

1 IN THE HIGH COURT OF JUSTICE Petition No. M/350/14
 2 QUEEN'S BENCH DIVISION
 3 THE ELECTION COURT
 4 IN THE MATTER OF THE REPRESENTATION OF THE PEOPLE ACT 1983
 5 AND IN THE MATTER OF A MAYORAL ELECTION IN THE LONDON BOROUGH
 6 OF TOWER HAMLETS HELD ON 22 MAY 2014

Royal Courts of Justice
 Strand,
 London, WC2A 2LL

Tuesday 3rd February 2015

Before:

MR. COMMISSIONER MAWREY Q.C.

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BETWEEN:

ANDREW ERLAM
 AZMAL HUSSAIN
 DEBBIE SIMONE
 ANGELA MOFFAT

Petitioners

-and-

MOHAMMED LUTFUR RAHMAN

First Respondent

-and-

JOHN S. WILLIAMS

Second Respondent

- - - - -

(Transcription of the stenographic and shorthand notes by
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APPEARANCES

MR. FRANCIS HOAR and MS. KATHERINE HALLETT appeared on behalf of the Petitioners.

MR. D. PENNY Q.C. and MR. M. BAILEY (instructed by K & L Gates) appeared on behalf of the First Respondent.

MR. TIMOTHY STRAKER Q.C. and MS. DILPREET DHANGOIA (instructed by Straker Sharpe Pritchard) appeared on behalf of the Second Respondent.

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P R O C E E D I N G S
DAY TWO

(Transcript prepared without access to a full set of case documents)

HOUSEKEEPING

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2 MR. HOAR: My Lord, just before we begin with Mr. Biggs, we have
3 heard from Mr. Radley, and Mr. Radley will be able to produce
4 that additional report by Friday.

5 THE COMMISSIONER: Very good.

6 MR. HOAR: It certainly helps, because I would certainly rather
7 deal with that evidence when we have it now, from our point of
8 view.

9 Also, I should say that my learned friend has indicated
10 to me he may only be a morning. We will have to see, of
11 course. At the moment, we have only scheduled for this
12 afternoon one witness. I raise the point because, as I am
13 sure your Lordship can imagine, there are considerable
14 logistical difficulties with witnesses and I had not
15 anticipated that only more than one witness would be needed
16 today.

17 THE COMMISSIONER: There will be days, I am sure, when we run out
18 of witnesses and days when witnesses turn up and are not
19 reached. It is inevitable, I am afraid. We will obviously
20 try and keep them to a minimum. The more you and Mr. Penny
21 can liaise about this, the better we will all be, I think.

22 MR. HOAR: I do have authorities on the publication point, if that
23 is in dispute, on section 118A. There may be other things we
24 can do. It is a matter for your Lordship. Perhaps not.

25 THE COMMISSIONER: I am not wildly excited by the prospect of

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HOUSEKEEPING

deciding legal points in the middle of witnesses giving evidence. I think evidence, and then we will have the legal arguments. Obviously, if they arise in the course of evidence, that is a different matter.

MR. HOAR: Yes, of course. In that case, I call John Biggs. He is at file D.

THE COMMISSIONER: 36 and 37.

MR. HOAR: Yes.

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BIGGS

MR. JOHN ROBERT BIGGS, SWORN

EXAMINED BY MR. HOAR

THE COMMISSIONER: Sit down, please, Mr. Biggs.

MR. HOAR: Is your name John Robert Biggs?

A. Yes.

Q. The address is in your witness statement, at tab 37.

Mr. Biggs, you have made two witness statements before this court. The first you can find at file D, which is one of the blue folders. Most of the time, you will be dealing with either that or others of the blue folders or the red folders; and no doubt Mr. Penny will refer you when he needs to. That is a statement that you made on ----

A. Which tab is that?

Q. Tab 36.

A. Yes.

Q. That is a statement that you made on 25th June. If you go to the last page, at page 167, is that your signature?

A. Yes.

Q. And are the contents of that statement true?

A. As far as I can tell, yes.

Q. You made a further witness statement, which is at tab 37. On the last page of that witness statement, at 227, again, is that your signature?

A. It is, yes.

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Q. That is dated 30th October 2014. Are the contents of that statement true, to the best of your knowledge and belief?

A. Yes.

Q. Mr. Biggs, you have exhibited a number of documents. They can largely be found in file F, which is another blue file, at tab 5. So, we have the press release from 27th August. We have the media release at page 867, the Tower Hamlets First media release, "John Biggs dividing the East End", and the reference to the Equalities and Human Rights Committee.

THE COMMISSIONER: The page reference again, Mr. Hoar?

MR. HOAR: Sorry. 867.

THE COMMISSIONER: Thank you.

MR. HOAR: My Lord, I am not going to go through all of these, but Mr. Biggs has a lot of evidence and, as he has just been told, he cannot bring notes into the witness box. So, this is just for his information, to show him where these are.

(To the witness) Your response, in an e-mail, which is a press release, is at page 876, 71. "Lutfur Rahman's smears are an insult to true victims of racism" it is entitled. Then an e-mail to you from Alibor Choudhary, which is at page 878; it is dated 28th February. Then the correspondence initiated by Mr. Jeory about the EHRR complaint is to be found at page 880. No doubt you will be taken to that in due course. The press release from Tower Hamlets First, dated 23rd April,

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is at 889, and there are some responses then exhibited, some social media and further e-mails. Further e-mails before the election you can find at page 909; then, after the election, starting at page 912. That is an e-mail from David Courcoux, of Tower Hamlets. Just for the benefit of the court, David Courcoux is.

A. He was the principal adviser to the Labour group of councillors in Tower Hamlets. He was also formerly a member of my election campaign team, in his spare time.

Q. It continues, and then a rather large number of documents in relation to the housing issue that you have exhibited, which starts at page 971?

A. I hope I am not meant to remember all these numbers.

Q. You will not. You will be taken to them in due course, when you need to be; but just for your benefit, so that you know where they are.

THE COMMISSIONER: It also helps to get the references into the transcript, Mr. Biggs. Just take this to be lawyers' magic, basically. It does serve a purpose. You will not be required to memorise the numbers. It is not a party game.

MR. HOAR: In the old days, you would have spent hours with me asking you questions, but now your witness statement can be your evidence. It is also by way of an introduction. So, that is an individual mayoral decision pro forma, decision log

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number 32, on 7th May 2013. It is page 971 of that bundle. Then you have exhibited another mayoral decision, a corporate grants programme, Board 978. Alibor Choudhary is named. It is not actually redacted. You can see "lead member", if you look very closely. Page 978, if you look at it closely, you can see in the black. Mr. Choudhary, of course, was the cabinet member for resources was he not, at the time?

A. Yes.

Q. In that report, the reason for your exhibiting it is that it shows the grants that were given. At page 987, the scoring, the criteria, the proposals, and so on. It is fair to say, Mr. Biggs, that -- you do not deal with this in enormous detail -- you have exhibited this for a particular reason; is that right?

A. I think I was simply illustrating that a number of grants had been made to media organisations. I think that was the purpose.

Q. Indeed. That takes us almost to the end of your exhibits. We then have, at page 1074, e-mails within the campaign relating to Michael Keith, his response to his old remarks being used by Tower Hamlets First. We see that: "Michael Keith, trying to paint John Biggs as a racist is a cynical act of electoral dirty politics". He says: "Labour has strongly rebutted another wild claim of racism from Lutfur Rahman's supporters,

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2 after they claimed that former leader of the Council, Michael
3 Keith, had labelled Biggs a racist. Keith has come out in
4 full support of Biggs, labelling Rahman's character attacks as
5 scraping the gutter. Labour described Rahman's baseless
6 smears as the last ditch effort attempt of a desperate man.
7 They argue that whilst Labour are focused on policy and
8 speaking to residents, Lutfur Rahman is out of ideas and
9 resorting to baseless character attacks." Then it quotes
10 Mr. Keith. It also quotes the Leader (at that time) of the
11 Labour Group, Councillor Sirajul Islam. I think the Leader of
12 the Labour group is now Rachel Saunders; is that right?

13 A. Yes.

14 Q. Previous to that, it was Joshua Peck, until about 2012?

15 A. I believe so, yes.

16 Q. He remains a councillor. You then have exhibited some
17 newspapers; again, another e-mail during the election campaign
18 itself from David Courcoux, at page 1077, and that is
19 addressed to Sirajul Islam, Councillor Saunders, yourself,
20 Monsa Islam, Jim Fitzpatrick MP, Chris Weavers. Chris Weavers
21 was the -- I think still is, in fact -- the election agent for
22 Tower Hamlets; is that right?

23 A. Yes, and he is also the Chairman of the Tower Hamlets Labour
24 Party.

25 Q. Indeed. That e-mail talks about concerns raised about the

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accuracy of an original press release by the Metropolitan Police, who have retracted that, and talking about an active fraud investigation, suggesting drafting a statement, copying to Rushanara Ali, MP for Bethnal Green and Bow; is that right?

A. Yes.

Q. And Jim Fitzpatrick is MP for Poplar, is it?

A. Poplar and Limehouse.

Q. And the press release clarification update, following BBC Panorama on London Borough of Tower Hamlets, and it talks about the Met receiving three files of material from the Department of Communities and Local Government. "They have been retrieved by a number of officers, who have liaised with PwC, who are conducting a wide-ranging audit of financial matters". There is another e-mail earlier, on 31st October, if you turn the page, from Sirajul Islam, about Ofcom complaints, which relate, I think, to two of the broadcasts which are featured in this petition. It is not a matter for you, but I believe that is right.

On 10th June last year, at page 1080, is an e-mail from you to the Electoral Commission about the count. The count is now not an issue. Then, finally, I think that pretty much deals -- yes, the remaining e-mails are also to the Electoral Commission.

Mr. Biggs, I just wonder, if I may -- if your Lordship

BIGGS - HOAR

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considers it inappropriate, your Honour will no doubt stop me,
and so will Mr. Penny -- you have given evidence that there
were, over the course of well over half a year, a large number
of press releases from the mayor's office and from Tower
Hamlets which, in your view, accused you of racism. How did
that make you ----

MR. PENNY: I am very sorry, but ----

THE COMMISSIONER: I think you are right, Mr. Penny.

MR. HOAR: Very well.

THE COMMISSIONER: I think this goes just the other side of the
line, Mr. Hoar.

MR. PENNY: The other thing, of course, is that Mr. Hoar can
re-examine. It is not as if he is closed out from asking
questions of the witnesses in due course, but there is just a
procedure, and ----

THE COMMISSIONER: You are pushing at an open door, Mr. Penny.
I think, Mr. Hoar, we will allow that to be explored by
Mr. Penny, and then of course, as Mr. Penny says, you have the
right to re-examine. So, you can come back on that one.

MR. HOAR: I will.

THE COMMISSIONER: I think the answer is to leave it to
cross-examination and then come back on any points.

MR. HOAR: Indeed. I am grateful. (To the witness) Mr. Penny
will have some questions.

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BIGGS

CROSS-EXAMINED BY MR. PENNY

THE COMMISSIONER: Mr. Penny, remember of course that we will be having a break at an appropriate time in about an hour's time. So, do not be surprised if I give you the sign.

MR. PENNY: Thank you, my Lord. Mr. Biggs, do you regret anything about your conduct of your campaign to be the mayor of Tower Hamlets?

A. I regret that we did not win.

Q. Your conduct was the question.

A. My conduct.

Q. Yes, your conduct.

A. Not substantially. I do not think so, no. I got a bit crabby with my campaign team from time to time. In my defence, I was going through quite an acrimonious divorce at the time. So, I found it quite stressful. I had just put my mother into a care home, which has been quite stressful as well. So, emotionally, I suppose I was -- I would have preferred to have been in a more stable personal state at the time, but, other than that, it was as good as we got, I think.

Q. I am asking you about your political conduct. Forgive me, I do not mean in any way to intrude upon personal matters. You are a serious politician, are you not?

A. Well, it is for you to judge, I think, really, and for the world to judge.

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Q. Oh, come on, Mr. Biggs. We have read your witness statement. You are quite proud of the fact that you got the largest majority in the country for an elected politician?

A. I think that was a little bit boastful of me, but yes, I am proud to have represented people for approaching 30 years.

Q. You have been around and successful in what is commonly acknowledged to be one of the real hot beds of politics, is it not?

A. Yes. Historically, it is seen as such, yes. It is not quite as bad when you are on the ground, but yes, it has a fearsome reputation.

Q. Elections, at any rate, over 20 to 25 years, have been a matter of huge controversy in Tower Hamlets, have they not?

A. They have from time to time, yes.

Q. And in an area where one really ought to expect the Labour Party to be successful, looking at it objectively, the Labour Party has not been successful, or at least as successful as it ought to have been, in local politics?

