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Summary

The allegation I have investigated is that, contrary to the Code of Conduct for Members, Mr Mark Spencer MP used parliamentary resources in such a way as to confer an undue advantage on a political organisation.

5 The boundary between parliamentary and party political content is not neatly or easily defined and Members have, therefore, to take particular care when making any party political references in communications produced using House-provided ICT and/or distributed via a parliamentary email address. I found a number of examples in Mr Spencer's e-newsletters, which were sent from his parliamentary
10 email address, of text which were party political in tone. Taken collectively, I considered them to fall on the wrong side of the boundary. Among the material which concerned me, I found the e-newsletters contained hyper-links to the webpages of local councillors with overtly party political content; I found partisan comments on the outcomes of recent by-elections and I found explicit references to
15 the local council elections in May and, in particular, to the Conservative party's manifesto for those elections.

In communicating my decision to Mr Spencer, I underlined that I made no judgment about the appropriateness of such material in any context other than where House-provided resources are involved. My decision relates specifically to the use of
20 House-provided IT and the parliamentary email address.

Mr Spencer accepted and apologised for his breach of the rules. He identified that his team might benefit from further guidance and my office will liaise with his to ensure that they are offered places on an appropriate workshop. I considered all of that, together with Mr Spencer's undertaking to redouble efforts to avoid another
25 similar breach was sufficient to conclude the matter through the rectification procedure.

Mr Mark Spencer MP: Resolution letter

Letter from the Commissioner to Ms Alice Grice, 18 April 2017

5 I wrote to you on 20 February 2017 to say that I had begun an inquiry into your allegation that Mr Mark Spencer MP had breached paragraph 15 of the Code of Conduct for Members.

10 Having corresponded with Mr Spencer about this matter, I concluded that his e-newsletter (sent from his parliamentary email address) had, on occasion, included material which was party political, rather than parliamentary, in tone and content. The rationale for that conclusion is explained in detail in my letter to Mr Spencer of 15 March.¹ Given that paragraph 15 of the Code says that Members may not use "*facilities and services provided from the public purse*" to "*confer undue advantage on a political organisation*", I upheld the allegation.

15 Mr Spencer has accepted my finding and apologised for his breach of the rules. He has committed to redoubling efforts to avoid breaching the rules in the future. My office will arrange for members of Mr Spencer's staff to be offered places at a workshop on the proper use of House-provided resources. I consider this to be an appropriate outcome, and have concluded my inquiry under the rectification procedure made available through Standing Order No 150 of the House of Commons. This brings the matter to a close.

20 I will report the outcome briefly to the Committee on Standards. In due course, this letter and the relevant evidence (a copy of which I enclose) will be made available on my parliamentary web-pages.

¹ Item 10 in the written evidence pack

Written evidence

1. Email from Ms Alice Grice to the Commissioner's Office, 17 February 2017

5 I am forwarding the email below to you as it is one of several recent misuses of Parliamentary Office by my local MP, Mark Spencer and his office manager, Councillor [name redacted]. As you will see, if you click on the link for more information about the Gedling Housing application, the link takes you through to [the Councillor's] Facebook campaign page for the forthcoming County Council elections in May.

10 There is also a letter in our local newspaper this week, *The Hucknall Dispatch* attacking one of the current county Councillors. It is signed by Mark Spencer MP. However, if you look at the text, it is exactly the same wording as that used by [the Councillor] on his Facebook campaign page. It is worth noting that [the Councillor] is standing against the Councillor who is subject to this attack in May.

15 I sign up to my MP's newsletter to hear how I am being represented in Parliament. I do not expect it to be used as a campaigning tool by his office manager. I also pay my taxes and respect that our Parliamentarians need staff to support them in their role. I do not pay my tax to pay for time and resources for the local Conservative Party County Council election campaign.

20 This is one example of many. I hope you will conduct an investigation into this breach of data use and breach of parliamentary conduct.

17 February 2017

Enclosure 1: Email from mark.spencer.mp@parliament.uk

Extract only reproduced below:

25 "*Council policies encourage fly-tipping by making it increasingly difficult to dispose of waste through the correct channels, according to ITV this week....*

30 *One example locally might be Ashfield's smaller household bins combined with the County's registration and restrictions at recycling centres. I'm please co hear this week that the Conservative Manifesto for the County elections this May will include a plan to re-open the House Waste Recycling Centres (our local Tips) that the Labour administration closed. Click the image for ITV's report...."*

2. Email from the Commissioner's Office to Ms Alice Grice, 17 February 2017

Thank you for your email.

The Commissioner may investigate alleged breaches of the [rules of conduct](#) where she has the name, postal address and signature of the individual making the allegation, together with sufficient evidence to justify her beginning an inquiry. Misuse of IT equipment and software is potentially a breach of one of those rules.

