

THE INDEPENDENT INQUIRY INTO CHILD SEXUAL ABUSE

WRITTEN SUBMISSIONS ON BEHALF OF THE COMPLAINANT CORE PARTICIPANTS REPRESENTED BY SLATER & GORDON

1. These written submissions have been prepared by Richard Scorer and Kim Harrison following the hearings. They include the matters advanced in our oral submissions, but also comments on the evidence of witnesses Sinclair, Surplice, Hale, Foulston and Collins which had been omitted due to time constraints.
2. Our submissions address the following areas:
 - Liberal & Liberal Democrat Party knowledge of allegations against Smith, and response to them;
 - Safeguarding in political parties
 - Police whistleblower evidence: Glen, Holmes, Sinclair, Groves, Surplice
 - DPP's handling of Smith file in 1970
 - IOPC
 - Hale
 - Foulston and Collins
 - General comments regarding lessons of the hearings

LIBERAL/ LIBERAL DEMOCRAT KNOWLEDGE OF SMITH ALLEGATIONS AND RESPONSE

3. **Brinton:** The thrust of her evidence about the early 1970s was essentially twofold. Firstly, that the Liberal Party in the early 1970s was highly decentralised, and that the National party organisation had little or no involvement in the selection of parliamentary candidates. Secondly, that the lack of salience of the allegations against Smith in the 1970 general election, and the 1972 bye-election, indicates that these allegations were not really on anyone's radar.
4. The aim of her evidence was to minimise the involvement of the National Liberal Party organisation and HQ in Cyril Smith's early parliamentary career, and to suggest that the allegations against him were not well known at the National level of Liberal party or more widely.

5. Brinton's evidence on these points needs to be treated with caution, and in some respects is clearly wrong. Brinton joined the Liberal Party in 1973, but as she confirmed in oral evidence, her real involvement in the party only came much later. In preparing her statement, Brinton sought assistance from two colleagues, Sir Nick Harvey and Lord Newby. Harvey was born in 1961 and did not become involved in Liberal politics until the 1980s. Newby came into the Liberal Democrats via the SDP, and had no involvement in the old Liberal Party. So none of these three have direct knowledge of events in 1970 and 1972.
6. Brinton is no doubt right to say that the Liberal Party at this time was highly decentralised. However, in her oral evidence, Brinton went further and asserted that Jeremy Thorpe, the Leader of the Liberal Party at that time, had no involvement in Smith's selection because "*at that point he was almost entirely focused on the House of Commons rather than the workings of the party*".
7. This is not only pure supposition on her part; the historical record indicates the opposite. The leading biography of Jeremy Thorpe, published in 2014 identifies that from the early 1960s onwards, before he became Leader in 1967, Jeremy Thorpe was heavily involved, along with Ted Wheeler, in the Liberal Party's winnable seats strategy - the strategy whereby resources would be heavily targeted on winnable Parliamentary seats¹. In particular, Thorpe's biographer notes that a separate bank account was opened to finance the winnable seats strategy, and from the early 1960s onwards this bank account was under the personal control of Jeremy Thorpe himself, as opposed to the Liberal Party organisation. Importantly, this bank account remained under Thorpe's personal control when he became leader, and the biography notes that it was still under his personal control in the late 1970s (when the police started investigating the Scott affair in the late 1970s they examined the bank account to check whether funds from it might have been misused in connection with Scott, but confirmed that they hadn't been). Given that Thorpe retained personal control of the financing of the winnable seats strategy, it seems very likely that he would have paid close attention to the selection of candidates in the seats which formed part of the strategy, of which Rochdale was one.
8. The idea that Liberal Party Leaders did not become closely involved in selection of Parliamentary Candidates is contradicted by Des Wilson's evidence. He told us that when

¹ Jeremy Thorpe by Michael Bloch, published by Little, Brown 2014 pp 160-164

the Liberals were selecting a candidate to stand at the Hove By Election in 1973 he was phoned up by David Steel and in effect offered the candidacy even though he was not even Liberal Party member at the time. Again this suggests a much higher degree of national Party influence over local candidate selection than Brinton acknowledged in her evidence.

9. The evidence of both Michael Steed and Michael Meadowcroft suggests that Thorpe was likely to have been involved, in some way, in Smith's selection in 1970. Steed says that it was "widely believed at the time that Thorpe had fixed it". Meadowcroft confirms the visit to Rochdale of Ted Wheeler, who was Thorpe's chief lieutenant on the winnable seats strategy, which also supports the involvement of Thorpe/ National Liberal Party organisation.
10. We also know from Cyril Smith's own autobiography that Jeremy Thorpe was instrumental in persuading him to stand at the Rochdale By-Election in 1972².
11. A reasonable conclusion on all the evidence is that Jeremy Thorpe and the National level of the Liberal Party probably had some form of involvement in Smith's selection as PPC 1970, although the nature of that involvement is impossible to determine on the available evidence (possibilities include "fixing" it outright, helping to facilitate it, encouraging Smith to put himself forward etc).
12. Meadowcroft's evidence also confirms that Ted Wheeler was aware of the allegations against Smith in 1970. Since Ted Wheeler was head of the LPO, and a close colleague of Thorpe's, he must have informed Thorpe. This is relevant to this inquiry in two respects (1) National Liberal Party knowledge of the allegations against Smith (2) the DPP issue, addressed separately below.
13. Brinton suggested that if the allegations against Smith had been widely known about in 1970 and 1972, they would have been used against him by his political opponents. Again, this simply exposes Brinton's lack of familiarity with the relevant history. In the 1970 election, Cyril Smith's main opponent was Jack McCann, the Labour Member of Parliament. Although Brinton was right to say that there has been a long tradition of hatred between the Labour and Liberal Parties in Rochdale – a tradition which continues to this day – she was clearly unaware that the one exception to that was the 1970 general