A. I think the history speaks for itself, yes. There have been ups and downs, yes.

Q. I mean, even in, as it were, the last throes of the Conservative administration in the mid 1990s, the Liberals were in charge in Tower Hamlets when Mr. Blair was about to be elected -- early 1990s, forgive me. You were elected in 1994?

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A. I was first elected in '88 as a councillor. I became leader in '94. The Liberals were in charge from '86 to '94.

Q. Of course, that particular administration was an extremely controversial one, was it not?

A. Indeed it was, yes.

Q. In some senses, the consequences of the way that administration was run are still being felt in Tower Hamlets today?

A. I think to a lesser extent now, yes. So, I am not too sure I agree. I would be interested to hear the point you are trying to make.

Q. I am really interested in their electoral tactics, actually, how the Liberals conducted themselves during that period. It was a matter which caused great unhappiness on a national scale?

A. The Liberal Party nationally developed -- they have a guy in the House of Lords, I think, now, who supposedly invented this, something they called "pavement politics" -- Tony Greaves I think his name was -- and it consisted of championing local causes, putting out press releases; you know, if you find a broken pavement in the street, you put out a newsletter saying, "I am your council candidate. I have mended the pavement. Please vote for me." So, it is a very popular local pavement politics, and other parties have

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imitated it down the years as well.

Q. On occasions, their reputation for efficiency and proficiency in local politics, local issues, so to speak, have, at least according to some commentators, stepped over the lines into what would be commonly be regarded as dirty politics?

A. They were quite divisive as an administration. They certainly spread disinformation, in my view. There was a celebrated (if you are into these things) Election Court case about a bogus election leaflet supposedly in the name of the Labour Party which was produced by the Liberal Party. I remember that, yes.

Q. Other controversial leaflets, such as, for example, the Mike Tyson leaflet, as it became known?

A. I do not personally remember the Mike Tyson leaflet. It was 20 or so years ago. But I understand there was a Mike Tyson leaflet.

Q. We may come on and look at it in the context of the affair that you became involved in back in 1995. But the issue that I want to explore with you for the moment is, in the world of professional politics, in which you are well experienced, the message is all important, is it not?

A. I think the message is important, but also the way you conduct yourself is pretty important.

Q. Without question. But in the world of digital media,

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television, and so on and so forth, every word you use has to be weighed with care, does it not?

A. I think you need to be alive to the fact that people will misrepresent what you say, yes, and that they will selectively quote bits of what you have said, and that you need to be robust in trying to defend yourself to that.

Q. Tell us a little bit about how the Labour Party operates with, for example, young budding politicians. Say it is their first appearance on Question Time. They are given, on a daily basis, are they not, so-called lines to take on particular issues?

A. I understand that is the case. But certainly at a local government level, it does not tend to be the case, no. You are left largely to your own devices. You might have some support from the regional Labour Party, but it tends to have quite meagre resources.

Q. It is the reason why questioner or an interviewer can ask the same question four or five times and on four or five occasions never actually achieve an answer to the question, because all that is spewed out for ten or fifteen seconds is the line to take, so to speak, or at least an attempt at the line to take?

A. I do not know to what extent that is the case in local politics, but certainly, yes, it annoys me that national politicians prepare a line and do not seem to have the ability

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to deviate from it.

Q. For example, if you were to sit and listen to a Labour politician over the last 12 months, you would probably have only got five seconds into it before you got the phrase "cost of living crisis" coming out of their mouths, something along those lines. This is nothing to do with Labour, because the other parties do precisely the same, do they not?

A. Every political party needs to agree its key messages. There is not much point being in a political party if you do not sign up to those and tend to follow them as a rule.

Q. This is why people, going back historically, such as Mr. Campbell or Mr. Coulson, have such influence, is it not, within the upper echelons of parliamentary politics?

A. You see, I suppose I am a bit more old school than that, and I have tended to not biblically follow the line that is given to me. So, I try to be authentic, if you like, and I suppose there are different approaches, a bit like there are different approaches to acting.

Q. Is that a concession, Mr. Biggs, that on occasion you have opened your mouth without realising the consequences?

A. I think in the past I have done. I think, currently, I am a lot more experienced. Certainly, if you were to ask me am I the same John Biggs who stood to be council leader 20 or so years ago, the answer is no.

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Q. Do you think that you might have said things in the past which might have conveyed the impression that you thought A when in fact you think B?

A. I think you need to ask people who receive those messages what they received in those messages. But I have always been pretty clear about what I wanted to say.

Q. Of course, in the world of professional politics and a large scale election, you do not get to have a one-to-one with everyone you are speaking to, do you?

A. Sadly not, no.

Q. You have to take the opportunities that are afforded to you within the media, for example?

A. Mmm mm.

Q. Now, you of course, so far as this is concerned, gave various interviews and various things were said by the Labour Party over the year leading up to this election, were they not?

A. Indeed, yes.

Q. And you were constantly seeking to stress a unified approach for the borough; that was your theme?

A. Well, I am very clear through every breath and bone of my politics over the last 20 so years, including fighting the Liberal Focus Party and challenging racism and the British National Party, both in Tower Hamlets and Barking and Dagenham, that unless you can build such a coalition, you are

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going to be up the creek. I mean, I am not as interested in national politics as perhaps you are supposing. I am primarily interested in serving the community in east London.

Q. You did, within the last ten years at least, stand for selection for the Bethnal Green and Bow constituency, did you not?

A. I did seek a nomination, yes, and I was reasonably pleased that I did not win the nomination; but yes, I saw the nomination. That may sound a little topsy-turvy, but yes.

Q. Mr. Biggs, you are an assembly member for the Greater London Assembly, which represents, I do not know, 8 million people, or something like that -- possibly more. I have no idea. How many constituents are there in the Greater London Assembly?

A. In London, there are something -- it is either 8.6 or 7.6 million people.

Q. For example, about twice the electorate of Scotland?

A. Yes.

Q. You are not just your local ward politician, are you?

A. I am not pretending that I am a hick politician who has just come out of a shed, or something, no. I have been doing this for years.

Q. You have devoted your life to it. After a very successful career in the City, you took the steps to do what you have done, and you are a professional politician. It just so

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happens that that happens to have been originally within the local council where you lived, in east London, but you have sought election as the mayor of the borough, as an assembly member in the Greater London Assembly, and, indeed, for a parliamentary constituency, and you were unsuccessful so far as that was concerned. So, it is not as if you do not have some interest in national politics, is it?

A. I have an interest, but I have reached a stage in my life now, in the last few years, where I am predominantly interested in what we can do in London and for the East End. I am particularly interested in devolution in the City government, and I like the idea of elected mayors, although I would worry about their lack of accountability. So, I am predominantly interested in that stuff.

Q. Would you forgive me if during the course of the questions that I ask you during the course of the day we do our best to steer away from policy issues, because that is not going to assist the court. What I am interested in with you, Mr. Biggs, is the day-to-day business of doing politics. Regardless of which party or who you represent, I am interested in what you say to whom, when, and how.

A. Okay.

Q. That is the issue that I want to explore with you. When you lost, you must have sat down with the team and had a debrief

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afterwards?

A. It is interesting you ask that. The extent to which you have a debrief and the extent to which you just go away in weariness and hold your head, it is a balance.

Q. Oh, come on, Mr. Biggs. You went on national television -- on Newsnight, I think, or certainly one of the programmes -- and gave an interview, at the count, about it?

A. I was certainly doorstep to the count, and I spoke to the cameras, yes.

Q. When you spoke about your frustrations, about the campaign, about how the count had been conducted, and various other things?

A. Indeed, yes. I think so.

Q. So, when you sat down with the team -- and I imagine there was an awful lot of volunteers involved in running your campaign -- you must have sat down with them afterwards and just poured over it for half an hour or an hour, "what went wrong", and so on and so forth?

A. There were numerous conversations. We had a Labour Party meeting in the August, I think, at which we pulled together various papers and talked about what we might have done differently, where the errors were, how we could have fought a better campaign. We had conversations about -- we did indeed have conversations about election petitions, but steered away

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from that.

Q. Of course, it was a matter which I suppose the Labour Party was very well aware of, election petitions?

A. I think "approach with caution", I suppose, is the approach I would take on election petitions. Yes.

Q. "Approach with caution"?

A. Yes.

Q. Indeed, you would not want to go making rash allegations within the context of an election petition, would you?

A. I think what happens -- it is interesting. So, you are trying to get to the personal, I think.

Q. I am sorry?

A. You are trying to get to the personal, I think. That is what I paraphrase that you said earlier.

Q. I see. You go ahead, and we will see where we go.

A. You are concerned that I am a bit too theoretical about what is happening. So, repeat your question. I will see if I can help you.

Q. All I was putting to you was the proposition that you, and the Labour Party for that matter, were fully conversant with election law?

A. I would hope so. I would expect my agent to be conversant with election law.

Q. You also, presumably, were well aware of the fact that

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Mr. Willis had lost his election as a result of what had gone on in Oldham and Saddleworth in 2010?

A. I have known Phil Willis for years, since before he was an MP, but I had not twigged at that point, until some time after the petition had been lodged, that this might trigger in this case.

Q. Seriously?

A. I had not.

Q. Forgive me. I am not talking about what happened to Mr. Willis in 2010. I am talking about by the time that the campaign was on in 2013/2014 for your role as the Mayor of Tower Hamlets, you knew that Mr. Willis had been thrown out, he had lost his seat, and, what is more, the Divisional Court had upheld the throwing out or the voiding of his election. So, you were aware, for example, that mis-statements during the course of an election campaign could give rise in certain circumstances to the voiding of an election?

A. I was aware that Mr. Willis had been thrown out, as you say, by the courts. I was not aware of the detail of that, though. I had not bothered myself with that, really.

Q. Really?

A. Yes, really.

Q. It had happened in Oldham and Saddleworth. The context had been allegations of wooing extremist votes. You felt that you

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had been the victim of what you have described as a racist campaign. That is what you said afterwards. You tweeted that afterwards, did you not?

A. A racist campaign? You would have to show me the tweet.

Q. I will show you the tweet in due course, but let us just see if we can stick with at the moment. There is no question that you put down -- you have done it in your witness statement -- your defeat to what you feel was an unlawful smear campaign against you, suggestions that you were a racist, being orchestrated from the Rahman team. That is the way you feel about it?

A. Well, yes.

Q. You feel that many voters in Tower Hamlets would have voted for you but for that tactic?

A. I think that is almost certainly the case, yes.

Q. Right. So, getting back to my question, it was an issue of which you were very well aware at the time of the election and in the immediate aftermath?

A. Which was?

Q. The possibility of challenging an election on grounds of mis-statements during the campaign?

A. Well, we had been there before in Tower Hamlets. I suppose the most recent memory in Tower Hamlets -- and I think there have been one or two others -- was the election petition about

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the false leaflet, which had failed and chastened me, I guess. I was not involved in that, as indeed I have not been involved in putting this petition together.

Q. But the Labour Party has solicitors, does it not?

A. Yes. I think if you would have asked why the Labour Party did not consider lodging a petition, the Party would have to speak for itself formally, but my understanding is that there are a number of considerations. There are three which come to mind immediately. One is that we did not have the financial resources, because, you know, potentially, one loses an awful lot of money if a petition fails. The second (probably more important politically) is that the party really, quite obviously, has to concentrate on the General Election campaign and would not want to deploy a lot of its energy and resources on fighting an old battle when it had a far more important, with respect to Tower Hamlets, battle to fight nationally. I think the third was that for Labour to have lodged a petition claiming foul play would have fallen straight into the trap of "sore loser" politics and would almost certainly have failed as well.

Q. That is the nub of it, is it not, Mr. Biggs?

A. I think the first two, certainly. I was not prepared to put my house on lodging a petition. I am not prepared to do that. In terms of the personal things I referred to earlier, which

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are not relevant to this case, you know, I need to focus on my own personal life.

Q. All right. If that is an unfair point so far as your personal life is concerned, then let us put that on one side and we will move on. But the mere point I am trying to explore with you is this. It would have been within your power to lodge a petition as the losing candidate. You chose not to do so. It would have been within your power during the course of the campaign, in particular, effectively through me, to seek an injunction in relation to what you felt were inaccurate statements being made about you?

A. Yes.

Q. And you took none of those steps?

A. I think there are two reasons why I would not do that. The first is that I tend to take -- my starting point is that there is quite a lot of rough and tumble in politics, particularly in the East End, and you just sort of take it on the chin and pick yourself up and get on with things.