- 5 The Commissioner is out of the office today and I cannot say now whether this is something she would investigate. However, the requirement for a signature (and a written allegation) means that she would be able to begin an inquiry only if you were to put your allegation in the post in hard copy. The address, if you wish to do this, is as follows: Kathryn Hudson, House of Commons, London, SW1A 0AA.
- 10 I do not know whether the Commissioner would begin an inquiry – that is a decision for her personally. However, I think your email gives most of the information she would be likely to need to make that decision. If you make a formal allegation, it might be helpful to say a little more about how you came to be on the mailing list for Mr Spencer’s newsletters. For example, is this something you actively signed up for
- 15 and, if so, what did you understand you would receive?

17 February 2017

3. Letter from Ms Alice Grice to the Commissioner, 20 February 2017

- I am writing following my email to your office dated 17 February 2017. In the response to that email, [your Complaints Manager] asked for further details and for
- 20 the allegations to be put in writing and signed.

- I enclose copies of emails received which I believe could breach data protection rules and are examples of misuse of parliamentary office by my local MP, Mark Spencer, and his office manager, Councillor [name redacted].² These documents are a sample and are by no means unique. I have highlighted in the examples below how
- 25 an MP's newsletter is being used as a campaigning tool for the Nottinghamshire County Council elections in May - where [the Councillor] is a candidate.

- I sign up to my MP's newsletter to hear how I am being represented in Parliament. I do not expect it to be used as a campaigning tool by his office manager, Councillor [name]. I also pay my taxes and respect that our parliamentarians need staff to
- 30 support them in their role. I do not pay my tax for time and resources to be used for the local Conservative Party County Council election campaign.

I hope you will conduct an investigation into this breach of data use and breach of parliamentary conduct.

20 February 2017

² Copies not reproduced here, see extracts from emails at item 7 below

4. Letter from the Commissioner to Mr Mark Spencer MP, 28 February 2017

I would welcome your help with an allegation I have received from Ms Alice Grice about your compliance with paragraph 15 of the House of Commons Code of Conduct for Members. I enclose a copy of Ms Grice's letter and the enclosures she sent with it, as well as a hard copy of an earlier email exchange Ms Grice had had with my office.

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.

I will not be investigating Ms Grice's suggestion of a possible breach of data protection rules. I will explain to Ms Grice that an alleged breach of such rules might be a matter for the Information Commissioner. I will also advise Ms Grice that any concerns she has about the use of [the Councillor's] time while his employment is funded through the public purse would be a matter for IPSA's Compliance Officer in the first instance.

The relevant rules and guidance

Paragraph 15 of the Code says that:

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

The House of Commons "ICT Unacceptable Use Policy", which can be found here on the parliamentary intranet: [hyperlink] says

"What is unacceptable use?"

You must not upload, download, use, retain, distribute, create or access any electronic materials including emails, documents, images, text or software which:

-
- *Could be considered party political campaigning or fundraising and, in the case of Commons Members, private business activity"*

Next steps

I would welcome your comments on the allegations and, in particular, it would be helpful to have the following information:

- 5 • how the database for emails such as the ones sent to Ms Grice was populated;
- how your regular e-newsletters are composed and by whom;
- if the newsletters are composed by someone other than you, what - if any - approval process you have in place;
- 10 • whether this email was produced using hardware provided by the House of Commons, for example, using a PC or laptop provided by the House;
- how links to the Facebook page of a local councillor, who is apparently expecting to be campaigning in the May local elections came to be included in a newsletter sent from your parliamentary email account mark.spencer.mp@parliament.uk;
- 15 • whether you consider that email would confer an undue advantage on a political organisation and, if you do not, the reason(s) for that belief;
- whether your parliamentary email account has been used to distribute similar communications in the past with hyperlinks to party political websites and, if so, over what period of time;
- 20 • what assurance you can provide that data collected in the course of your parliamentary activity is not shared with third parties; and
- what assurance you can provide that those employed by you do not use information obtained in the course of supporting your parliamentary activities for any purposes other than parliamentary activities.
- 25 I enclose a copy of the *Commissioner's Information Note*,³ which sets out the procedure I follow.

I am writing today to Ms Grice to let her know that I have decided to begin an inquiry into this matter. I will also invite Ms Grice to forward to me the emails of which she has provided hard copies with her letter of 20 February 2017, so that I may verify

³ <http://www.parliament.uk/documents/pcfs/New%20Website%20Documents/PCS-Information-Note.pdf>

the hyperlinks she has highlighted. It is possible that, having done that, I may have some additional questions.

I appreciate that you may, as part of routine housekeeping, archive newsletters and other material in the normal course of events and ask therefore that you suspend
5 any such action until I have completed my inquiry.

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
10 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
15 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
20 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
25 as possible and no later than 14 March 2017.