² Big Cyril: The Autobiography of Cyril Smith WH Allen & Co 1978 pp117-118

election, the reason being because McCann and Smith were personal friends, a fact confirmed by Smith in his autobiography³. Indeed as noted in the Rochdale hearing, it was suggested at the time that McCann was one of the politicians who might have intervened with the DPP on Smith's behalf. The friendship between McCann and Smith is also noted in the 1979 R.A.P. article (which presumably Baroness Brinton did not read before giving her evidence).

14. As regards the 1972 By Election, the inquiry has adduced the statements from Sir David Trippier and Christopher Horne. Trippier confirms that it was widely known amongst all the political parties in that by-election that there were allegations against Cyril Smith involving indecency with boys. He explains in his statement that the Conservative and Labour Parties felt unable to pursue the matter because their understanding was that the police had investigated and decided to take no further action, and making any allegation would therefore incur the risk of legal action for slander. Trippier confirms in his statement that it was only when he spoke to us that he became aware that in fact Lancashire Police had recommended prosecution of Cyril Smith in 1970. His understanding in 1972, when he was the Conservative Candidate in the By Election, was that the allegations had been investigated by the police and they had decided to take no further action. He explains on that basis, the subject was considered taboo, but it was definitely widely known about. (It is unnecessary for the inquiry to make any finding regarding Horne's claim of a police visit and warning against dissemination of the allegations. The important point is that these allegations were *widely known about amongst all parties competing in the by-election*). Brinton did acknowledge in her evidence that in 1972 the Rochdale Alternative Paper approached the Liberal agent in the by election with the story. This evidence supports Dominic Carman's claim that by 1979 these allegations against Smith had been known about at national Liberal party level for many years.

15. The Liberal Party Press Statement on 22nd April 1979 this also confirms institutional knowledge on the part of the Liberal Party at Westminster of the allegations against Smith before the Rochdale Alternative Paper article was published. The Liberal Party press Statement, suggesting that Smith had "*just spanked a few bare bottoms*", could only have been issued if there had been some prior knowledge on the part of the Liberal Party that such allegations had been made against Smith. This is at odds with David Steel's claim that he only found out about the allegations for the first time in 1979.

³ Ibid p116

16. We invite you to find that the national Liberal Party was fixed with knowledge of the allegations against Cyril Smith from 1970 onwards, but simply took no action to investigate them, and to properly consider Smith's suitability to be an MP.
17. **Steel:** He told the Inquiry that in 1979 he put the allegations in the Private Eye story to Smith, and that Smith confirmed that the story was correct. He confirmed to the Inquiry, under oath, that his understanding was that the allegations against Smith were true.
18. The day after giving his evidence to this inquiry, having unleashed a furore, and also facing the prospect of suspension from the party, Steel sought to "*clarify*" his evidence. He tried to suggest that when he told the Inquiry that Smith had told him that the Private Eye story was correct, what he really meant was that it was correct that the allegations had been made. In other words, Steel attempted to add a qualification to the phrase "Smith told me that the account was correct".
19. However, his evidence to the Inquiry contained no such qualification, and also he told the inquiry that he understood the allegations against Smith to be true. In any case the explanation for his inaction that Steel gave both in his written witness statement and in his oral evidence was not that he didn't believe the report or that he wasn't sure whether it was true. His explanation for his inaction was that Cyril Smith was a member of a different party at the time, and indeed hadn't been an MP when these events occurred. On that basis he claimed that he didn't have any locus to act. So that explanation from Steel of his inaction only makes any sense if he thought the allegations were true. If he didn't think they were true, or just didn't know, he would have given a different explanation for his inaction.
20. We note that Steel has said various things on this issue over the years, some of them apparently contradictory- at one point in 2014 he seems to have been quoted by the BBC as saying that he knew nothing at all about the allegations in 1979. However his evidence to this Inquiry is the only time he has given evidence on this subject on oath. It is also the only time that he has been exposed to the systematic and searching questioning about this subject that he underwent from CTI. Therefore, it can be the only account that the inquiry can rely on.
21. Steel's evidence also entirely validated Des Wilson's analysis – Steel just didn't want to confront Smith, and buried his head in the sand, a complete abdication of responsible leadership. Steel finished his evidence by wishing the inquiry well in its "important work",

but had not troubled to read either the inquiry's Rochdale report or the original R.A.P. article before giving evidence.