Q. And you did that, did you not?

A. Yes. I tend to do that. The second was the financial, actually, that I did not have the resources to lodge a challenge. I did consider, for example -- and I would endorse word for word what Lutfur Rahman said in his first statement about this as well, that the problem politicians have about

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taking personal action for libel, that, you know, it is ruinously expensive and it requires you to spend an awful lot of time and attention going over things when you have better things to spend your time on it.

Q. Of course, it does not prevent you from doing it?

A. No.

Q. And if you have a good case, then you are going to recover your costs?

A. Absolutely, yes.

Q. But the fact of the matter is that you rebutted such claims as were made against you, or you felt had been made against you, in the media, did you not?

A. I attempted to do so, yes.

Q. Even to the point where in the Guardian the day before the election, Mr. Hill, the blogger, was endorsing you as a candidate, notwithstanding the fact that he is generally seen as being a supporter of Mr. Rahman?

A. If you say so. An awful lot of things were written. I know Dave Hill reasonably well.

Q. I think in that blog you described Mr. Rahman as a perfectly decent man, something along those lines?

A. I have no personal -- I do not know Mr. Rahman particularly well. I have no personal axe to grind with him.

Q. But you do not see him as this evil, corrupt, Islamic

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extremist, in the way that he is painted by the right-wing media or, for that matter, in certain sections of this petition, do you?

A. No. I regret that labelling. I do not believe that he is. I mean, I do not know him that well, but I do not believe he is. I think he is actually a pretty secular guy. He might not like to be described as such. But, you know, in so far as I have had stuff to do with him, I do not see him as fundamentally driven by the politics of religion, no.

Q. Can I just ask you this, then -- and this does go to the root, I suppose, of the complaint about it all. What is your view or your understanding of what "racist" means?

A. Goodness. Well, I think ----

Q. That is the problem, thought, is it not: it is a question which is answered with the word "goodness", Mr. Biggs?

A. Okay. I think the starting point is that it is a word that is over-used these days. I think really at its root -- I think we have departed from this -- racism is about actively discriminating against a person or a group of people on the grounds of their ethnic origin, and doing so in a way that is quite injurious to them. I think we are at risk of, as with some other words, removing some of the meaning if we over-use terms such as racism. Yes.

Q. Of course, you will be aware, or indeed you will be familiar

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with -- and I think you have used it in your witness statement -- the term which gained currency after the Stephen Lawrence inquiry, as a result of the observations of Macpherson J, of institutional racism ----

A. Yes.

Q. ---- so-called. What do you understand that concept to be indicative of?

A. I think if an organisation inadvertently -- I think this would be predominantly inadvertently -- through its policies and its actions, has caused itself to discriminate against people on the grounds of their racial background, then that would be institutional racism.

Q. There is no doubt about it, is there -- and whether you accept the merits of this or not probably does not matter -- the Labour Party in London still faces accusations of institutional racism, and has done so?

A. I suspect it always would do, yes. Clearly, if anybody suffers a disadvantage and they consider -- I mean, as I understand it, there is a principle in the criminal law that if a victim judges that their treatment has had a racial element to it, then it should be acted as if that was the case. I think the same principle should be taken into account if you are considering civil decision making.

Q. I hesitate to give evidence about it, but I think it was

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actually amendments that were introduced by the then
Home Secretary, Jack Straw ----

- A. Okay.
- Q. ---- during the first Labour administration. It aggravates certain criminal offences.
- A. And that strikes at a very important point, which is that amongst the other reasons I am pleased and happy to continue as a member of the Labour Party is that I think it is the mainstream party which has -- possibly with some competitions from the Lib Dems -- done more than any other to progress legislation and to attack discrimination. So, you know, you will always get things wrong.
- Q. Yet there are those recently, I suppose, within the Labour Party, the local Labour parties in Brent, Harrow, Lambeth and in Tower Hamlets, who have felt that they have been victims of institutional racism within the Party. That is true, is it not?
- A. Well, I am not directly aware of all the details of these things, but I am aware that people have made claims to this end, yes, and those claims need to be taken seriously.
- Q. Can I just ask you about when you came second in the contest for the mayoral candidacy within the Labour Party back in 2010, prior to the first time Lutfur Rahman was elected. He came first, significantly?

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A. Yes.

Q. You came second, and Mr. Abbas was third?

A. Yes.

Q. Mr. Rahman was then deselected, for reasons that we can visit, if necessary, in due course, but possibly unnecessary for the purposes of this particular exercise. Then, instead of you being selected as the candidate for Tower Hamlets back in 2010, it was Mr. Abbas?

A. Yes.

Q. Now, did you ever get to the bottom of why that should happen?

A. No, I did not. No.

Q. What did you think might have been the reason?

A. Well, I am not in the minds of the people who made that decision, so I do not really know. There has been a lot of speculation as to the reasons.

Q. You must have thought it was a little odd at the time, must you not? You did want to be the mayor of Tower Hamlets?

A. I think by the time we had reached that point, the whole selection process, with it stopping and starting with the litigation of Mr. Rahman -- which was unprecedented, I think, in the history of the Party; there may be other examples, but it seems the case -- the whole thing was a bit of a train wreck by that point anyway, so the Party was in quite a mess.

Q. I do not suppose it was a decision which might have been

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influenced by the racial origin of the candidate?

A. Well, it may have been, but I do not know.

Q. Of course, that would be wrong in itself, were that the case, would it not?

A. There were opinion pieces written at the time that that was the case, but I have no idea whether that was the case.

Q. And you never asked?

A. I was phoned by the Party official on the rise of the National Executive, who said he had two pieces of news for me: the first was that Lutfur Rahman had been removed by the NEC; and the second was that Helal Abbas had been put in as the candidate. I sort of bit my lip a bit and thought, well, on the one hand, that is disappointing; on the other hand, the state we are in at the present, I am possibly well out of it; and I got on with whatever work I was doing that day.

Q. Is that the full picture, Mr. Biggs?

A. I think it is, yes. I mean, I cannot ----

Q. You had had telephone conversations with Mr. Rahman where threats had been issued about his future within the Labour Party during the whole process of his being deselected, had you not?

A. I think you are referring to a statement which I saw yesterday, which I think is labelled "Lutfur Rahman's fourth statement", and I read that at about one o'clock this morning.

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I had not seen it before. I do not recall that conversation ever having taken place. In the same paragraph, Mr. Rahman says that there was not a meeting in my house to discuss matters; and there were two such meetings. So, clearly, there is a difference of recollection between myself and him. I think his statement suggests that I made threats that he would not have a future. I am not in a position to do that. Although you think I am falsely modest, I do not run the Labour Party, I do not select candidates, I do not put people in the House of Lords. I am quite pleased that I do not, in a way, actually. I think it would be quite improper if I did.

Q. But those who do have an influence over that sort of decision -- for example, the Leader of the Opposition -- were quite happy to endorse your candidacy and to come to visit Tower Hamlets shortly before the election, were they not, last year, in 2014?

A. Certainly, Ed Miliband came and visited, yes. That was primarily, I think -- it was driven by his campaign team and it was a very tightly managed visit -- it was primarily about presenting himself as a leader and his support for my candidacy, rather than getting bogged down in the details.

Q. Generally speaking, Labour has been very successful in London over the last few years, has it not?

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Q. With the exception of in Tower Hamlets?

A. We have been pretty successful in Tower Hamlets a lot of the time.

Q. Bucking the national trend, in fact?

A. London has been, I suppose, colloquially, has been going our way, yes.

Q. Even in 2010, winning seats that you would not have expected to win -- Hammersmith and Fulham?

A. Ah. 2010?

Q. In the General Election?

A. We held on to Hammersmith. We lost (unclear due to over-speaking).

Q. Anyway, let us move on.

A. Let's not get too technical. I am becoming a train spotter at this point. Carry on.

Q. I do apologise. Hammersmith. I think I am thinking of the borough.

A. We hung on to Hammersmith and we hung on to North Kensington.

Q. In what was said to be a very controversial campaign?

A. Yes.

Q. By the Conservatives. Anyway, let us move on. So, institutional racism. Racial insensitivity, is that a concept that you would recognise?

A. I think insensitivity is a concept I would recognise.

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Q. In the context of racial issues? It happens, does it not?

A. I think that one needs to be alive to the sensitivities of people, clearly, as a human being, yes.

Q. This is what you would call, or what you have called in your witness statement, lazy leftist thinking, arguments based around racial insensitivity, is it not?

A. No, I do not think so. I think the lazy leftist thinking I was particularly focused on in the late '80s and early '90s was the stuff epitomised by a future witness, Christine Shawcroft, who seemed to be saying -- and I think in her witness statement sort of says -- that white, working-class people who were voting Liberal Democrat were intrinsically racist; and I think that was lazy leftist thinking.

Q. You agree that the use of language can ring certain bells in certain circumstances, depending upon how it is crafted?

A. Yes, and it can certainly whistle at various dogs, as well, I think is the term in current usage.

Q. I am going to try and avoid using that phrase, because it is littered around the papers. Let us try and keep it to more basic concepts. There is a difference, is there not, between real prejudice and apparent prejudice?

A. One would think so, yes.

Q. You can show apparent prejudice without putting it into practice, without putting real prejudice into practice?

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A. I am not sure what "apparent prejudice" is, actually. I think you would have to define the term. We have talked about an intended racism, or institutional racism, but I do not know what "apparent prejudice" is.

Q. You are a lawyer, are you not?

A. I am not a real lawyer.

Q. You have a law qualification. You are aware of the concept. For example, in the context of bias, so far as a judge is concerned, there is a difference between a judge who is actually biased and a judge who may appear to be biased because he happens to be the brother-in-law of one of the litigants. Now, that would be a situation where, in most circumstances, a judge would come into court and say, "I am terribly sorry about this, but the plaintiff, or the claimant, happens to be my brother-in-law"; and he or she may be perfectly capable of trying the case justly and coming to the correct decision, but, generally speaking, that judge will say, "Thank you very much, indeed. I am off, and you will need to find a replacement judge", because to those in the court, those watching, those listening, there might be a concern that there would be prejudice during the course of the trial of that action?

A. Indeed, yes.

Q. The same goes for racism, does it not?

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A. I think there is a problem, which I hinted at earlier, which is that if one becomes too broad in the definition of the term, it can include anything. So, I suspect that if you reduce this to its absolute, everyone in this room is, to some extent and in some way, a racist, because we do perceive people's racial attributes when we see them, and that must in some way affect the way we think and behave. But I think the question would be whether it improperly affects the way we behave.

Q. As a politician, you have a responsibility, do you not, in relation to those sorts of issues?

A. I believe so, yes.

Q. In a diverse community, such as Tower Hamlets, where you have a multi-ethnic community, making comments about one particular community has the potential, at the very least, of a knock-on effect so far as the remainder of the community is concerned, if there are, for example, strong feelings within that community as a whole?

A. Quite right. I was very wounded many years ago when Jalal, who is another witness, I beat him in a selection, and he wrote an article describing me as a "right-wing, white, middle-class racist". I think that is what he said. I do not know. It was the "whiteness" that stuck with me. I did not think I was a racist. A "right-wing, white, middle-class

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yuppie", actually. I was not a racist at that stage. I think I became a racist later on.

Q. That sort of comment is wholly wrong, is it not?

A. Well, I think it you take it on the chin. It affected me personally. It did not label the entire white community as institutionally racist. We moved on.

Q. Can I just ask to you look at one document with me. It is not your document. We will look at a few in due course. I want to have a look at -- do you know Randall Smith?

A. Yes.

Q. --- a tweet that Randall Smith put on a blog. Forgive me just a second, my Lord. I am very sorry.

THE COMMISSIONER: Take your time. (Pause) While he is looking, Mr. Hoar, is Mr. Randall Smith your next witness?

MR. HOAR: He is, yes.

THE COMMISSIONER: Very good.

MR. PENNY: I am very sorry, Mr. Biggs. I will get there in a second. I will have to come back to this, because I am just wasting time. We will come back to it after the break. Let us move on, so that we do not waste any further time.

I apologise to the court. You accept that back in the 1990s you on one occasion said something along the lines of "Every time we shout racist, we throw away another 100 votes"?

A. I think I said exactly those words in a private Party meeting.

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Q. Your position is that you have been misquoted or, worse, that there have been lies told about what you have said by some of the other witnesses in the case?

A. I think I said exactly those words in a private Labour Party meeting. There are three witnesses -- there were two until last week -- who have produced versions of that, yes.

Q. Forget for the moment about the precise words. I want to examine with you the thinking behind that observation. What you were trying to get across in that observation is that it is unthinking, you have to have an eye upon the concerns of other parts of the community, and simply to accuse someone of being a racist turns people off?