28 February 2017

5. Letter from the Commissioner to Ms Alice Grice, 28 February 2017

Thank you for your letter of 20 February 2017 setting out your allegation of a breach of House of Commons rules by Mr Mark Spencer MP.

30 I have decided to begin an inquiry into whether Mr Spencer has breached paragraph 15 of the Code of Conduct for Members.

As you know, I may investigate only where I have sufficient supporting evidence to justify an inquiry and the allegation has to be put to me in hard copy. The material you submitted in hard copy and by email was sufficient for me to begin an inquiry
35 but, in order to investigate fully, I would also need electronic copies of each of the newsletters for which you provided hard copy with your letter of 20 February. (As I am sure you will appreciate, I cannot follow the hyperlinks you highlighted on the

hard copies without the full internet addresses which lay behind them.) I would, therefore, be grateful if you would forward all of the e-newsletters which you would like taken into account to my Complaints Manager at [address redacted].

5 Your suggestions that Mr Spencer may have breached data protection rules and that [the Councillor] may have engaged in party political activities while employed through the public purse are not within the scope of my inquiry. The former is potentially a matter for the Information Commissioner's Office and the latter is potentially for the Compliance Officer for the Independent Parliamentary Standards Authority (IPSA). If you have evidence to support either of those suggestions, you
10 might raise it with the relevant organisation in the first instance.

I enclose the *Commissioner's Information Note*, which sets out the procedure I follow. I am writing to Mr Spencer to let him know that I have opened this inquiry. In due course, I will include on my parliamentary web pages the fact that I am conducting an inquiry into these allegations but my office will not comment further on any
15 aspect of this inquiry.

Your correspondence with my office is now part of the evidence for this inquiry and is protected by parliamentary privilege. This means you must not share its contents with any third party.

20 I will not give progress reports during the course of my inquiry but I will tell you my decision at the end of my inquiry. When the matter has been concluded my decision, the reasons for it and all the relevant evidence will be put into the public domain.

28 February 2017

6. Email from Mr Mark Spencer MP to the Commissioner, 1 March 2017

I write having received your letter regarding the allegations made by Alice Grice.

25 I am of course very disappointed that Ms Grice has felt the need to come to you, particularly as her allegations are totally unsubstantiated.

I am of course well aware of the Unacceptable Use policy and I can assure you that I have done no party political campaigning or fundraising using my e-newsletter or website.

30 I am more than happy to answer your questions, of course:

How the database for emails is collected: via the sign up page on my website and through contact forms returned by constituents to my Parliamentary office, either from letters sent out or at sign ups at events such as my recent public meetings regarding public transport provision or my Jobs Fair. I believe Ms Grice signed up

directly using my website, and her having included a screenshot of the sign up page would appear to confirm this.⁴

How are they composed and by whom, and what level of oversight do I have:

5 They are composed on the same platform as my website, and all of the data is held there. My Office Manager [name] usually composes them following discussion with myself. They usually consist of just a collation of the posts that have been put out on my Facebook page that week, and therefore it is something that we discuss daily. If [the Office Manager] wants to add anything that has not appeared on Facebook during the week then we discuss that on the Friday prior to the email being sent out
10 that afternoon.

Are they produced on HoC equipment: They are sometimes produced on HoC equipment, and sometimes on a private computer as the system is based online, depending on where we happen to be working at that time. Sometimes we do them from home, or from other places if we happen to be based there for a meeting or
15 similar.

How links to local Councillors pages came to appear: I regularly work with Councillors during my Parliamentary duties, including Cllr [name]. Where a particular Councillor has been dealing with an issue directly that then appears in my newsletter, I consider it sensible to direct residents who wish to engage with that
20 issue with the right representative who is dealing with it. If I work with other Councillors that have active Facebook pages I also link to them, such as below:

<http://www.markspencermpp.co.uk/so/8LeNzrVF#/main>

<http://www.markspencermpp.co.uk/so/3LTxJBMP#/main>

25 Where ever possible I will link residents up with the right person in this way because they are often the best point of contact an a particular issue, though of course I only link to the pages of sitting Councillors and not 'campaign pages' of candidates. Not all Councillors are highlighted and linked with pages because only a small minority of local Councillors have a properly functioning Facebook Page, however it makes perfect sense to me that residents should be able to contact them directly. If Ms Grice
30 is concerned that some Councillors feature more than others, that may be because a) only a very small number have Facebook pages, and b) I obviously communicate and work directly with some more than others, and they having varying levels of prominence due to their roles. Councillor [name] is the Conservative Group Leader and therefore is active and prominent locally, so we are often engaged with some of
35 the same issues.