22. Given Steel's evidence, we urge the inquiry to be clear in condemning:

- Lord Steel's inaction itself, which was completely unacceptable and unconscionable and indeed very likely permitted Smith to commit further abuse, given that Smith's access to Knowl View School in the 1980s arose by dint of his status as a Member of Parliament.
- Lord Steel's attitude when he came to the Inquiry. Far from recognising the consequences of his inaction, he was completely unrepentant. He did not apologise. There was no evidence of him learning lessons from his failure. On the contrary, he made it clear that he would behave the same way now in the face of the same information (despite not having troubled to inform himself of the evidence against Smith). The claim that he had no locus to act on something that predated Smith's time as an MP is clearly ludicrous – would he seriously say that about any crime that Smith might have committed?
- His attempt to renege on what he had said to the Inquiry two weeks ago by suggesting that the storm had been whipped up by “sensationalist” press headlines.

We submit that anything short of this would give the green light to other politicians and senior leaders in society to ignore abuse should they be presented with clear evidence of it in the future.

23. **Liberal Democrat Party Inquiry in 2012:** Brinton suggested that her Party had attempted to examine these events comprehensively. The conclusion reached by the 2012 Liberal Democrat internal inquiry was that *“no evidence was found to suggest that the party was aware of the allegations against Cyril Smith or acted in any way inappropriately”*. This is self-evidently absurd. Given what we know, only a total sham of an inquiry could have reached such a conclusion. This inquiry was clearly anything but comprehensive.

24. At the end of his evidence Des Wilson was asked whether he had been contacted about the Party inquiry in 2012. He confirmed that he had not been. This is extraordinary: the very first category of witnesses who would be contacted for a proper Party Inquiry would be former presidents of the Party, particularly those who had been active in the party for many decades. They would be the obvious people to have institutional knowledge of how Cyril Smith was dealt with over the years. It would not have been difficult to contact Wilson but the Liberal Democrats failed to do so. Nor did they make any attempt to examine Lord

Steel's own explanation for his inaction. There was no systematic questioning of the kind we heard at this Inquiry. Therefore this so-called Inquiry in 2012 was effectively no Inquiry at all.

25. In summary, the Liberal Party and its successor party the Liberal Democrats are fixed with knowledge of the Smith allegations from 1970, and failed the victims of Cyril Smith over many decades.

26. Our clients have asked us to put on record their anger and disgust not only at Lord Steel's attitude, but at the failure of the Liberal Democrats (other than Des Wilson) to truly acknowledge the party's failings in this regard

SAFEGUARDING ARRANGEMENTS IN POLITICAL PARTIES

27. Everything we've heard in this inquiry, whether in relation to the Liberal Democrats or any other party, suggests that safeguarding at Westminster has a long way to go, across all parties. As set out in our opening, it's one thing to have a safeguarding policy, it's quite another to embed that policy in the party culture so that MPs, party officials and party activists understand it and clearly abide by it.

28. Perhaps the clearest example of that in this hearing was the evidence of Nick Brown, the current Labour Chief Whip, and one of Labour's most experienced parliamentarians. He commented that if confronted with an allegation of child abuse, he would make his own assessment of the credibility of the allegation before deciding whether to pass it on for investigation. In so doing, he rather confirmed his own ignorance of the fundamental principle of safeguarding which is that an allegation should be examined by an independent person with safeguarding knowledge and expertise. A decision on credibility shouldn't be made by a Chief Whip who has no safeguarding expertise and who may well have a pre-existing relationship with the person being complained about. This illustrates the depth of the problem at Westminster – the Labour Party policy looks great on paper, ticks all the boxes, but the Chief Whip – who is more likely than anyone to be in receipt of an allegation – doesn't really understand the policy or the philosophy behind it. This is in a political party which is officially committed to mandatory reporting in its policy programme.

29. An important point for the inquiry to address is what should happen in a situation where an individual is known or suspected of having failed to respond appropriately to safeguarding

concerns as a member of one political party then joins another political party at a later point in time. What action (if any), should the second political party take regarding:

- a) Approval of that person's party membership;
- b) Conditions to be attached to membership if granted (such as training);
- c) Eligibility to hold positions of authority in the party and/or restrictions on the type of party position such a person should be excluded from;
- d) Eligibility to hold positions which involve coming into contact with vulnerable and/or young people in the party;
- e) Eligibility to stand for internal (to positions within the party structure) or external (to political office) elections for the second party.