A. I do not think that is quite what I meant.

Q. You explain it, please.

A. I mean, I readily accept -- and I have explained this in my statement -- that it was, with hindsight, a clumsy statement which I made over 20 years ago and has been used by -- the only people to use it, actually, have been current or former Labour Party members who use it to fight battles within the Party, it seems.

Q. Forget about them. I am asking you about it just now.

A. Yes. So, it was not the wisest thing to say at the time. But the position we are in was, I was Leader of the Opposition; we had been defeated once, twice, by the Liberal Democrats (or

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Liberal Focus, as they were then called), and the Party was still very much, in my mind and that of my allies in the Party, in a very oppositionist state of mind, and Christine and one or two other people were very much set on denouncing everybody and denouncing policies, which is quite right to attack the opposition, to attack the council's administrative policies, but not being thoughtful about how you build a coalition which wins support.

Q. Does that mean ----

A. I felt that their policies were alienating. I felt, also -- because I am part of the community as well, I am not some sort of Martian who pops in every now and then, I live amongst the community and I represent people in the community -- that it was pretty insensitive to the wider needs of the whole community, and my approach was about building coalitions of support -- as I have said, and as I said in this campaign last year as well -- which will offer leadership to the community and will be sensitive to the range of needs in the community.

Q. The business of politics, though, does involve targeting particular voters, does it not, when it comes down to the actual day-to-day business of getting the vote out, and all parties participate in that. You have known voters who are supporters ----

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Q. ---- Party members, those who have voted for you in the past; you know where they live; you machine the vote out; you ensure that elderly people get to the polling stations -- those sorts of things. All the parties engage in it, and always have done?

A. Yes, although they do so with more or less principle at different times, I suppose.

Q. There is a perception -- I do not know, perhaps borne out, in reality, dependent upon which constituency you are in or which ward -- that, to a degree, certain communities will not vote along certain lines ----

A. Yes.

Q. ---- according to their ethnicity?

A. Historically, that has been the case.

Q. It has not just been true in Tower Hamlets; it has been true all over the country?

A. Yes.

Q. So, people used to say, for example -- I do not know if you have any knowledge of this -- the Labour Party used to be elected in Glasgow or in the west of Scotland because they machined the Catholic vote; that was the perception?

A. Yes.

Q. And there are similar examples that one could choose -- Liverpool in the '80s, for example. So, when you made the

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comment "Every time we shout racist, we throw away another 100 votes", which part of the community did you think the votes were being thrown away in, Mr. Biggs?

A. I think, predominantly, in the white community, yes.

Q. So, you were approaching the matter as a politician, looking at the electorate upon the basis of their ethnicity?

A. I think in that analysis, one was saying, "We need to build a coalition, and the way we are conducting our politics is unnecessarily alienating a large party electorate who are not racist. There may be people within that community who are and we need to ruthlessly target and label and attack those people, but the majority are decent people, going out to earn a living, waiting for a council house, hoping for a repair to be made, wanting their child to go to a local school. It is not really a consideration. This was towards the end of a quite intense period in the life of Tower Hamlets, but I felt that we had, by and large, seen off the electoral from the right, although it then emerged again in 1995, on the Isle of Dogs, and that we were moving towards a politics which was more about a community which was at ease with itself. But we have for the got there yet; you are quite right.

Q. Let us assume in 1995, when you were wanting to win election, just for the sake of argument, that there were racists in Tower Hamlets. There were white racists or white bigots.

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- A. Yes.
- Q. I do not think that is too unrealistic, is it, let us face it, in the history of East London?
- A. Indeed there were. Yes, yes.
- Q. Going back 20 years and possibly more. If they had been approaching the polling station, Mr. Biggs, would you have prevented them from voting for you? Would you have wished to prevent them from voting for you?
- A. I have actively encouraged people to cast their votes elsewhere, on occasions, it is true, yes, when they have said, "We are not going to vote for you because you are only interested in looking after" This is the sort of stuff you get on inner city doorsteps.
- Q. We had it last week on a national political level with, I do not know his name is, but the UKIP politician saying that he was quite happy for all the bigots to vote for UKIP, did we not?
- A. Yes. I am certainly not happy for the bigots to vote for Labour. I think for Labour to secure the votes of bigots would be a fundamental failure of the policies and priorities of the Labour Party.
- Q. I am just interested in which voters votes you were worried about throwing away; that is all.
- A. The context of this is that it was a private Labour Party

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2 meeting in which we are talking about our -- I cannot
3 remember what it was about -- about our policy, about our
4 tactics, about our approach to the election which was
5 approaching, and we had various, as I recall, resolutions in
6 front of us which were about a pretty fundamentalist leftist
7 position, and there were others which were more pragmatic. As
8 a leader, I was trying to intervene in that debate and get the
9 party to think about things it did not really want to think
10 about; not because they were unpleasant things one should not
11 think about, but because we need to shake ourselves up in
12 order to get back into power.

13 Q. Maybe it is just me, Mr. Biggs, but I do not think you
14 answered my question. Which were the voters that you were
15 worried about throwing the votes away of?

16 A. I am a politician, so I suppose I do not answer every
17 question, but I did not deliberately not answer your question.

18 Q. No. I am not suggesting you did.

19 A. Try again. Sorry. Remind me of the question.

20 Q. When you said, as you accept you said, "Every time we shout
21 'racist' we throw away another 100 votes", my question is
22 whose votes?

23 A. Okay. I think the problem we had in the transactional
24 politics of Tower Hamlets at that time -- that is a rather
25 technical term, is it not -- but in the politics of that time

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2 in Tower Hamlets, was that we were spending our lives
3 denouncing the Liberals and saying everything they were doing
4 was racist. Not everything they were doing was racist. They
5 were doing housing repairs, in the same way Lutfur Rahman's
6 administration, by and large Tower Hamlets is a well-run
7 Council. I am not saying everything that the Council does is
8 a basket case; I am saying there are aspects of it which not
9 happy with. There were aspects of the Liberal policy which
10 were very populace, which were very divisive, which were very
11 racist in excluding the Bengali community, but a lot of what
12 they were doing, in terms of improving schools or in terms of
13 housing investment, was probably not, and there was a risk
14 that we were simply throwing people away by saying, "If you
15 are voting liberal, we do not want your support."

16 Q. Can we please steer away from policy, because policy is not
17 what I am interested in?

18 A. Okay. I will try.

19 Q. I am interested in how you, as politicians, get your message
20 across, what buttons you press, how you get voter into the
21 polling station to vote for you. All of you, regardless of
22 which party you are involved in, are professional so far as
23 that is concerned. You have strategies, do you not? You
24 decide, "Here are the top five policies." We have already
25 heard the government has announced the five policies that it

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is going to focus upon, because they think those are the policies that press the buttons.

A. Yes. And we did that. Yes.

Q. One of those was, as far as you were concerned, during this conversation, "We must not accuse anyone of being a racist."

A. No, no. Absolutely not the case. I am very happy to denounce racists and racist policies. The Council has what is called a "Sons and Daughters Policy", which was almost explicitly racist to this operation, although they claim that it was not, and, yes, we were very unhappy with that. We had a series of five promises, which was about building houses, about -- I cannot remember what the other ones are, actually -- about jobs, houses, about improving the quality of services the Council provided, and about serving the whole community. It is a recurrent repetitive team in John Biggs' life; it is about serving the whole community.

THE COMMISSIONER: Mr. Biggs, perhaps I might ask about the context of this: you say "Every time we say 'racist', we lose 100 votes"; as I understand it, are you saying the context of this is a meeting at which there were those on the left of your party who wanted to level accusations of racism against the Liberal administration, and you were saying this was not a good idea?

A. Not quite, but certainly the stridency with which people, like

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Christine Shorecroft -- if I can use Christine Shorecroft as a shorthand for all such people -- wanted to attack the Liberal Democrats, I felt distracted from the fact that in order to win the election, we needed to talk to people about the things they were concerned about, which were housing and the cleaner streets, safety, and then of kids' futures.

THE COMMISSIONER: The point I am making, there is a difference between saying, "In dealing with the Liberals, shouting 'racist' loses us votes" and in dealing with anybody at any time, "Shouting 'racist' loses us votes", because presumably you would take the view that denouncing, let us say, the British National Party as racist is not going to lose you any votes, is it?

A. No, absolutely not.

Q. No. So, this, as I understand it, is in the context of the battles between Labour and Liberal that were at the time at the Council?

A. I think, if we were being brutal about it, the real battle was between the left and what I would call the centre-left, which I was part of, of the Labour Party, and it seemed to many of us on the centre-left that the left who had been in control of the party were hell-bent on such fundamentalist politics that they would never get back into power again. That does not mean that one should tolerate racism; it means that one needs

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to stop being transfixed by issues where you are as much playing internal games and focus on what the people are concerned about.

Q. Yes. I follow. I was simply anxious to get to the context in which this was said, because I suspect Mr. Penny was, as it were, casting his net slightly wider.

A. Well, it was an internal Labour Party meeting, with maybe 100 people present.

MR. PENNY: May I make the focus absolutely clear? I am interested in the business of campaign politics specifically, not policy, and in the context of Labour/Liberals in the nineties, the example I am interested in is, for example, the Mike Tyson poster. This was generally regarded as being an offensive election tactic, was it not?

MR. HOAR: I am really sorry, my Lord ----

A. As I said, I am not sure I remember this.

MR. HOAR: Possibly for the benefit of others and, I am afraid, also me, I wonder if my learned friend could outline what this Mike Tyson poster is.

MR. PENNY: It is referred to in the witness statements. We will have a copy of it.

THE COMMISSIONER: Can you briefly explain what it was and what its offence was?

MR. PENNY: It was a portrayal of a large black man, portrayed as

1 BIGGS - PENNY

2 a man who is coming to rob you/burgle you, in the context of
3 crime and law and order; "We, the Liberals, will protect you",
4 something along those lines, and the suggestion being,
5 therefore, that the document is offensive because it is an
6 appeal to the non-black community, effectively, by referring
7 to racial issues. It is something that is referred in
8 Professor Keith's letter that we will look at in due course.

9 Equally, there was then, I think, a Labour Party
10 document which was a Labour leaflet showing an old white lady
11 with a blindfold across, a potential victim of burglary,
12 something along those lines.

13 Does that ring any bells with you, Mr. Biggs?

14 A. Vaguely.

15 Q. Then you get into this debate within the Tower Hamlets
16 Labour Party, about whether the production of such a leaflet
17 it is racist or not, because it presses dog whistles, if you
18 like, or presses bells on a racial basis?

19 THE COMMISSIONER: Does anyone outside politics ever use dog
20 whistles now?

21 MR. PENNY: I do not know. I have to say, when I first came upon
22 this case, I did not even understand the concept, but I do
23 now.

24 THE COMMISSIONER: Those who operate trade sheep dogs make audible
25 whistles, but I take it that the dog whistle is intended to be

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inaudible to humans, but audible to the dog.

MR. PENNY: As a result of which the ----

THE COMMISSIONER: I just wondered whether it was one of those things that existed in political myth, but did not any longer exist in real life. It flits in and out of this -- the references to dog whistles in the documents here are ----

MR. PENNY: Yes. You are the professional politician, so you tell us what you think it is all about, Mr. Biggs; what the concept is.

A. I think you should haul Lynton Crosby into the witness box to find out actually, because he is seen as the world leading practitioner. I hope I am not slandering him saying that.

THE COMMISSIONER: Perhaps they are used in Australia then.

A. Yes. I think they do, yes.

MR. PENNY: That is the point, is it not? That is the point, Mr. Biggs. You have the man who the Conservatives have recruited, brought across from Australia and all the rest of it, and he is the man who is going to get Mr. Cameron re-elected and the Labour Party say he is going to do it by pressing dog whistles or blowing dog whistles. That is the idea, is it not?

A. I think that is your description, and that is more or less what I understand by it. Yes.

Q. So, the idea is that, back in the nineties, these forms of

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electioneering were of that form?

A. I think, if you go back to the origins of my statement, I think the fundamental, as I remember, this was probably, the internet may have existed, but we did not really have such things in the East End in those days, even if it did exist; it was more about you knock on someone's door and you say to them, "Do not vote libel. They are racist", or do you say to them, "We would like you to vote Labour because we are going to build some homes. Yes, we disagree with the Liberals on a range of policies and we are going to build some homes, we are going to focus on school standards, we are going to clean up the streets, we are going to unite the borough and we are going to serve all communities", and you are unapologetic about that, because the Liberals were pretty racist in their administration, in my view, even though that is an over-used term, but they were. You focus on what is in it for people as a community in voting in the election. It is not about everyone on a moral crusade throwing out the racist -- the Labour Party might want to do that -- it is about people in the borough who want housing, who want jobs, who want their kids to go to a decent school, and you need to focus on those issues. Otherwise, it will simply seem a rather introverted battle between two political tribes, really.