The pages are not Campaign pages but long-standing local news pages of sitting Councillors. [This Councillor's] goes back 3 or 4 years I believe and has historically always been a 'Councillor' page with the appropriate page title as opposed to a 'Campaign' page, such as '[name] for Hucknall North'. I have in fact just last week

⁴ Not reproduced here

had conversations with some of these Councillors who happen to be standing in the forthcoming elections, to say that if the content of their pages should start to be about campaigning rather than being local issue pages then I will no longer be able to post links. I regularly check this before posting anything and having spoken to
5 [the Councillor] at that time he informed me that would be changing his profile picture, etc. on Facebook to mention the County elections as of yesterday (Feb 28th), and therefore I would not link to that page now that the dynamic has changed, nor of course would I do so during purdah regardless of the content. Councillor [name] is as aware of the rules as me and volunteered this information to me last week
10 to ensure that we did not post anything inappropriate now that he has changed the focus of his page.

Do I consider that this would confer an undue advantage on a political organisation: No I do not. None of the links are intended as party political posts, they are links to the pages of sitting local representatives in order to link residents
15 directly with their Councillor, who I believe to be the right point of contact for them on an issue. I have never mentioned elections in my comments regarding these Councillors, nor have I asked anyone to vote for them.

Has my website been used to distribute links to party political websites: No, I have never distributed that kind of content through my website or e-newsletter.

20 **Assurances re the security of the data:** The data from the newsletter exists solely on that newsletter platform online. It is not kept anywhere else and nobody other than my Parliamentary staff and myself have access to that database. It is used ONLY for my weekly email newsletter.

25 **Assurances that my staff do not mis-use this data:** There would be no benefit whatsoever to my staff using this data for anything other than the newsletter because as local Councillors they already have access to the Conservative Party's data, which is kept centrally in London, and contains far more useful information that my Parliamentary database ever will. My data is simply a list of email addresses
30 with no attached personal details or postal addresses etc, very few entries even have names associated with them, which would be of no use whatsoever for any campaigning purpose.

I trust that answers your questions fully, please do let me know if you have any further queries and of course keep me up to date with your progress.

35 As my Office Manager and regular opener of my post each day, [the Councillor] is obviously also now aware of this complaint and we are both happy to talk further if you wish.

1 March 2017

7. Emails from Mr Spencer's parliamentary email account, <mailto:mark.spencer.mp@parliament.uk> dated 4 November, 9 December 2016,

13 January, 17 and 24 February 2017, forwarded to the Commissioner by Ms Grice on 2 March 2017

5 **Extracts from the email of 9 December 2017:** Items headed "*Controversy at ADC - for a change*", "*Conservatives win in Sleaford*" and "*Figures released this week offer some more positive news for our region:*"

10 "*Last night Ashfield's Council made some fantastic decisions for local residents. Conservative Leader [hyperlink to Councillor's Facebook page] put forward plans to support residents in Bestwood and Papplewick which were agreed unanimously (more below), and they also agreed to his amendment which will see Councillors having to submit to full DBS checks for the first time, and to pay for them out of their own pocket. All very positive!*"

15 "*However following the completion of the main business of the meeting, Independent and Labour Councillors started a party-political slanging match totally unfit for that kind of public forum, which lead to the Conservative Group leaving the meeting in disgust. I know that my colleagues are simply not interested in the petty squabbling that has been an issue at Ashfield for a long time...."*

And

20 "*Yesterday I got up at 5.30 (which is actually a lie in for me as I'm normally up at 4 to get out on the farm) to get over to Sleaford before work, in order to support Conservative colleagues to get Dr Caroline Johnson elected to Parliament. I'm delighted at the resounding victory which is a huge boost for Theresa May and this Government, whilst Labour slipped back in to fourth place behind both UKIP and the Lib Dems. It seems as though they are becoming increasingly irrelevant here in the East Midlands."*

25 And

"*Figures released this week offer some more positive news for our region:*

....

There are now 1,115 more doctors looking after patients in the East Midlands than under Labour, ensuring that people receive the care they deserve...."

30 **Extracts from the email of 13 January 2017:** items headed "*Minister steps in over Hayden Lane*" and "*Stay of Execution for Edgewood Leisure Centre - but the battle isn't over!*"

35 "*After meeting with myself, Hucknall's [hyperlink to the Councillor's Facebook page] and Linby Parish Council last year the Housing Minister has stepped in to raise local concerns about Gedling's plan for 120 additional homes at "Hayden Lane" which we*

believe directly contravene a decision by Planning Inspectors in 2014 to limit housing in that area. We'll be making our case to the Inspectors to fight for local residents."