30. We ask this question arising out of a practical factual scenario that we understand has arisen in relation to the Aimee Challenor case. Evidence to this inquiry given by Liz Reason of the Green Party included the conclusions of the Verita report which was critical of Aimee Challenor's response to her father's arrest and charge in a number of key respects, finding that 'Aimee Challenor, as an officer of the party both locally and nationally, should have considered safeguarding issues'. Aimee Challenor subsequently resigned from the Green Party and joined the Liberal Democrats. We understand that Aimee Challenor currently holds the role as 'Diversity Officer, Coventry Liberal Democrats Executive Committee'.⁴ We also understand that her admission to the Liberal Democrats may have included an agreement not to stand as a council or parliamentary candidate for two years from the date of joining. This may well be something the inquiry wishes to clarify formally with the Liberal Democrats.

31. In our view a role of diversity officer in any political organisation could well involve that party officer coming into contact with young and vulnerable party members and/or children at events, meetings and through day to day work. Consideration needs to be given to how practically a political party should respond to a situation where someone seeks to join it and take up roles of responsibility when safeguarding concerns of some kind have been raised by that person whilst a member of a previous political party.

32. In her evidence to the inquiry Professor Thoburn indicated that the issues raised in paras 21-23 of these submissions were not questions she had actually considered when preparing her report but she accepted fully that these were important considerations that should be considered and due thought should be given to them in the safeguarding

⁴ <https://covlibdems.org.uk/en/contact/aimee-challenor>

policies, procedures and training within political parties. The inquiry may think it prudent to either seek a short supplemental opinion from Professor Thorburn on these issues or form its own view on them when writing its report.

33. In summary, every political party should have a comprehensive safeguarding policy that covers all the areas flagged by Professor Thorburn and also the issues raised by us in the above paragraphs. The policy should also include full and regular training and be easily and visibly communicated to both members and members of the public. The inquiry should look at how compliance with any recommendations made by the inquiry in this area can be made mandatory and it seems to us that will inevitably necessitate an element of sanction for failure to comply.

POLICE WHISTEBLOWER EVIDENCE

34. **Glen:** He gave evidence that in early 1978 he was Inspector at the Clubs Office when one of his teams presented him with evidence which merited the obtaining of an arrest warrant for Smith. Glen stated that: *“...it was quite clear there was good evidence to suggest that Cyril Smith was involved in obscenities with young boys.”*
35. Glen gave compelling evidence that his superior, Chief Superintendent Diver, closed down the operation and said it was: *“...far too political in nature, it would cause political upheaval if we went through with the arrest of Smith.”*
36. Glen was a straightforward and plainly honest witness who gave clear testimony to the inquiry. The motive for Diver shutting down the operation may have been personal rather than orders from higher up – on what we know, either explanation seems possible. Glen’s evidence of an inquiry being shut down was corroborated by Holmes, who clearly recalled it too.
37. **Holmes:** Holmes was an exceptionally compelling witness with an impressive recall of events and the surrounding context. He said: *“The name Cyril Smith was not news....It was expected. We anticipated that he may be seen...I didn’t speak to Bob Glen about any of this at the time but I had close, ongoing squad relationships with Dick Griffin and Pete Lamb who were the most frustrated officers because they were the ones who had done all the work and had been stopped”.*

38. When asked if he meant that he actually knew about what Glen was telling the inquiry, that he knew that either Griffin or Lamb had been the sergeants working on a covert investigation into Cyril Smith which had been shut down by Diver, and that he knew that at the time – Holmes was unequivocal in his answer ‘yes’. So both Holmes and Glen were persuasive witnesses whose evidence on this matter the inquiry should accept.
39. It follows that the conclusion of Operation Beech, that Glen’s allegations are not corroborated, is clearly wrong. Note also that Bryan Collins states that allegations about Smith and rent boys were “*widespread in the force at this time*”.
40. Holmes also gave detailed and compelling evidence on a second operation in the summer of 1978. He confirmed Glen’s evidence that officers in the clubs office took part in covert surveillance and intelligence gathering, in contrast to what Parry told the IOPC in Operation Beech. He spoke of a surveillance operation he undertook with Sinclair in the summer of 1978 focussing around Roddam Twiss, he explained that this operation was based on reliable informant evidence, and he recounted that the operation was terminated after Sinclair, rather unwisely in his view, spoke to a superior officer in the clubs office about extending the operation. Sinclair and Holmes were quickly reallocated to another enquiry. Holmes concluded that their covert surveillance operation into Twiss could have been stopped for three reasons:
1. That very senior officers were actually criminally involved themselves within the homosexual vice world
 2. Corruption – in the sense of receiving money to terminate enquiries. Holmes himself didn’t feel that was likely.
 3. Holmes’ third possibility was that an investigation exposing a person of prominence would have been unwelcome to an ambitious senior officer with aspirations to rise further.
41. Holmes’s analysis was compelling and clearly based on a deep knowledge and detailed recall of police operations at the time and the surrounding context going back to the Playland investigations of the early 1970s. His highly credible evidence was referenced in the Operation Conifer briefing paper but has not yet been properly investigated by the IOPC in a specifically commissioned IOPC Investigation. It is clear that the IOPC should now undertake a full investigation into his allegations.
42. Finally, Holmes made important points about the organised abuse of rent boys in the 1970s. He identified that much of the offending was perpetrated by what he called “the

upper echelons of society” - a term he explained embraced the wealthy and the aristocracy much more than politicians at Westminster, who he indicated were not the main element. Holmes’s point here is supported by the ban on Roddam Twiss entering the Palace of Westminster.