Q. You do not draw attention, do you ----

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A. You do when necessary.

Q. --- to one particular community?

A. In what sense?

Q. As an electioneering tactic. You do not do it, because it is not a legitimate tactic, because it is blowing on the dog whistle.

A. It is interesting you say that. Clearly, say for example, it can be, but I think it is a question about the principles which underpin your doing that. If you are doing it for purely populist reasons, and if you are, in your intentions, planning to discriminate in favour of or against a particular community, then that would be quite improper. If you sense, for example, that the vast majority of, shall we say Somali people, are likely to vote for your party, then you would be pretty foolish if you did not try to work with networks in that community and identify people and mobilise them to vote for you. Of course, you would be pretty stupid to not do that.

However, if you were, for example, to say, "I would like everyone in the Somali community to vote for me and everyone will get a house", I am not saying everyone said this by the way, "... and we will not worry about those nasty white people down the road", or something, then that would be quite improper. So, it is about your intention.

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Q. If you need a high turn-out, and if you need all the, for the sake of argument, white and Afro-Caribbean vote to turn out for you, then drawing attention to favourable treatment of, for example, the Somalian and the Bengali community, might be a tactic that someone who wanted to win would deploy.

A. It might be. Yes.

Q. Can I invite you to look at some of the election communications that took place? Actually, forgive me, I will not do that quite yet, because I do want to just explore with you what happened back in 1995. This will arise in the context of, I think, the (unclear) statement. Do you have file W there? Would you mind reaching across and grabbing it? Would you turn, please, to page 1995?

THE COMMISSIONER: Sorry?

MR. PENNY: 1995.

THE COMMISSIONER: Yes.

MR. PENNY: This is the period we are talking about, is it not, or I have been asking you questions about, rather?

A. You have been asking me questions about the period prior to the '94 election. This is post the '94 election.

Q. This is, for want of a better phrase, in the context of a disciplinary issue that arose within the Tower Hamlets Labour Party.

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Q. An accusation against Mr. Jalal, in the context of what he had done vis-à-vis you. That was the suggestion.

A. I think this document is a fragment of the whole documentation around a disciplinary hearing. My recollection is absolutely everything that was officially part of the disciplinary hearing was collected in and was, presumably, destroyed and so there is no evidence of it. So, this is about looking at the left ear of an elephant in order to understand what the whole elephant looks like, but certainly it is a document from that ----

Q. Are you questioning its provenance?

A. No, I am not questioning its provenance. It was a private letter written by Mr. Keith, or Professor Keith, and sent to a whole range of people, and most people destroyed it. I think the witness statement of Stephen Beckett would suggest that he found it in a shoe box under his bed or something, and so he was one of the few people who had retained it.

Q. Is there something in this that you would like to hide, Mr. Biggs?

A. Absolutely not. No.

Q. Shall we just look at what is in it, rather than talking about how it ends up in the bundles in this case. Is that okay?

A. You are questioning me, so I assume it is okay.

Q. It seemed you had plenty of things to say about how it comes

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to be in the evidence in the case. I just want to ask you about what is actually in it.

A. This was produced (and reference to it was made in a press release), and I had no idea what it was about until finally I saw it in the back of Alibor Chaudhury's evidence, way back in the autumn, and it then twigged in my mind where it came from.

THE COMMISSIONER: Can you remind me, Mr. Biggs, we know that Mr. Keith is now a professor at the University of Oxford, but this is 2015; back in 1995, what was Mr. Keith's position in the Labour Party or in the community?

A. I think by then he was possibly a councillor. There had been a by-election.

Q. A labour councillor?

A. I think he was by then, but if not he was about to be one. I think he was a lecturer or professor at Goldsmith's College as well.

Q. Yes. But he was a Labour councillor?

A. Yes.

Q. So, this is an internal Labour document?

A. I do not know who it was sent to. You would have to ask Michael Keith.

Q. It is to do with internal Labour Party ----

A. It is to do with internal Labour Party matters, yes. It is a small part of the documentation.

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THE COMMISSIONER: I just wanted the context. Yes, Mr. Hoar?

MR. HOAR: Just an observation, that it is hardly unreasonable for Mr. Biggs to complain that this document has just been shoved into these bundles. Apparently the provenance is from an exhibit of Stephen Beckett and there is absolutely no other documentation to which this relates.

THE COMMISSIONER: We know that Mr. Keith is not, at the moment, a witness in the case.

MR. HOAR: No, he is not.

THE COMMISSIONER: Shall we see where the cross-examination goes? It seems to me that, at the moment, it is perfectly fair. Mr. Penny.

MR. PENNY: You are not unhappy to look at this, are you, Mr. Biggs?

A. I am happy to explain my unhappiness, if you would like it, if that would be helpful, but I am very happy to answer any questions ----

Q. However you slice it, Mr. Biggs.

A. Slice it?

Q. However you cut it.

A. Cut it?

Q. In 1995, someone was complaining about something that you had done in the context of racism. That is correct, is it not?

A. From this letter, that is certainly an interpretation you

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could place on it, but it is quite a complex matter.

Q. I do not dispute that for a second, because I do accept it is all about cultural insensitivity. It is about the message rather than the intent. I am not, for a moment, challenging that. All right? Do not misunderstand me. However, the fact of the matter is, back in 1995, there was an accusation, at least, perhaps in fairly hifalutin intellectual terms, being made against you, was there not?

A. I am not sure that it is an accusation being made against me. I think it is a comparative sentence. Michael writes some of the longest sentences I have ever come across, and if you read the whole thing, it is quite complex. So, it places in the context of this the Mike Tyson leaflet, and then another leaflet, and saying "If something was something, and then something was something else, therefore this applies." So, I do not think it said "John Biggs is a racist."

Q. But it is about is it not ----

THE COMMISSIONER: Is this the same thing as the hoax fax? That was mentioned in this document. I have no idea what the hoax fax is.

MR. PENNY: Can I suggest what the hoax fax is?

THE COMMISSIONER: Do I need to know?

MR. PENNY: The hoax fax was what Mr. Jalal was ultimately disciplined for having sent, and he was suspended from the

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party for was it three months or six months? Something like that.

A. Three months, I believe.

Q. That was a fax in which he made allegations against you, was it not, or mentioned you?

A. Would you like me to explain?

Q. You go ahead?

A. Somebody walked into a newsagent -- in the days before we had the internet, I think -- and faxed a letter to a whole range of people in the media, and this letter was purporting to be from another person, who was Councillor Pola Uddin, who is now member of the House of Lords, but was a member of the Labour Group in those days in Tower Hamlets. The shopkeeper was asked, because the faxed identified his shop, who had produced this, and he said it was Rajan Uddin Jalal who had sent this fax from his shop. He later produced a sworn statement saying that no such person had entered into his shop and sent the fax, but we had a disciplinary hearing, at the end of which Jalal was suspended for three months.

Q. The content of the fax, just to help his Lordship.

A. I cannot absolutely remember, but I think it did denounce me as a racist. Yes.

Q. Right. So, getting back to where I started five minutes ago, someone, somewhere, in 1995, was accusing you of having said

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something, whether intentionally or not, that was unacceptable on grounds of race?

A. Yes, although they seemed to want to do so anonymously.

Q. The answer is yes, is it not? Someone was accusing you of it in 1995.

A. There was a document which seemed to be saying that. Yes.

Q. Us just look at it, shall we ----

THE COMMISSIONER: Pardon me. Again, Mr. Biggs, let me get the context of this: you described this period in the Labour Party, at least at this level, as being one of internecine strike between the hard-left and the centre or moderate-left.

A. You can say that again. Yes.

Q. Can you, not perhaps mirroring what had occurred slightly earlier in the National Labour Party, which led to the choice of Mr. Blair as leader; at that time, is Mr. Keith with the hard-leftist or with the centre-leftist like yourself?

A. Goodness me. How long do we have? I would describe him more as being a Michael Keith-ist, actually. He is a very thoughtful fellow who reaches his own conclusions. So, I would never have described Michael as being on the hard-left. He was, however, a very firm ally of Rajan Jalal, against whom these allegations had been made. He was very committed and very valently involved with anti-racist activity, but not as part of the hard-left, to my knowledge.

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MR. PENNY: His concern, so far as what you had said, was in the context, let me make it clear, not of overt racism, but of institutional, apparent racism in the way that you approached things, was it not?

A. I think so. I think it was -- you see, you cannot disentangle this from the fact that we were, as has been said, in an internecine struggle and the politics were very unpleasant. Yes, I was clumsy in my leadership and the group was split and it was quite proper that I stood down as leader at the end of that year. But, you know, at the time it was very, very unpleasant. I was quite astonished at how unpleasant it was. It seemed it to me that people would deploy whatever argument they wanted to in order to embellish their case.

THE COMMISSIONER: Civil wars are always the most bitter, Mr. Biggs.

A. Sorry?

THE COMMISSIONER: Civil wars are always the most bitter.

A. Yes. Yes, indeed.

MR. PENNY: They were not entirely making up the fundamental facts, were they, for the purposes of this. When he says, in short, "I would accuse John Biggs of racism", he is talking about something, is he not?

A. I think he -- the whole sentence is, "He also accused John Biggs ... (reads to the words) or the Labour Party

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equipment that I shall refer to below." So, he is saying ----

Q. Let us stop there. There is the Mike Tyson leaflet. Can you have a look at it, please? My Lord, there is a copy. (Same handed) I gave one to my learned friend, and if there could be a copy for my the court? Thank you very much.

MR. HOAR: I did actually just ask for the approximate dates of each of them. I could not see one on the right. Perhaps Mr. Biggs knows them.

MR. PENNY: If this is not it, you say so, but we will see if you recognise it. Do you want a moment to look at it?

A. I do remember these. Yes.

THE COMMISSIONER: Yes. I think you are probably right, Mr. Penny; you kept your eye well on the clock. I think we should say 20 to 12 by that clock.

MR. PENNY: Thank you, my Lord.

THE COMMISSIONER: Very well. Refresh your memory, Mr. Biggs. Mr. Biggs, may I say this: in the course of giving your evidence (and until you have finished it), you are not allowed to discuss your evidence with anybody, whether connected with this case or not. That is one of the rules that applies to everybody.

THE WITNESS: Okay.

THE COMMISSIONER: I shall be warning other witnesses in similar terms.

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THE WITNESS: Okay.

(A short break)

MR. PENNY: Mr. Biggs, just one matter, slightly out of context, but it just relates to what you had been telling us earlier on this morning. I think you have sought parliamentary selection on more than one occasion. Is that right?

A. Yes.

Q. Did you seek the nomination back in 1997?

A. In Hornchurch, I think it was 1997.

Q. I do not know where, but how many times have you sought parliamentary selection?

A. I think twice, maybe three. You know, it is the sort of thing people do in my line of business.

Q. You were the one who said that you were not interested in ----

A. I am no longer interested, no, but I was at the time.

Q. There are some pretty big issues discussed at -- I have forgotten the name of it, where you ----

A. City Hall.

Q. City Hall. Yes.

A. Yes. I enjoy life at City Hall, but like all parties, when you are in opposition, it can be rather frustrating.

Q. You give Mayor Johnson a hard time from time to time, do you not?

A. I see it has my responsibility to do so, and I have a

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reputation; maybe less fierce than it used to be. I used to give Ken Livingstone a hard time as well, if that is any balance.

Q. Perhaps we will return to 1995, if that is all right? Just so we have context, these leaflets, the one on the left is a leaflet that the Liberals distributed, is it not?

A. It looks as if it is, yes. I do remember, roughly.

Q. The focus is ----

THE COMMISSIONER: These are two separate leaflets.

MR. PENNY: Yes. The one on the left is Liberal and the one on the right is a Labour one.

A. Yes.

Q. The one on the left, you can see "Focus" underneath the figure; that means it is the Liberals, does it not?

A. They called themselves the Liberal Focus Team in those days. Yes.

Q. Yes. We will see what was said about that in Professor Keith's letter, but generally regarded -- I do not know, did you regard it at the time as being fairly offensive?

A. I think it is using an unpleasant image. Yes.

Q. To appeal to racial prejudice, is it not?

A. I think it can play to a racial prejudice. Yes.

Q. Yes.

A. There has been a lot of sociological research. Michael Keith

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is a sort of -- I am not sure what he is, but he is a sort of sociologist as well, so he will be aware of the research which talks about images and how they can engender sentiments in people which are -- I suppose it is a sort of silent dog whistle. Yes.

