward were also sent to addresses in that ward, using similar envelopes, at around the same time."

I would be grateful if you would provide the names and addresses of any third parties whom you understand received the same letter and survey as the ones you sent to me, so that I may contact them direct. I realise that, to do this, you will need

to seek their agreement to provide that information to me and to give them an explanation. I would be grateful if you would limit your explanation to the fact that you have made an allegation which I am investigating and that I have told you I wish to contact them. Please also make clear that this matter is confidential and they should not disclose any information about it to anyone else.

Please do not discuss the contents of our correspondence, other than in line with the paragraph above.

I would be grateful if you would reply to Kathryn Stone as soon as possible and, in any event, no later than 10 January 2018.

10 *21 December 2017*

19. Email from Ms Clare Cape to the Commissioner, 4 January 2018

I write in response to a letter received from Kathryn Hudson just before Christmas. I note that at the time of writing, Ms Hudson was about to leave her role.

15 The timing of this letter is unfortunate; it is now almost 8 months since I made the complaint against Ms Michelle Donelan regarding misuse of House of Commons stationery during an election campaign. Although I provided clear evidence at the time that I was not the only person who had received this communication, Ms Hudson has only just asked for contact details of other constituents affected. It is my belief that after this period of time they would add little if any value to the process, would no longer have access to the evidence previously provided and would be disinclined to get involved at this late stage.

20 An apology from Ms Donelan and assurance that no House of Commons stationery will be used for surveys etc during an election campaign in future would be satisfactory, given the length of time since I initiated this complaint.

25 Thank you.

4 January 2018

20. Letter from the Commissioner to Ms Michelle Donelan MP, 15 January 2018

30 My predecessor, Kathryn Hudson wrote to you on 21 December 2017, to confirm that she had written to Ms Cape.

I have since received Ms Cape's answer to Mrs Hudson's letter and a copy is enclosed for your information.

I may uphold an allegation where I am satisfied on the balance of probabilities that it is more likely than not to be true. Having reviewed the evidence collated during

the inquiry, I have two conflicting accounts which cannot be reconciled. The evidence available to me does not enable me to reach a conclusion as to which of those accounts is more likely than the other to be true. I do not think there is any reasonable prospect that further enquiries would elicit evidence which would enable me to reach such a conclusion. In the absence of evidence to substantiate the allegation, I cannot uphold it.

I will write to Ms Cape to inform her of my decision and why I have not made the recommendations she proposed. The content of my letter to Ms Cape is a matter for me alone. However, you are invited to comment on its factual accuracy. I enclose a copy of the written evidence which includes as the first item the draft of my letter to Ms Cape.

Please reply to this letter, with any comments you would like me to consider, as soon as possible and no later than 29 January 2018. I will then write to Ms Cape and post the evidence pack on my webpages. In the meantime, this matter remains confidential and protected by parliamentary privilege. The contents of this correspondence should not be disclosed to any third party until you receive a copy of the final letter when it is sent to Ms Cape.

15 January 2018