And

5 *"It is good to hear that the weight of public pressure means Edgewood has a stay of execution. ADC have delayed the decision to close the centre whilst they investigate whether they can move all of the swimming provision to Hucknall. If they find they can accommodate those lessons then Edgewood will still face the chop in the future... but conveniently they won't have to announce it until after May's County Council elections."*

10 **Extract from the email of 17 February 2017:** Item headed "*Gedling Housing discussion ongoing at Inspector's Hearings*"

15 *"You may be aware that during Feb and March Gedling Borough's Local Plan is being heard by an Independent Planning Inspector to see if it's able to go forward. That affects future housing developments across the whole of the Gedling Borough area. The most controversial aspect is around plans to build right on the border with Ashfield, effectively extending the town of Hucknall, without support from local residents or Ashfield District Council. We also believe that some plans might be in direct contravention of a previous ruling by Planning Inspectors, so myself and local Conservative Councillors will speak against those proposals at the hearings. MORE*
20 *DETAILS HERE [hyperlink to Councillor's Facebook page - see below]...."*

The Councillor's Facebook page contained the following material posted on 15 February 2017:

"An update on Gedling's "Local Plan" which includes developments on the borders of Hucknall...."

25 *"Worth noting also - sorry to get political - but whilst myself as a local councillor and Ashfield Conservative Group Leader, [name] the Gedling Conservatives Leader who represents Linby & Papplewick AND our local MP Mark Spencer are all speaking at the hearings AGAINST the Hayden Lane site on behalf of our community, NOT ONE SINGLE*
30 *LABOUR REPRESENTATIVE HAS REGISTERED TO SPEAK OR SAY ANYTHING AT ALL (even though the majority of Hucknall's Councillors are Labour!)*

They are happy to just sit in the audience, tell everyone they attended, but say nothing and do nothing to try and actually achieve anything... Council elections in May. Just saying."

35 **Extracts from the email of 24 February 2017:** Items headed "*An historic night of Parliamentary by-elections*" and "*New lights open in Calverton*"

"This is an extraordinary result for the Conservative Party and the country. We should remember that what happened last night is incredibly rare - you have to go back as far as 1878 to see a governing party gaining a seat in a contest like this. In Stoke too things were positive, as we have not only increased our share of the vote from the General Election, but also received our best share of the vote since 1992. To me it clearly shows that voters are losing faith in Labour in areas that have been staunchly voting Labour for decades."

And

"It's fantastic to see Calverton's new traffic lights up and running, to deal with major safety issues on Whinbush Ln/Oxton Rd. Well done to County Councillor [name] for his successful campaign to make the project happen... good to know that sometimes, with hard work, the system can get things done."

8. Letter from the Commissioner to Mr Mark Spencer MP, 7 March 2017

Thank you for your very prompt response to my letter of 28 February. When I wrote to you then, I said that I had asked Ms Grice to forward to me the emails of which she had provided hard copies with her letter of 20 February 2017, so that I might verify the hyperlinks she had highlighted. Ms Grice has since done that and I enclose hard copies of each of the e-newsletters, together with print-outs of some of the results of following the hyperlinks. (Some of the links are, in fact, to the same sites and I have not duplicated those.)

I will consider carefully the information provided in your email. However, before doing so, I would be grateful for your comments (bearing in mind the questions raised in my letter of 28 February) on this further evidence.

I would be interested in your assessment of whether any of these communications might reasonably be thought to confer, or to be seeking to confer, an undue advantage on a political organisation. It would be particularly helpful to have your views on the following specifically:

- The tone and content of the post on [the Councillor's] Facebook page dated 15 February, where he mentions specifically the participation of Labour councillors in discussion of Gedling's "Local Plan" and refers to the County Council elections in May;
- These references in your e-newsletters:
 - On 24 February: the outcome of the two by-elections and Councillor [name]'s campaign on road safety
 - On 17 February: reference to the council's waste disposal policy and welcoming the Conservative Manifesto for the County council elections;

- Inclusion of a picture of another local councillor in the newsletter of 13 January and an item about the Edgewood Leisure Centre, which includes the following *"If [the council] find that they can accommodate those lessons Edgewood will still face the chop in the future... but conveniently they won't have to announce it until after May's County Council elections"*;
- 5
- On 9 December 2016: an article in which reference is made to a "slanging match" alleged started by other councillors *"which led to the Conservative Group leaving the meeting in disgust"*; an item about the outcome of the Sleaford by-election; and at the end of the newsletter, a statement of how many more doctors there are looking after patients in East Midlands *"than under Labour"*.
- 10

As you will appreciate, the question of whether such phrasing might be seen as attempting to confer advantage on is at the crux of the allegations I am inquiring into. I have not yet reached a decision on this matter and will not do so until I have considered your comments.

15

It would be helpful to have a reply by 21 March 2017.

7 March 2017

9. Email from Mr Mark Spencer MP to the Commissioner, 9 March 2017

20 Thank you for your latest letter. I am of course happy to answer the points you raise. I will deal with your bullet points one by one:

The tone of [the Councillor's] FB post, dated 15th February – I have seen in the enclosed screen-shots you sent that the comments above the picture in this post are obviously party political. In truth I had not seen that and had intended only to link to the non-partisan information contained within the main content of the post (the image). I do not know whether those comments were there at the time of my newsletter or not, though I did not see them at the time and obviously I cannot help if that information has been added subsequently, but as I have said it was not my intention to link to that part of the content.