Q. Come on, Mr. Biggs; it is the reason that the BNP wave Union Jacks, is it not?

A. I am not sure I would agree -- I have a problem with that. I think the Union Jack belongs to all of us, so I always resented the BNP ----

Q. That is a recent development, though, is it not? Nobody thought that in 1980s.

A. Did they not?

Q. Perhaps we are straying well off the point, but images are used to appeal to prejudice. They can be, can they not?

A. Yes, indeed. Yes.

Q. Right. That is certainly what Professor Keith thought. Let us just look at what is said. "I am writing this letter because I believe that the manner in which hoax issue... (reads to the words) response from the party." Can I just ask you, do you recall that the language of the facts levelled the charges of racism and incitement to racial hatred against you, amongst others?

A. It was a fax which was sent in the name of someone who had not

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sent it, and it did include those words.

Q. So, the question was, was the allegation against you?

A. I am not too sure -- it depends what you mean by an allegation. If something is sent anonymously, or purported to be in the name of someone else, is it genuinely an allegation?

Q. Did the document that was faxed contain words which amounted to an allegation against you, Mr. Biggs, of racism and incitement to racial hatred?

A. I do not have the document.

THE COMMISSIONER: To whom was the fax sent?

A. It was sent -- I think it was sent -- I cannot remember. I think it was sent to the media. I think it was sent substantially to the media.

THE COMMISSIONER: Somebody concocted a fax in which an existing Labour politician accused you -- who is herself, I think, of Asian heritage -- accuses you of racism, somebody concocts such a fax and sends it to the media?

MR. PENNY: It is actually a witness who is going to give evidence in the case.

THE COMMISSIONER: Did the media publish it?

A. I have no idea.

MR. PENNY: I think disputed it at the time (and disputes it still), but the point is, what I am trying to examine with the witness is whether the allegation that was made was an

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allegation that was made, by whoever made it (and on whatever basis), was it an allegation that was made against you?

A. The letter made an allegation against me. It was in the name of Councillor Pola Uddin. Pola Uddin was asked why she had sent this letter, and it was the first she had heard of it. She had not sent the letter.

Q. And Councillor Pola Uddin is now Baroness Uddin in the House of Lords?

A. Yes.

Q. So, it was a forged faxed, or false document, whatever you want to call it, but the content of it was an allegation of racism, or incitement to racism, against you. That is what those words meant.

A. It did contain those words.

Q. Sorry?

A. It did contain those words. Yes. I think it did, anyway.

Q. I am not asking you about the truth or otherwise of the allegation. I think you do understand the question I am asking you, Mr. Biggs, do you not?

A. I think I do understand the question you are asking, but I think what you are trying to do is something which I do not particularly find acceptable, but go on.

THE COMMISSIONER: I am totally baffled by this. As I am the person, I suppose, who has to be un-baffled, let us see if we

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can get to the bottom of it. We are at a time when various elements within the Labour Party and Tower Hamlets, and possibly elsewhere, are in dispute with each other; not altogether a unique situation, but there we are. Somebody, not the current Baroness Uddin, sends a bogus fax using her name, making an accusation against you, presumably in order to discredit you.

A. I think that was the intention. Yes.

Q. It comes to light that it has not been sent by this lady, who has no knowledge of it, and it may well have been sent by somebody else. There may be a dispute as to who, but the somebody else likely to have sent it is going to be somebody else within the Labour Party who does not like you and wants to discredit you.

So, does it, for this purpose, matter (and I defer to Mr. Penny on this), whether it accuses you of racism or cheating at cards or beating your wife or anything else? It is clearly an accusation, it is clearly bogus, it is clearly intended to discredit you, but does it actually matter whether it is racist or anything else?

MR. PENNY: With respect, my Lord, that is not really a question for Mr. Biggs, because it has to do with the truth or otherwise of the content of some of the press releases which were subsequently published in which it was said that

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Mr. Biggs had a record of making dubiously racially-charged remarks.

THE COMMISSIONER: That is an entirely different matter.

MR. PENNY: That is the issue.

THE COMMISSIONER: I just wonder how much the contents of a clearly fraudulent e-mail might be relevant to whether Mr. Biggs is or is not a racist.

MR. PENNY: That is not the issue I am investigating. The issue I am currently investigating is in order to set up an analysis of what Mr. Biggs did say in September of 2013.

THE COMMISSIONER: Yes. I see. Just to clarify this further, can I take it that at a time when all this to-ing and fro-ing was going on in 1995, Mr. Rahman was not, himself, involved in the Labour Party, or was he member in those days?

A. I have no idea whether he was a member. I certainly do not recall knowing him. He certainly was not a counsellor.

THE COMMISSIONER: He was not a counsellor? This is really before he comes on the political scene. Yes.

MR. PENNY: I have not suggested otherwise, my Lord.

THE COMMISSIONER: I appreciate you have not. I just want to get this in context. It seems to me, pre Mr. Rahman's political career in time.

MR. PENNY: This has nothing to do with Mr. Rahman at all.

MR. HOAR: Just a couple of observations, without meaning to

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interrupt; firstly, this problem does demonstrate the difficulty cross-examining a witness about a document that refers to another document that is not there and the contents of which we can now not know what they are, apart from Mr. Biggs' memory -- 20 years ago.

THE COMMISSIONER: You have made that point.

MR. HOAR: The second point is that surely it is not the first respondent's case that they can repeat allegations in the past, even if those allegations were not true. Repeating a libel is as bad a libel as making the libelous comment in itself, surely.

THE COMMISSIONER: I imagine that is not Mr. Penny's purpose.

MR. PENNY: No. It is a little bit, if I may say so ----

THE COMMISSIONER: For Mr. Penny's purposes -- it is not entirely clear, but I am pretty clear that it is not that.

MR. PENNY: It may be that the subtlety of the approach is lost on my learned friend.

MR. HOAR: It is not.

MR. PENNY: What I am trying to establish, as will become apparent, is why Mr. Biggs said what he said in September of 2013. We will come on and look at that; whether it was reckless in the circumstances, bearing in mind the fact that it was an issue of which he was very well aware. So, that is the issue I am going to with it. Now that the witness has

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been forewarned, I can move on, shall I?

THE COMMISSIONER: Yes. By all means.

MR. PENNY: The point about this fax, so far as Professor Keith was concerned was, that he felt that the processes which were being adopted in relation to the disciplining of the alleged culprit, as to the sending of the was -- well, we have seen his views; he is unhappy about it. Yes?

A. Yes.

Q. That is what the letter is all about. "This document is written in an attempt...." I am over the page now, my Lord, on 1996. "This document is written in an attempt to suggest... (reads to the words) that are not connected to the good discipline of Tower Hamlets."

It is section 1 I want to look at with you, in particular; "Coding Games". This was Professor Michael Keith's view at the time. "We used, in the past, to describe openly the Liberal Democrats in Tower Hamlets as racist... (reads to the words) Derek Beackon...." he was a BNP counsellor, was he not, who was elected in the nineties in Tower Hamlets?"... the Liberals produced the now infamous Mike Tyson leaflet... (reads to the words) with the sentiment that is expresses.

So, here, in the middle of the paragraph, what he is saying is that in your use of loony-leftism accusations cannot

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be freed from bigoted connotations and that your assimilation memo had been leaked to the East London Advertiser. Yes?

A. That is what it says in this memo. Yes.

Q. "If we are to fight racism, we have to come to terms with such poisonous coding games." What was alleged to be the coding game that your memo had involved, Mr. Biggs?

A. I have no idea and you are relying on a memo written 20 years ago by someone who is now an Oxford academic, who is not a leading figure in the Tower Hamlets Labour Party and you would have to ask him.

Q. Do you remember what you drafted about loony-leftism?

A. I have not idea, and I would not agree with some of his arguments.

Q. I am not asking you to agree a with it; I am just asking you what you had drafted?

A. I have no idea. No idea.

Q. "If we are to fight racism, we have to come to terms ----"

THE COMMISSIONER: I have to say that the idea that "East-Ender" is coded reference to "white", clearly must be the view of an academic who has never watched the television program of that name. I do not image that you have either, Mr. Penny, but I think you may take it that its cast is not entirely Caucasian.

MR. PENNY: I am afraid I think that is rather the point that Professor Keith is making.

BIGGS - PENNY

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THE COMMISSIONER: I do not think it is. I think his point is that "East-Enders" is sending a coded message of loveable white cockneys, of a sort of Mary Poppins nature, but I am not sure that even in 1995, that was the code that most people took for the word "East-Enders".

MR. PENNY: Your Lordship is indicating your Lordship's view. It may be that not ----

THE COMMISSIONER: I am simply indicating that Professor Keith may be taking a very academic view of this, and not one which may necessarily assist me greatly into determining Mr. Biggs' views and actions in 2014.

MR. PENNY: Forgive me. I do apologise. I am not inviting your Lordship to reach any views about Mr. Biggs in 2014; I am trying to examine the reason for what he said in 2013, which I am working my way to coming on to.

MR. HOAR: My Lord, I do object to the way my learned friend is cross-examining Mr. Biggs about a supposed assimilation memo, which he does not have, with no evidence from Mr. Keith, who produced this document. It is an objectionable course. The subtlety is not lost on me. I do object. He cannot answer it, because it was a memo, perhaps written 20 years ago.

Mr. Keith produced a witness statement ----

THE COMMISSIONER: I suspect, Mr. Hoar, he can answer it, but I am not sure that his answers, or indeed the questions that elicit

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those answers, are helping me in any way.

MR. HOAR: Quite.

THE COMMISSIONER: However, we are now talking of events 20 years ago, based on a bogus fax, followed by a document that is clearly intended to be a statement in the defence of the person who allegedly sent the bogus facts. Am I right?

MR. PENNY: I think it is more an objection to the process that was being adopted in relation to him. I am not interested in the merits of that. I think, if I may say so, the point is being missed. May I just deal with it ----

THE COMMISSIONER: I am happy to be told that.

MR. PENNY: May I just deal ----

THE COMMISSIONER: What is the point that I am missing.

MR. PENNY: May I just deal with the next page and then I will get to the nub with Mr. Biggs.

THE COMMISSIONER: Fine. Yes.

MR. PENNY: Can you just turn over the page, Mr. Biggs, to 1997. I want to just look at the two marked paragraphs with you. "I believe that the memo written by John Biggs... (Reads to the words) and told John Biggs so in personal correspondence and would stick to my belief." Did he do so?

A. I have no recollection of that. This is a long time ago. I do not remember the memo, the conversation.

Q. You do not know whether he did, in fact, send you personal

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correspondence to that effect?

A. I have no idea whether he did or not.

Q. Thank you. Then, can you move down to the final paragraph that is marked, just above the number 2, "I would ask you to consider whether the image of Mike Tyson was more likely to... (reads to the words) are we really such hypocrites?"

Putting it in simple terms, Mr. Biggs, because I do apologise for the confusion that I have obviously caused in the court, is the fact of the matter that in 1995, for whatever reason (and for whatever purpose), someone was, in the context of Tower Hamlets Labour Party, accusing you of using terms which were racially insensitive?

A. Repeat the question.

Q. I do apologise. Is the fact of the matter that in 1995, someone in the Tower Hamlets Labour Party was accusing you of using terms which were racially insensitive?

A. I do not know, from this documentation in front of us. What I do know is that we were in the middle of a very bitter and protracted civil war, as his Honour has said, in which we were slugging it out, and which led, I think quite properly, to my standing down as the leader of the Council after merely one year as leader. It was a very divided state we were in. I do know also that I do not agree with -- I cannot remember if it

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is Mr. Keith's or your view as to political correctness -- I do not think that that can be extrapolated to conclusions that were drawn in this memo, or in your words. I think it is also a matter of fact that Mr. Keith was a very, very solid ally of Mr. Jalal and wanted to make sure that he got off the rap, if you like.

THE COMMISSIONER: Did he succeed? Did Mr. Jalal get off the rap, just for interest?

A. Mr. Jalal was, on a very narrow vote, I think, suspended for three months, and then he came back and took the whip again.

Q. So, Mr. Keith's advocacy was, on this occasion, ineffective?

A. It would seem so, yes, but the group was very, very polarised.

Q. So, this is a document that is produced in the course of an inter-Labour Party dispute, by someone who is quite clearly party pre on one side?

A. Yes. In my opinion, yes. And yes, he is an academic, but clearly he is an academic who ----

Q. It is clear from the contents to the document that he is, rightly or wrongly, taking a position on this.

A. He is an academic, but he is not politically impartial.

Q. He is a politician. He either was or was going to become a counsellor.

A. And then become leader of the Council.

THE COMMISSIONER: He become leader of the Council. Yes. Well,

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perhaps putting one's skills to good effect.