43. Secondly, Holmes explained that after the “Playland” trials in the first half of the 1970s, there was a change in the modus operandi of sex offenders from the upper echelons of society. Rather than risk being caught kerb crawling for rent boys directly, offenders shifted to using middlemen as procurers to reduce the risk of detection. At first blush that might seem inconsistent with a person of prominence such as Smith being under surveillance for kerb crawling. However, we submit that that the Smith case illustrates Holmes’s point rather well- Smith was precisely the sort of person who, by reason of his northern working class background, was unlikely to have had access to the upper echelons of society and the procurers they used, and so would have had to continue to do the procuring himself .

44. **Sinclair**: Sinclair’s claim that he saw Thorpe, Brittan , Heath and Smith visiting the property in Cricklewood Broadway is unreliable and should be disregarded because:

- Holmes- who is clearly completely reliable and has the much better memory - does not support it;
- The claim that these four men - who all moved in slightly different social and political circles- converged in this way at the same or a similar time is inherently implausible;
- If the analysis in para 43 above is correct, Twiss would not be acting as a procurer for Smith.

45. **Surplice**: there is no reason to doubt his recollection of events, but the interpretation he places on them is not justified on the available evidence. Given the timescale between the discovery of the book of contacts on the Friday and the weekend it is highly unlikely all contacts within the book could have been contacted at such short notice and in addition to that, presumably potential victims who would have come to the flat to have their photograph taken would not have been able to be contacted as their details would not have been in the book. The comparison with a pub raid falling through due to a ‘tip off’, where presumably only a limited number of people would need to be contacted is not the same as a whole book full of contacts, whether persons of prominence or not, being contacted. If someone within the police force wanted to tip off only the people of prominence alleged to have been named in the contact book then presumably only they would have been tipped off and not every single name within the book. It may just have been that no-one turned up and

therefore the operation was called off. This is likely to be another example of an officer who is removed from a job without explanation perhaps unsurprisingly reading a sinister interpretation into it (as with Tasker and the 1969-70 Lancashire police investigation into Smith per IICSA Rochdale report para 33). On Roper's evidence, the need to avoid this seems to be recognised by the modern police service, but should be strongly reinforced in your report.

46. **Groves:** Groves was clearly a diligent and committed officer and an entirely honest witness. There is no reason to doubt his recollection that at the commencement of his involvement in Operation Circus, in the early 1980s, he was given to understand at a briefing or meeting by a superior that any operation which ensnared a high profile public figure would be closed down. The specifics of precisely how and when this happened – whether it was in a formal or informal setting - make little difference, because it was never acted on – but the important point is that it was clearly implied, and so is evidence of the culture of deference in operation at that time.

SMITH AND DPP

47. The Inquiry's Rochdale report partly examined the question of whether Smith was protected from prosecution in 1970 by the intervention of a politician or politicians with the DPP (as was rumoured at the time, with Roy Jenkins's name being mentioned). However there are a number of further points on this. We set out in our oral opening the timing and sequence of events in 1970, with Smith being selected as Liberal candidate on 2nd March 1970⁵, before the DPP's decision had been made, but with Smith having previously made clear that he would not seek the candidacy if prosecuted, and that this strongly suggests that the DPP's decision was preordained.
48. In this hearing we heard some further evidence, both specific and general, relevant to this issue.
49. **Jopling** said that he remembered a conversation many years ago with Sir John Cobb QC, and says that Sir John told him that he had been instructed by the DPP to advise in relation to offences by Smith. Jopling was unsure whether this happened around 1970 or a bit later.

50. Even if Jopling's recollection is correct, it is highly unlikely that this could have related to the Lancashire Police investigation. The papers were sent to the DPP on the 13th March 1970 – a Friday- and acknowledged by the DPP on Monday 16th March. The letter back from the DPP containing the recommendation against prosecution was sent on the Thursday, 19th March. The letter from Mr Hutchison, the lawyer at the DPP's office, makes no reference of any opinion of Counsel. It must be highly unlikely that the opinion of Leading Counsel, especially a Leading Counsel this eminent, would not be referred to in the letter if it had been obtained on this occasion. Also, the window in which counsel's opinion would have been obtained was clearly too short for this to happen. The file was received by the DPP on the Monday. This was in the pre email age. The file from Lancashire Police numbered some 80 pages. As stated the recommendation against prosecution was sent back on the Thursday. It is virtually inconceivable that an opinion could have been obtained from Leading Counsel in that very short window, so we submit that whatever was being referred to in the conversation recalled by Jopling cannot have been this instance. This raises the obvious concern that there may have been a separate police investigation on which the DPP obtained Counsel's opinion, but it clearly wasn't this one.

51. We heard other evidence in this hearing which reinforces the likelihood that political pressure on the DPP would have been effective.