25

24th of February outcome of two by-elections & Cllr [name] – With regards the by-elections I simply share my personal view ("To me this shows...") and none of that content is any different or more political than what had already appeared in every non-partisan newspaper and news programme that day. It is a widely-held view on the analysis of the result, and was posted after the results were announced so I do not see how that could have unfairly influenced any elections.

30

35

The section about Councillor [name] follows many months of concerted campaigning for a new set of traffic lights by a sitting Councillor and it is right to give credit where it is due. As per my previous email responses following your first letter,

I cannot imagine how this could be seen as unfairly influencing elections when it was posted several months prior to any elections and well before the average 'man on the street' is thinking about such things, and when it does not mention any elections within it. I simply congratulated a local Councillor on achieving something that I had been discussing and pushing for over several months.

Re the comments on Council waste disposal – This was a topical comment following an ITV investigation that aired the previous night. I did not randomly criticise the Council out of the blue, but was commenting on criticism made on the ITV Central news programme. In light of this news segment it naturally linked to the policy proposal by the Conservative Group, and with it being almost three months prior to any elections I did not feel they were relevant. Indeed it is not until your letters made the point that Mrs Grice had considered this to be linked to elections that I had even made the connection. As a sitting Labour Councillor I can only comment that perhaps she is more sensitive to such things than the average person, who in my experience is not even considering elections even now, never mind in mid-February.

Re including Cllr [name] – I cannot see how simply mentioning that I met with a Councillor on an issue could be construed in any kind of partisan way. I was invited by [him] to discuss an issue, I met with him, and my newsletter updates residents on what I have been doing so to me it is an obvious an uncontroversial thing to include.

Re Edgewood Leisure Centre – I have been campaigning to save Edgewood Leisure Centre from closure for many months and was commenting on the positive news that the Council were not immediately going to close it, however I wanted to make it clear to residents and campaigners that it was not yet safe in the long term. The comment that it was 'conveniently delayed until after elections' was a point made during a debate on the issue in the Council Chamber, and it is a factually correct statement that it was delayed. I do not mention party politics at all, and though it may be construed as being 'anti-Council' I think that it is hard to avoid appearing that way when I have been actively campaigning against that Council policy for a long time. I also think that scrutiny of Local Government is a part of my role as an MP, and is very different and separate to party politics.

Re 9th December 'slanging match', Sleaford and 'under Labour' – The 'positive decision' that was taken was directly linked to me and my office, in that I have been campaigning for changes to local Government boundaries that in my mind have a negative impact on services for residents. Therefore it is entirely natural that I would mention a positive step forward on this issue in my newsletter. The 'slanging match' is a matter of public record and voice recordings of it are available for residents to confirm – if you listen you will no doubt find that is an accurate description. It is factually correct and verifiable by that recording that Conservative Councillors did not speak or take part in the argument, and that they left the meeting at that point. The conduct of Ashfield District Councillors is a matter of public interest following damning LGA reports locally that called them a 'basket case' and 'not fit for purpose'. This was front page news a couple of years ago and problems

have been ongoing. I therefore feel that residents should be aware of this ongoing issue, and as I have already said scrutiny of local Government is something that I am expected to do as part of my role.

5 As per my comments on Copeland and Stoke by-elections, I mentioned Sleaford only after votes were counted, and it appeared in my newsletter because, as I state in the text itself, I was there that morning. It could not have affected any results and again my words echo the common themes going around the local news that day.

10 Finally my comment that there are 'more doctors than under Labour' is a statistical fact that formed part of a number of statistics released that week. I am a Member of Parliament but I am also a member of the Government, and therefore I see no reason at all why I should not share Government statistics.

15 Following those individual responses I would like to just add a few comments. Mrs Grice seems now to have progressed from accusing me of supporting candidates, to simply flagging every time I ever mention a Councillor or use the word 'Labour'. To me this is further evidence that this is simply a 'hit and hope' attempt to drag me in to a conflict.

20 It has never been my intention to be party political in my newsletter, though I appreciate that perhaps one or two of my comments could in hind-sight be construed in that way. The reasoning I have laid out in answer to your questions shows why I felt I was within the rules, and hindsight is a wonderful thing. Whether deemed to be party political or not, I remain adamant that I have never deliberately acted or intended to influence the election results in May and as I pointed out in my previous reply to you we had already taken the decision to stop mentioning and 'tagging' Councillors from the end of Feb (prior to your letter) precisely because we
25 did not want to be accused of that kind of influence.

Following our correspondence we have concluded we may benefit from further guidance so have made enquiries about training courses. Something we hope to take up in the very near future.