MR. PENNY: He was not accusing you of stealing something, was he?

A. In what context?

Q. It is absolutely abundantly clear what the accusation against you was in relation to -- I made it abundantly clear, also -- I do not know if anyone has been listening to me -- I am not suggesting deliberate racism, but what I am suggesting is someone was accusing you of inadvertent racism or inadvertent social insensitivity in relation to a document that you had written?

A. That would appear to be implied in his letter, yes.

Q. Thank you.

A. But we do not have these documents. This is a long, long time ago. I put it to you that I am a very different John Biggs from the one in 1994. I think I was clumsy and inept in some of my handling of the politics then. I think we have moved on a lot since that time, both myself, but also collectively, in our understanding of -- we did not have the concept in those days of institutional racism, and we did not have quite the subtlety and understanding of these issues.

Q. So, you accept that you may have said something clumsy back then?

A. I think that -- I would say two things: first of all, when one is dealing with fellow politicians, I think a bit of rough

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2 and tumble is okay. That does not mean that you can be
3 deliberately offensive or violent or anything, but in the
4 robust debate in the political context, you can say things
5 which you probably would not say when you were canvassing with
6 the wider public. I think that is quite proper, because you
7 have to thrash out issues and reach conclusions about things.
8 It is quite right that people will be passionate about those
9 things. But life moves on in all sorts of ways, and I worry
10 this is a dredging up of ancient history to pray in aid for
11 the defence of Mr. Rahman, but it does not actually bear much
12 relationship to what has happened in the last mayoral election
13 in Tower Hamlets.

14 Q. You let others do the worrying, will you, Mr. Biggs, and just
15 answer the questions.

16 A. I think I am entitled do a bit of worrying, to be honest, you
17 know?

18 Q. Let us just have a look at some of the documents, please, that
19 were generated. Can you go to volume U, page 1016?

20 A. Can I get rid of this red thing? Right.

21 Q. 1016. This was issued by the Labour Party, was it not?

22 A. Yes. I have seen a version with the Labour Party header on
23 it.

24 Q. Do you want to see that one?

25 A. I am happy to see this one. I am assuming it has the same

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words in it.

Q. We can go to it amongst your exhibits, if you wish?

A. I am happy to look at this one.

Q. All right.

Q. This was issued on about June 13th by the Labour Party of 2013: "The independent Mayor of Tower Hamlets came under fire today (.... reads to the words) about his inability to deliver." Were you involved in that press release? I think you have said in your statements that you did not know anything about it at the time?

A. I think you will find it was produced on 15th May. I am looking at my evidence. That may not be the same date that you suggested. It was based on the response to a member's enquiry, which had been made by a man called Councillor John Pierce, prior to my being selected as the mayoral candidate. I am losing track of time now, but I think it was issued after I had been selected, but I had no role in its production because it was intended to produce it in advance of my selection as a candidate.

Q. We will look for it as it is produced in your documentation as well.

A. I have 952 in the blue file, which is F.

Q. Yes. Could you turn over to 1017. This is the press release from Lutfur Rahman.

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A. This is the wonderfully named Indicia Derides(?), who was mentioned yesterday.

Q. The point being made here is that the Labour Party story had been picked up by the English Defence League, who tweeted it. There is obviously a factual dispute between the two parties as to the truth or otherwise of the claims that were made in the Labour Party press release, but let us leave that on one side otherwise we will get bogged down. What was said by Councillor Khan was that these were irresponsible and dangerous claims because they had found their audience and they were doing the rounds with the Far Right to stoke up fear within the community. You were effectively invited to disown and immediately apologise for the disgraceful Labour press statements.

A. That is what her letter said, yes.

Q. At page 958 in the blue file, this was your email to ELA editorial. Is that the editorial team of the East London Advertiser?

A. Yes.

Q. So this is a letter that you sent to the East London Advertiser with a view to its publication?

A. Indeed.

Q. Was it published?

A. I think so, but I cannot swear by that.

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Q. "Dear Sir. Councillor Rabina Khan asks me to apologise for the Labour Party highlighting the preference given (.... reads to the words) It is an example of the poverty of their policies." Putting aside -- and I really do mean this -- the merits of that claim one way or the other because it is not going to assist anybody whether you are right or not (and there are two views about it) what do you mean by "a piece of old-fashioned dodgy politics", Mr. Biggs?

A. When I think about this, I am constantly reminded of the Liberal Focus administration we have spoken about previously. They were in the business of trying to buy votes by sectioning the Borough into pieces and piling resources into places where they could see their support would come from. I think I am also reminded of people who do not have a very good grip of policy-based decision-making and had decided that they wanted the people who voted for them to be rewarded first in the queue rather than people later in the queue.

Q. The generic term "old-fashioned dodgy politics" extends beyond the London Borough of Tower Hamlets, does it not?

A. I think it is a fairly widely understood term although we have to be careful because it probably means different things to different people, but yes.

Q. What do you mean by that?

A. "Dodgy" in the sense that politicians have an ill reputation

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because they are perceived sometimes to be driven by less than public-spirited motives.

Q. Dodgy because they want to be re-elected or dodgy because they are corrupt?

A. I think dodgy because they want to get re-elected. "Corruption" is another word a bit like "racism", which tends to be overused. I tend not to use it in my discourse and correspondence.

Q. You were not accusing him of corruption in this context, were you?

A. No, I think it is a process of trying to reward the places that they controlled.

Q. That goes for the award of the grants as well, does it not?

A. Yes, what I have described in my evidence is what I think was a core vote strategy designed to win re-election.

Q. Which is a world away from intentional corruption, is it not?

A. Yes, I do not think I have ever accused the administration of intentional corruption, but what they have done is they have exercised decisions based other than on publicly debated, properly reached policy decisions. I think the PricewaterhouseCooper's report substantiates that.

Q. I am not going to ask you further about that for the moment because what I want to examine with you is the proposition that old-fashioned dodgy politics is, and has, been practised

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all over the place historically, has it not?

A. I was thinking of -- I am at risk of getting too policy-driven, am I not, so do you want to refocus your question?

Q. I am thinking about the general concept of pork barrelling in the United States or examples of subsidies to industries in various targeted constituencies from a central government level. Obviously, on the two sides of the political debate, there are two different views about it, are there not? For example, all the Republicans in the United States still accuse Obama of having bought the election in Ohio.

A. I think pork barrel politics in America has a very different order of magnitude to here because people have this strange policy of attaching bridges and concert halls to legislation which is buying missiles or something so they will only vote for it if they get a concert hall for their home constituency. That does not happen in the UK to my knowledge. There are things like the Humber Bridge, which older people remember. There are many examples where politicians will carry out decisions in order to try to solicit support. Of course, they will do that in politics, of course they will, but I think there is a principle of public law, which hopefully you know more about than I do, which says (particularly in local government) that things need to be based on proper reasoned,

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justifiable policy-made rationality.

Q. Indeed so. Do you know how many challenges there have been to any of the decisions that Mr. Rahman made so far as the award of grants are concerned?

A. I have no idea, but I suspect you are going to tell me zero.

Q. Yes. We heard the bandying about of the story of Dame Shirley Porter yesterday and reference to the case of Porter v McGill. None of the allegations that were made and proved in that case have seen themselves repeated in this context. You are aware of that, are you not?

A. Yes, I think the order of magnitude of decisions made has not been quite as injurious to the people of Tower Hamlets, or indeed even remotely so, compared to the ----

THE COMMISSIONER: I have not read it recently, but am I not right in recalling that the challenge to Dame Shirley Porter's policies was won by the District Auditor.

MR. PENNY: Yes.

THE COMMISSIONER: So essentially if anybody had wished to challenge of any of Mr. Rahman's decisions with regard to grants, on that analogy it would have to be the District Auditor rather than his political opponents, for example. I suppose one simply does not know ----

MR. PENNY: I think if somebody was not awarded a grant, they could have challenged the legality of it.

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2 THE COMMISSIONER: I suppose so. These things are normally raised
3 by District Auditors and then fought out between the auditors
4 and the politicians.

5 MR. PENNY: I am not going to try and make any great point about
6 it, but I just want to examine the term that you used in your
7 letter to the East London Advertiser with a degree of reality
8 to the world of politics. You all want to get re-elected, do
9 you not?

10 A. I imagine there are some who do not but, yes, we by and large
11 do.

12 Q. That is why, for example, the chances are there will be a tax
13 cut, or there has been a tax cut, in the Budget just before
14 the election. It is for the same reason that, for example,
15 the MG Rover plant was kept alive and Sheffield Forgemasters
16 was offered a soft loan just prior to elections.

17 A. Again, bear in mind I was a councillor from 1988-2002 and then
18 I went away to City Hall until I was selected as a mayoral
19 candidate so I kept a passing interest, but I was not up on
20 the detail of this stuff. I know that there was a continuing
21 frustration amongst Labour councillors who had expected
22 housing improvement works to happen in their wards, but found
23 that they had been delayed, and who observed that those works
24 seemed to be taking place in wards represented by the Mayor's
25 allies. They were disgruntled about that. They had great

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difficulty getting any evidence to support this, but then this member's enquiry came back which seemed to suggest, by doing a numerical analysis, that there was some substance in this allegation.

Q. You are back into the substance of it, Mr. Biggs, and if I may say so ----

A. Substance is quite a useful thing.

Q. Would you like to read the statement of Councillor Khan? I am quite happy for you to comment on it. It is R/277.

A. Yes.

THE COMMISSIONER: I think, Mr. Biggs, the point that Mr. Penny is making to you is this. In your letter to the Advertiser, what you appear to be accusing Mr. Rahman of is not what Mr. Penny has boldly called "port barrelling", that is to say, favouring areas where your supporters are to be found and not those where they are not, rather than particularly racially targeted aid, which was going only to the Bengali community and to nobody else. That would have been a different accusation, but one from which you explicitly distance yourself; is that correct?

A. Yes.

THE COMMISSIONER: That is the point you are making.

MR. PENNY: That is exactly the point.

THE COMMISSIONER: This is an accusation of pork barrelling and

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not pro-Bengali bias.

MR. PENNY: Nor of corruption.

A. I do not recall anyone suggesting that there is corruption in this decision.

Q. You have not, Mr. Biggs.

A. I do not recall anyone suggesting that, but maybe they did.

Q. Let us move forward. Do you want to look at Councillor Khan's statement?

A. I have got a dodgy binder here.

Q. There is a lot of it about! It is actually a response to the evidence that you have given. If you go to paragraph 3, could you just read it to yourself. All I am demonstrating is that there were two sides to this particular political debate about the allocation of these resources.

A. Yes, indeed.

Q. Your Lordship will have the opportunity to see this in due course. Let us move on, Mr. Biggs. That is what had happened in May/June in terms of statements. I will come back to the EDL march in August and September. I want to look at the Sunday Politics programme on 22nd September 2013. I want to ask you to look at a partial transcript in bundle U, page 1027. Just to put it in context the BBC1 Sunday Politics is a political magazine programme broadcast on BBC1 London.

A. Yes, although strangely I saw this in Brighton so it must have

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been on the South-East as well.

Q. You may be right and it is broadcast all over the South-East:

"Across London in Tower Hamlets, Labour lost power when the Borough moved from having a traditional Council set-up to a directly elected Mayor. Labour deselected their candidate, Lutfur Rahman, following allegations about the eligibility of the members who had selected him. Six months before this decision, local Labour MP, Jim Fitzpatrick, had stated that a Tower Hamlets Islamic group had acted almost as an entryist organisation placing people within political parties. Lutfur Rahman went on to win that election as an independent and in the Town Hall this week, he told us that he sees similarities with what happened here in East London and up in Harrow."

There is then a quote from Mayor Rahman. The programme itself was an interview with you on Whitechapel High Street, was it?

A. Yes.

Q. You are in the street with the proverbial microphone shoved in front of you. "Hello, sir, how are you?" you say to the reporter. "On the street this week, Labour candidate, John Biggs. His message is that Labour is the party of all ethnicities and that Mayor Lutfur Rahman is too focused on only one." Those are not your words, but the words of the reporter.

A. I think the "Hello, sir, how are you?" was a passing gentleman

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who said "Hello" to me as he recognised me.

Q. So we should strike out "John Biggs" against "Hello, sir".

A. No, it was me saying "Hello" to him. I was not saying "Hello" to the journalist, because I am so universally loved in Tower Hamlets, of course!