52. **Taverne:** Although his evidence concerned the stance of police and the then Home Secretary Roy Jenkins towards prosecution of consensual adult homosexual activity, Taverne's evidence was highly illuminating about the culture of the time. When Jenkins met with the Met Commissioner to discuss police policy in regard to cottaging, and Jenkins asked the police to stop pursuing offenders, the Commissioner responded by pointing out the constitutional impropriety of the Home Secretary instructing him on how to deploy his officers. However, the notable point is that despite his objections, the Commissioner still acceded to the Home Secretary's demand in any event. The Commissioner did what his political master wanted him to do, even if he felt the demand was constitutionally wrong.

53. Secondly, we learnt that even before the meeting, the Commissioner had already unilaterally decided not to uphold the law on cottaging around Westminster. The

⁵ CPS002701_001 (ie page one of 1970 Lancashire Police Report): "At a meeting of the Rochdale Liberal Association on Monday, 2nd March, 1970, he (Smith) was adopted as the Liberal Party's prospective Parliamentary candidate for the forthcoming General Election".

Commissioner did this of his own volition. He didn't even need to be told to do it. And as Lord Taverne explained, his reason for doing it was to avoid embarrassment to politicians. So this was not a case of the Commissioner deciding not to prosecute because society regarded the law as outmoded, or because the law was about to change anyway. The Commissioner said that the reason for not upholding the law around Westminster was that it would be *embarrassing* to MPs and peers. This is a very illuminating statement about the culture of deference at the time.

54. There is further evidence from other sources of Jenkins behaving in that way. The book *A Very English Scandal* describes an incident in 1975/76 when the Jeremy Thorpe scandal was becoming public, and Norman Scott was causing the Liberal Party increasing problems. The Chief Whip of the Liberal Party at that point was Cyril Smith, and Roy Jenkins was in his second stint as Home Secretary. The book describes how Cyril Smith went to see Roy Jenkins to ask for help, and Jenkins offered to assist by drawing the attention of the police to Scott's mental health problems. So there we have Jenkins using his power to help a fellow politician in difficulty, and interestingly we also have Smith clearly seeing Jenkins as somebody who would be willing to help.⁶

55. Lord Taverne also confirmed that regular discussions would take place between the Home Office and the DPP. Whilst the conversation described by Taverne was between the Home Secretary and the Met Commissioner, there is no reason to think that the culture of deference and political influence on display would have been any different in any other part of the system. Indeed there is other evidence from this period demonstrating the DPP's deference and susceptibility to political pressure: See *Reluctant Judas* by Geoffrey Robertson (now GR QC) published 1975. This detailed how the then DPP had approved an arrangement whereby a witness in a terrorist trial committed perjury in order to protect an IRA informant. In other words the DPP allowed a trial to be rigged in order to serve wider political purposes. So clear evidence from that period of the DPP giving way to political pressure.

56. We also got a flavour from Mr Naunton of the culture of the DPP in those days, with the Hayman case being carved up in a private chat between Sir David Napley and the Director himself. As one article put it, a man being exempted from the due process of law because he was well known. Mr Naunton's only beef about this seems to be that as the file handler he would have preferred to be present to take a note. He told us that he would never have

dreamed of asking for an explanation – as he put it, “it would have been impertinent for me to question the decision”.

57. We acknowledge that an intervention by a senior politician or politicians to steer the DPP away from a prosecution recommendation might be more likely if Thorpe had been involved in Smith’s selection as candidate and wanted to ensure that Smith’s candidacy proceeded unimpeded.

58. Although it is impossible to be certain whether a senior politician interceded on Smith’s behalf, it is clear that (1) The sequence of events is strong circumstantial evidence of an intervention on his behalf. (2) The culture of the time, as laid bare by Taverne and Naunton, was such that any senior politician who sought to intervene with the DPP was unlikely to be disregarded. He would be pushing at an open door- even more so when we see the dismissive attitudes to child sex offending within the DPP as illustrated by the Montagu and Hayman cases. We invite you to reflect that in your report.

IOPC

59. As noted in their overview report the IOPC has a statutory duty to secure and maintain public confidence in the police complaints system in England and Wales. Their reports need to be judged through this prism. On the culture of deference, you have heard in this inquiry countless examples from the police and DPP of a culture of deference to prominent persons and the higher echelons.

60. In the face of that evidence, Mr Mahaffey and Ms Roper denied that there had been a significant culture of deference in the force both towards superiors and those of public prominence. Ms Roper stated that she *‘did not recognise that culture of deference’*.

61. Whilst not seeking to impugn the professionalism of either officer, we submit that their failure to acknowledge the evidence of that culture is a cause for concern. Ms Roper dismissed the evidence of Hoodless given in Operation Jordana as being not symptomatic of a culture of deference within the police force because it happened in a pub. But that surely ignores precisely what we learnt from the McPherson Report that the ‘canteen culture’ can be as important in shaping the culture of an organisation as official top down orders. The pub conversation reflects the culture of the force and it clearly reflected the culture of deference within this force to people of prominence. In her evidence Ms Roper

⁶ A Very English Scandal, p214

also seemed to try to simultaneously say that nothing was wrong in the past, that all was well but yet there had been huge improvements, lots had changed and everything was different now. With respect, we submit that it either has to be one thing or the other – either there was a problem in the past which has now been tackled or there wasn't a problem and therefore no improvements were needed.