30 Thank you for your assistance and guidance so far, we look forward to hearing your conclusions in time.

9 March 2017

10. Letter from the Commissioner to Mr Mark Spencer MP, 15 March 2017

Thank you for your email of 9 March. The information you have provided is helpful and I am now in a position to make a decision on Ms Grice's allegation.

35 **My decision**

As you will appreciate, when considering an allegation of this kind, it is appropriate to take into account not only specific instances where the language and/or imagery used is alleged to be party political in nature but also to consider the tone and 'feel' of the communications as a whole. The occasional reference to a political party (for instance) would not automatically lead to the conclusion that a letter or email should not have been sent using House-provided resources but the omission of party political references would not itself be sufficient to avoid a breach of paragraph 15 of the Code of Conduct. It is also important to note that the Code of Conduct does not prohibit only the "*party political campaigning or fundraising*" mentioned in the ICT Unacceptable Use Policy; it encompasses any use which would or is intended to "*confer undue advantage on a political organisation.*"

Having considered very carefully your responses to my letter of 9 March about e-newsletters distributed between November 2016 and the end of February 2017, I have concluded that your use of House-provided IT to produce and circulate e-newsletters has put you in breach of paragraph 15 of the Code of Conduct.

The rationale for my decision

The newsletters I have read contain a mixture of parliamentary and party-political content. The boundary between parliamentary and party political content is not neatly or easily defined and Members do, therefore, need to take particular care when including any party political references in communications produced using House-provided ICT and/or distributed via a @parliament.uk email address. Taken collectively, I consider these newsletters fall on the wrong side of the parliamentary/party political boundary. While my decision rests primarily on a consideration of the newsletters collectively, I hope it is helpful to comment on each of the specific examples I asked you to consider.

You say that the material I identified on [the Councillor's] Facebook was party political. I agree. The post in question was dated 15 February and there was a hyperlink to it in your e-newsletter dated 27 February. The material was still on Facebook on 3 March. On that basis, I think it is reasonable to conclude that it would have been found by readers following the hyperlink in your newsletter of 27 February. I note that you were not personally aware of the party political content at the time and I accept that it was not your intention to link to that part of the content. Nonetheless, it was an inappropriate use of House-provided resources.

You say that your reference to the outcome of two by-elections was "*simply shar[ing your] personal view*". Read in context, I do not think that personal view can be distinguished from party political content. While some of the text might well reflect the assessments made by non-partisan observers, the newsletter refers to the outcome in Stoke as "*positive*" and the overall tone of the item is partisan.

I do not doubt that the fly-tipping reference was topical but the tone of this item is also party political, with a direct and unambiguous reference both to the local Conservative Party Manifesto and to the May elections. I think this specific reference to the forthcoming elections undermines your rebuttal of Ms Grice's suggestion, as

well as the broader point you make about the extent to which the County Council elections figure in the consciousness of “average” members of the public so early in the year.

5 The reference to Councillor [name], given the absence of any value-based comments about him and your meeting with him, would not in itself be a concern. However, I think it is relevant that meetings with local councillors feature regularly in your newsletters and all the councillors mentioned are, as far as I am able to verify, members of your own political party. The copy is intended, I think, to reflect well on a political organisation, and so the use of House-provided resources in this way may
10 confer an undue advantage on a political organisation.

Your explanation of your long-standing involvement in the campaign to “*save Edgewood Leisure Centre from closure*” provides helpful context and I accept your assurance that the wording is factually accurate. However, the words “...but
15 conveniently they won’t have to announce it [the closure] until after May’s County Council elections” are clearly making a party political point.

I have considered the newsletter of 9 December 2016 in particular in terms of its overall tone and content. There are several overt party political references, the most obvious of which is the expression of delight at the “*resounding victory which is a huge boost for Theresa May and this Government, whilst Labour slipped back in to
20 fourth place behind both UKIP and the Lib Dems. It seems as though they are becoming increasingly irrelevant to residents here and I the East Midlands.*”

As the council elections draw closer, the boundary between parliamentary and party political content may become increasingly difficult to navigate and I welcome your decision to cease including hyperlinks to material posted by local councillors in the
25 run-up to the local elections. As the council elections draw closer, the boundary between parliamentary and party political content might become increasingly difficult to navigate. However, I think it is important to recognise that this boundary needs attention at all times, not only during formal campaign periods.

I hope this point by point analysis is helpful. However, I also hope that it does not
30 give the impression that I am making any judgement about the appropriateness of the material in any context other than where House-provided resources are involved. My decision relates specifically to the use of House-provided IT and the parliamentary email address.

In light of all the above, I propose to uphold Ms Grice’s allegation.

35 **Moving to resolution**

I need now to consider how best to resolve this matter. If you were to accept my decision, with your agreement, I would be ready to consider resolving this matter through the rectification procedure. Under Standing Order No 150, I am able to rectify a complaint in these circumstances without submitting a full and formal

memorandum to the Committee on Standards. I would instead write to the complainant, following which the matter would be closed. I would inform the Committee of the outcome and my letter to the complainant and the relevant correspondence would, in due course, be published on my webpages.