62. This matters because policing and the investigation of police misconduct cannot command public confidence without honest and critical reflection about where things have gone wrong in the past. Indeed, not only did both officers fail to recognise the culture of deference which plainly existed during the period under examination, they also both gave evidence which suggests that they may themselves, however unwittingly, be continuing to operate within a continuing culture of deference today. For example in her evidence s Roper spoke of a need to take a more 'holistic' approach to the arrest of persons of prominence and to 'be mindful of the impact' that such an investigation could have. It was rather unclear what this meant. However, equality before the law requires that if the threshold for arrest is met then the suspect should be arrested however prominent he or she is. So their evidence on that point left a nagging concern that to this day persons of public prominence may be treated differently to others, and that simply cannot be right.

63. A further issue with the IOPC is a failure to systematically draw together the relevant investigations to identify common themes and concerns. The risk is that individual IOPC investigations are conducted in a siloed fashion with insufficient analysis of how some of the investigations may relate to each other. An example of this is that in Operation Osier there was a failure to recognise that Hoodless in Operation Jordana was at least in part corroborating what Groves was saying about the operation being shut down if persons of prominence were found. It seems that the two officers were talking of different conversations that had been had about this – Groves in a team meeting and Hoodless in a pub with colleagues but it seems clear that this was evidence of the culture of the time which should have been joined up and properly commented on within the report rather than dismissing Groves's allegations as uncorroborated. Mr Mahaffey admitted in oral evidence that the conclusion reached within the IOPC report that Groves' allegations cannot be given any provenance must now be revised given the evidence of Hoodless, which simply wasn't adequately analysed and taken into account when conclusions were drawn.

64. Similarly there is the failure of the IOPC to identify the corroboration that Holmes has now provided to this inquiry, in respect of Glen's allegations. If the IOPC had opened up an investigation into his claims and interviewed him thoroughly about his time at the clubs

office, no doubt he would have told them what he said in oral evidence here. We identified above some further work which the IOPC needs to do on this and other matters.

65. We put forward four recommendations for the future:

- Part of the reason why the quality of Holmes's evidence may have been overlooked may have been because he was interviewed over the phone rather than face to face. In this context this was clearly a false economy, and this mistake should be avoided in the future.
- The IOPC should attempt to make a more rounded and reflective assessment of the credibility of the witnesses they have interviewed. This is very important. Whilst it is right that the IOPC reach robust and evidence based conclusions, an unduly narrow and unfair approach to evidence could disincentivise future whistleblowers.
- The IOPC has the power to compel serving police officers to attend witness interviews in specified circumstances. Given the apparent reluctance of some retired officers to assist with these investigations, we suggest this power be extended to former officers in certain investigations where serious allegations are being made.
- New regulations are required regarding the retention and destruction of police files and documents.

HALE

66. From the questioning of Mr Hale it appears that the inconsistencies between his various statements are mostly his own inconsistencies. Some of these are more important than others. The most significant inconsistency in our view is the change in his account of the contents of the Castle dossier between first publication of his account in July 2014 (via Guy Adams in the Daily Mail) and further versions in January and August 2015, particularly as regards his later recollection of Edward Heath and Leon Brittan. When he first published his account in July 2014, Hale claimed that "16 MPs" appeared in Castle's dossier, and that "Tory minister Sir Rhodes Boyston (sic), a well-known enthusiast for corporal punishment, and Education Secretary Sir Keith Joseph" were mentioned "multiple times". There is no mention of Edward Heath or Leon Brittan. A few days after Leon Brittan's death in January 2015, Hale alleged that Brittan had been a significant figure in the dossier: He alleged that Castle told him that Brittan used special branch as "his own private gestapo". Then in August 2015 Hale claimed (in an article co-written by himself) that Edward Heath featured in the dossier. The claims about Heath and Brittan (a former PM and Home Secretary respectively) are significantly more newsworthy than those relating to Joseph and Boyson,

so it remains unclear to us why these allegations were not mentioned by Mr Hale in July 2014. At the conclusion of his oral evidence this issue remained unexplained.