5 I may implement the rectification procedure, only if you accept that you were in breach of the Code of Conduct. The Committee would normally expect the Member to have apologised in writing and to have taken any steps I recommend to rectify the breach. It would also be helpful to have a commitment to avoid a recurrence.

10 If you were to agree to the resolution of the complaint on the basis of a rectification, I would prepare a letter to send the complainant. That letter would be brief and refer Ms Grice to the correspondence we have exchanged. While the content is, of course, a matter for me, I would show it to you so that you could comment if necessary on its factual accuracy. I would then write to the complainant closing the complaint.

15 Given the negligible marginal cost of the use of House-provided IT involved, if you agree to the rectification, there would be no need to make a refund to the House authorities. In all the circumstances, I also do not think it is appropriate to ask you to refer the matter to IPSA for them to consider reimbursement of the cost of the clearly small amount of staff time involved.

20 You say at the end of your email that you have already identified the possibility that attendance by your staff at one of the routine workshops on the use of House-resources would be beneficial. I will ask my PA to contact [your office manager] to make the arrangements shortly.

25 I am grateful to you for the information you provided in your first email (dated 1 March) about some of the wider issues. In particular, I welcome your assurance that the database for your newsletter is populated through an active "sign-up" process and that it is used only for that purpose. As you may be aware, the automatic inclusion of the email addresses of those who contact your parliamentary email address might be a cause for concern.

30 I also welcome the assurance that you have personal oversight of the material posted in your e-newsletters. As you know, paragraph 15 of the Code of Conduct makes clear that Members are "*personally responsible and accountable*" for ensuring that their use of publicly funded resources is in accordance with the rules.

Next steps

35 It would be very helpful if you could let me know within two weeks of the date of this letter whether you would like me to rectify the complaint on the basis I have suggested.

In the meantime, thank you for your co-operation with my inquiry.

15 March 2017

11. Letter from Mr Mark Spencer MP to the Commissioner, 28 March 2017

I am writing in response to your letter of 15 March 2017.

5 I would like to start by thanking you for the time you took to investigate the complaint which was made against my office, and keeping me informed throughout the process. Having carefully studied the information which you set out in your letter to me, I have decided that I will accept the decision which you have made, without appeal.

10 In accordance with the content of your letter, I am keen to rectify the situation and take steps to prevent it from happening again. In this vein, I am happy that you have indicated you will contact my office manager, [name redacted], to organise his attendance at one of the routine workshops on the use of House resources.

I am grateful for your offer to show me the letter you will prepare for sending to the complainant, an offer which I will gladly accept.

15 I am clear, as is my office, that we will make doubly sure that such a breach of the Code of Conduct does not take place again. I would like to repeat my thanks to you for keeping me up-to-date with the progression of your investigation.

28 March 2017

12 Letter from the Commissioner to Mr Mark Spencer MP, 30 March 2017

20 Thank you for your letter of 28 March 2017 confirming your acceptance of my finding concerning Ms Grice's allegation that you had breached paragraph 15 of the Code of Conduct for Members and agreeing to my proposal to conclude this inquiry by way of the rectification procedure

25 As promised, I enclose a copy of the evidence pack, which will be published in due course. The only material you will not previously have seen is the summary, on page 2 of the document and the text of the letter I plan to send to Ms Grice, on page 3. I would be grateful to have any comments on the factual accuracy of the material as soon as possible, and no later than 12 April 2017.

30 In my last letter I said that the Committee would normally expect the Member to have apologised in writing and to have taken any steps I recommend to rectify the breach. While I am satisfied in respect of the second of those criteria, I do not think you have yet made the expected apology. I understand, from the tone of your letter, that this is simply an oversight, but I would nonetheless be grateful if you would address that point either:

35 • in your response to this letter for inclusion in the evidence pack, or

- by sending me a fresh copy of your letter of 28 March, updated to rectify the omission.

I would then write to Ms Grice as outlined, post the enclosed material on my webpages and notify the Committee on Standards briefly of the outcome. That
5 would bring the matter to a close. Until then, this matter remains confidential.

Thank you for your prompt and helpful attention throughout my inquiry.

30 March 2017

13. Letter from Mr Mark Spencer MP to the Commissioner, 11 April 2017

10 Thank you for your letter of 30 March. I am grateful for the time you have taken to clarify the Committee's expectation for an explicit apology.

I am clear, as is my office, that the unintended breach of the Members' Code of Conduct was regrettable and as such I offer an unreserved apology for this oversight.

15 I would like to repeat my gratitude to you and to the Committee for keeping me informed throughout the process, and for providing guidance of my office to avoid inadvertently breaching the Code in the future.

11 April 2017