67. However, it may be that the true explanation of some of Hale's evidence lies in a combination of his own misunderstanding/ misinterpretation of whatever information he was provided with originally- he acknowledged that in 1984 he was not especially knowledgeable about politics- and his later misremembering of it. The various elements of his account of the contents of the Castle dossier could be seen as a muddled version of real world events, some of which occurred earlier than 1984. To take a few examples:

- Circulation of PIE literature amongst MPs – see Jeremy Clarke Albany Trust evidence about all MPs being sent PIE literature
- MPs supporting PIE – it is known that a small number of MPs e.g. Jo Richardson (Labour MP for Barking 1974-1994; died 1994) appeared to be sympathetic to some of P.I.E.'s aims - Richardson had close links with P.I.E. member Nettie Pollard
- Edward Heath chairing a parliamentary committee – see this blog <https://bitsofbooksblog.wordpress.com/2019/02/03/1978-1983-architects-of-pie-infiltrate-islington-gay-youth-group-to-lobby-mps-directly-with-heath-mandelsons-help/> by the respected researcher Charlotte Russell who blogs under the pen-name Cassandra Cogno. This identifies that Heath was chair of an early version of the Youth Parliament and in that capacity chaired a meeting relating to the equalisation of the age of consent as between heterosexuals and homosexuals. This meeting involved some London-based gay groups who appear to have been infiltrated by P.I.E.
- Leon Brittan chairing meetings looking at P.I.E. – as is apparent from the disclosure in this hearing, there were a significant number of internal Home Office meetings during 1983-4 (when LB was Home Secretary) in connection with P.I.E., these followed the assault on the boy in Brighton and the very public campaign by Geoffrey Dickens to have P.I.E. banned.

68. The best way to assess Mr Hale's claims is by comparing them to the historical record. This shows that P.I.E. did appear to achieve some traction and influence in left wing, civil libertarian and gay rights organisations during the late 1970s but this influence declined with the prosecution of O'Carroll in 1981 and by 1984- which was when Hale says his own

involvement occurred – P.I.E. were discredited and facing a public backlash (1983/84 was also the year of P.I.E.'s disaffiliation from NCCL). There was a discussion amongst civil servants in the Home Office about the idea of banning P.I.E. as demanded by Geoffrey Dickens MP – the documents relating to this show civil servants weighing on the one hand, the legal difficulties of a ban and whether it was necessary given that it seemed P.I.E. had largely been neutered- and on the other hand the need to be seen to act given the public anger following the Brighton incident. Nothing about these documents suggests an establishment conspiracy at that stage to promote P.I.E. To the extent that there are legitimate concerns about the influence of P.I.E., these would relate to a few years earlier.

69. However as Gyles Brandreath said – mystery makes for mischief. Conspiracy theories fester in the dark. However for this to be avoided, the historical record has to be open and transparent for all to see. We urge you, when publishing your report, to publish all of the relevant HO documents from 1983-84 so that the true history is readily apparent.

70. There remains the issue of the raid. It seems to us possible that at some point Hale came into possession of sensitive documents and some police action – possibly very mob-handed police action – was taken to retrieve them. We urge you to continue to undertake searches to ascertain whether any such police raid occurred and if so in what circumstances.

COLLINS/FOULSTON

71. Both these witnesses describe interviewing youths at Feltham YOI in May 1976. Andre Thorne, interviewed by Collins, withdrew his allegations very publicly a short time later. The youth interviewed by Foulston now denies making any allegation against Smith.

72. The Thorne allegations obviously have a wider context namely the alleged plot by South African State Security BOSS to smear Liberal and Labour politicians.

73. It seems possible that the events involving Foulston and Collins are connected and we recognise that one possible explanation of Foulston's contact with Special Branch was that the Special Branch officers mistakenly thought they were speaking to officers who had come to interview Thorne.

74. It remains unclear whether the allegations made by Thorne were wholly false or whether in fact he had some form of sexual relationship with Cyril Smith and then, incentivised by offers of money from BOSS, overplayed his hand and made obviously false allegations that he then had to withdraw.

75. Again – as with Hale – the issue is best resolved by transparency and we urge that the police file pertaining to Thorne now be disclosed (in suitably redacted form) and further, that relevant sections of the Special Branch files pertaining to the alleged BOSS plot to smear politicians also be disclosed.

GENERAL COMMENTS

76. In our opening submissions we said that during the course of this three week investigation we would 'go where the evidence takes us'. In 2014, when this inquiry was established, rumours of VIP Paedophile rings were at their height. Some of the headlines from that period were lurid, sensationalist and highly questionable. Through this inquiry some of those conspiracy theories have been exposed as the fictions they always were. But that does not mean that there is nothing to see here. Indeed what has replaced the more fantastical conspiracy theories during the course of this inquiry is perhaps less salacious for the media, but we say far more concerning. From Cyril Smith, to Peter Hayman to Lord Montagu, these hearings have uncovered real and compelling evidence of men evading justice because of their power and social status. There has been evidence of cover up, of more favourable treatment, of deals being done. The evidence has demonstrated a real culture of deference to people of public prominence, and a failure by political parties to grasp even the basic elements of safeguarding.

77. As we said at the beginning, political parties and state bodies have failed to treat the welfare and safeguarding of children as even a factor to be considered. The welfare of children has been a distant concern. We hope the cultural change we called for at the start of this inquiry has at least begun through the process of these three weeks of hearings and will now be driven through from top to bottom.

Richard Scorer

Kim Harrison

5.4.2019