Q. You may have become less loved as a result of this, might you not?

A. I think probably, yes.

Q. This was an interview that you had been on notice of, presumably, the fact that it was to take place?

A. Yes, they did not doorstep me on the street.

Q. You wanted to get your message across?

A. Yes.

Q. Because you knew you were standing for election.

A. Indeed.

Q. You wanted to communicate with the electorate.

A. Indeed, yes, that is the point of television.

Q. "All of these councillors are from the Bangladeshi community and the primary focus of his policy-making has been on the concerns of the Bangladeshi community, a very important community in Tower Hamlets, but not the only community in Tower Hamlets. I mean, my vision is about a more outward looking borough where different communities work together, live together and maximise their opportunities. The real

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tragedy of Tower Hamlets is that we have got masses of high-value jobs coming into the area and not enough local people are getting them. That is the real story and what we do not want to have is small communities which are separate from each other and which are very inward-looking because the world will pass them by."

The first sentence -- I know you have complained about the same being quoted out of context elsewhere so that is why I have read the whole thing out for you -- has two clauses in it, does it not?

- A. Self-evidently, yes.
- Q. You chose in the first clause of the sentence to draw attention to the ethnicity of the councillors who supported Mr. Rahman.
- A. I think that was strictly unnecessary but, yes, that is what I said.
- Q. Have you ever admitted that before?
- A. I do not know if it is an omission, but it is a statement of fact so there is nothing factually incorrect in it.
- Q. Do you want to apologise for it?
- A. No, I do not, no. I am a big boy. I said that on the TV and it went down very well with the people I was with at the time. It expressed a view that was shared very widely among the people I was canvassing, the view being that the

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administration was disproportionately interested in one section of the community.

Q. But the first clause has nothing to do with the administration at all, has it?

A. No, it has not.

Q. The first clause is solely focused upon the ethnicity of the councillors concerned.

A. Yes.

Q. There is no getting away from it, is there? You drew attention to their ethnicity and did nothing else in the first clause of that sentence.

A. I would not say that I got up in the morning and worked out how I could produce a sentence which drew focus on the ethnicity of the councillors.

Q. Do you think the clumsiness from the 1990s was still with you?

A. I think I am occasionally inadvertently clumsy, yes, of course I am.

Q. So inadvertently, you accept that this was a racially insensitive statement?

A. I am not sure that is what I was saying. I do not think so, no. I think amongst the chattering classes in the political community, I can see that people might be sensitive about it. I think in the wider world, there is a pretty wide distain for his administration and people would not be that put out by it.

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Q. Did the chattering classes spend much time in Brick Lane taking your statements to heart?

A. I have no idea.

Q. I am going to give you the opportunity because you can do it now if you want. If you wish, if it was clumsy, then you can apologise for the first half of that sentence.

A. Who would you ask me to apologise to?

Q. The electorate of the London Borough of Tower Hamlets.

A. I do not think I need to apologise to the electors of the London Borough of Tower Hamlets. I think they voted in May of last year and their verdict was fairly clear.

Q. That is another point altogether, but putting that to one side for one moment, the ethnicity of the councillors who supported Mr. Rahman was a matter of irrelevance to the point that you were making, was it not?

A. I would like to think it was, but I have no idea whether it was or not.

Q. You none the less said it and said it upfront in this quotation.

A. I think the problem was that just as when I came on the scene in the 1980s in Tower Hamlets, the Council was a very bunkered, inward-looking white administration which was insensitive to the wider needs of the Borough, so inadvertently Mr. Rahman has found himself in an

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administration which is the mirror of that, and that worries me.

Q. Is that even vaguely the beginning of an answer to the question that you were asked?

A. Yes, it is absolutely the answer to the question I was asked.

Q. So let us go back to it, shall we? Why did you choose, in the first clause of this sentence, to draw attention to the ethnicity of councillors?

A. Because it is a statement of fact.

Q. What flows from it? What was intended to flow from it?

A. I do not understand the question.

Q. Why did you say it?

A. Why did I saw it? It was because it was what I said. The fundamental position of my campaign was not about the race of the Council; it was about the fact that it was an inward-looking administration which was playing at what you call "pork barrel politics".

MR. PENNY: We have heard you say that on a number of occasions now. I want to focus on the first clause in the sentence and examine what I think you have admitted ----

THE COMMISSIONER: Can we really divorce the first clause from the second half of the sentence? It seems to me that you have got to look at the sentence as a whole. Whether or not that is objectionable is another matter, but it seems to me that you

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can scarcely analyse the sentence clause by clause as if we were in the Chancery court which used to sit in this courtroom analysing a lease. Surely you must look at the sentence in its context. You may say that it is just as offensive in its context as otherwise, but analysing it clause by clause, with somebody interviewed in the street on a politics programme, does not seem to be terribly helpful, really.

MR. PENNY: May I reserve submissions for a later stage and continue with cross-examination?

THE COMMISSIONER: Yes, fine, but we have the whole sentence underlined and we might just all look at the whole sentence.

MR. PENNY: I have no objection to looking at the whole sentence, but the issue that I am actually seeking to ask questions about is why the first clause is there at all.

THE COMMISSIONER: Very well.

MR. PENNY: Because you did not need to say it, did you?

A. I think it sets a scene.

Q. What is the scene?

A. The scene is that I am in the street and I am being asked why I am standing as an alternative to the current administration of Tower Hamlets.

Q. So you need to say, "I am standing against the current administration of Tower Hamlets because they are all Bengalis"?

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- A. No, I am certainly not saying that.
- Q. What were you saying?
- A. I am saying, as has already been suggested, the whole sentence. I am saying the whole thing about this being an inward-looking, rather bunkered administration, which is getting stuck in its politics. It is interesting that if you were to switch the words around, in 1986, people could have said of the Labour administration, "All of its councillors" -- this was almost certainly the case -- "are from the white community and their primary policy consideration is the white community."
- Q. That is very true, but they did not.
- A. And that probably would not have been contentious. That would have been seen as a way of condemning a very inward-looking stale Labour administration which was kicked out when the Liberal Focus team came along. The consequences of that were rather messy for the Labour Party, but nevertheless they were well-deserved because the Labour Party was in a mess and was unrepresentative and was lost.
- Q. But you could make that remark about councils or cabinets up and down the land, could you not, that it is full of white males, but people do not, do they?
- A. I think in the context of Tower Hamlets, the politics of race are always looming there, of course they are.

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Q. That is why this was irresponsible, is it not?

A. No, I think that is why the politics which have been conducted by the administration have been so reprehensible and irresponsible.

Q. So they brought it on themselves, is that it?

A. What do you mean, "they brought it on themselves"?

Q. Why should the councillors have their ethnicity identified to the viewers as being a matter of relevance in the context of what was a different allegation altogether, namely, undue favour to the community? It would be perfectly possible, would it not, for Mr. Rahman to have had a cabinet containing ten white men who unduly favoured the Bengali community.

A. Yes.

Q. But you would not have said, "All his councillors are ten white men and they unduly favour the Bengali community" so the point is what you were doing was drawing attention to their ethnicity and their ethnicity alone in the context of making the accusation that you were making. That is the offensive aspect of it.

A. I could appreciate how some might find it offensive.

Q. That is the point though.

A. Okay, I do not think it is part of a protracted cause of racist behaviour by myself. I do not believe it is, you see. I am deeply offended by that. I am affronted by that.

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Q. I have not made that suggestion to you.

A. No, but your client has made that repeatedly in a most objectionable and unpleasant fashion.

Q. That can be examined as a matter of evidence.

A. That is why we are here.

Q. That can be examined as a matter of evidence. The fact of the matter is that with all the background that we have been through -- and I apologise if it is felt to be too remote or not of relevance -- the reason for doing it was that it shows that you have, in the past, had a history in this area which ought to have led to a degree of more responsibility in terms of what you are saying when you are electioneering. Do you not agree?

A. I can see that, however many it was, the ten members of his cabinet might have been offended by this, but I do not think the wider public of Tower Hamlets would have been offended by it, no.

Q. Do you not think that Bengalis would have been offended by the fact that you chose to identify the ethnicity of these particular councillors?

A. It is a matter of fact. No, I think you are dancing on the head of a pin.

Q. Really?

A. Yes.

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Q. But you knew, when you were in the street at Whitechapel, that there were all these ludicrous stories that had been published by the likes of Mr. Gilligan accusing Mr. Rahman of being an Islamic extremist. There was all the other nonsense that has been published about him over the years. You knew that the NEC had not even investigated the allegations that Helal Abbas had made, which led to his de-selection, and yet you chose, in these circumstances, in this sentence, at the start of what may or may not have been a perfectly legitimate political point that you were making about the policies of the administration, to highlight the ethnicity of the councillors.

A. I certainly said it, you are quite right.

Q. But the contrast is that if you look at the housing press release three months earlier, you do not do it and whoever drafted that did not do it. However, here in September 2013, it is upfront: these men are Bengali.

A. Well, they are, yes.

Q. So someone who is prejudiced against Bengalis is a potential voter. That is the offensive aspect of it from your perspective, if you are actually pursuing the agenda that you claim to pursue.

A. I am not sure that I accept that.

Q. You understand it, though, do you not?

A. I think I do. You would have to repeat it to me.

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MR. HOAR: Could he answer that question again with the question being repeated because I do not think I understood it either.

MR. PENNY: I am suggesting that the offensive aspect of identifying the ethnicity of the councillors is that it could be a subconscious subliminal appeal to those who are prejudiced against Bengalis. That is the whole point about coding, is it not?

A. There was certainly no deliberate coding in making that statement.

Q. I did not suggest there was deliberate coding.

A. No.

Q. I said it was irresponsible. You said that it was clumsy. You did not need to say it.

A. I did not need to use the word "Bangladeshi" in the first part of that sentence, no, but I do not think it caused mortal harm. I think that the administration have milked this to a degree and have fished up a statement from 20 something years ago, the background to which does not exist, to my knowledge, the knowledge of which has probably largely died out. I think it has been milked to a degree which is disproportionate and is offensive to me.

Q. It is not false though, is it?

A. It depends on what you mean by, "It is not false."

Q. We will look at the statements that were published about you,

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but it is not a false statement that you have this background.

A. I think it is a misrepresentation of myself.

Q. May I suggest that so far as this quotation is concerned, you did not actually need to say the first sentence at all, did you? Just look at it. You could have said, "The Bangladeshi community is a very important community in Tower Hamlets, but not the only community."

A. I think my purpose was to attack the administration. Bear in mind that this comment was made in the context of a political discussion programme seen by relatively few people. It would not have achieved the level of coverage it has without the massive dissemination by the Mayor and his party. Yes, it was a somewhat academic comment as far as I am a thoughtful, academic-minded person, and it was not a populist comment as part of a leaflet.

Q. But you did want it to be seen by people, did you not? That is why you went on the interview.

A. Yes.

Q. I mean, you are a candidate.

A. Yes, and it resonated quite strongly with people in the Labour Party who said that was a good interview, yes. I suppose what is interesting also is that I know that Mr. Rahman has produced evidence that he wrote to the General Secretary of the Labour Party, but I did not hear a squeak about anything

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until February when it was ever so convenient that the press releases denouncing my action should form part of the election campaign.

Q. But presumably you think that Mr. Rahman forged the letter to the Labour Party.

A. No, I am not suggesting that. I am sure he did write it, yes.

Q. Let us have a look at it, shall we?

A. Yes, and there is evidence that he did.

THE COMMISSIONER: Mr. Penny, Mr. Biggs raised quite an interesting point here. Back in 1995/1996, let us assume that somebody, let us say of Bangladeshi origin, had said of the administration, "It is entirely composed of white men and they only look after the white people." Assume that had been said. Would that be racially insensitive?

MR. PENNY: It could be, of course it could, because it could be an appeal to the Bengali section of the electorate. That is the whole point about commenting upon someone's colour and someone's race in an open way.

THE COMMISSIONER: What is sauce for the goose is sauce for the gander.

MR. PENNY: All I am trying to suggest to Mr. Biggs for him to consider is whether it is appropriate in these circumstances to identify one's opponents purely and simply by reference to their ethnicity when Mr. Biggs is purporting to pursue a

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policy which was the absolute opposite of that.

THE COMMISSIONER: So essentially what you are saying that if we take out the first phrase and if Mr. Biggs had simply said, "The primary focus of Mr. Rahman's policymaking is the concerns of the Bangladeshi community", that would be acceptable.

MR. PENNY: It would certainly be less unacceptable than it was in the form that it was in and I think that the witness has admitted as much by virtue of the fact that you will find no reference in his witness statement to seeking to justify the first clause in the sentence, nor indeed has he, to any significant degree, sought to justify it this afternoon.

THE COMMISSIONER: Beyond its being factual.

MR. PENNY: Beyond its being factual. Of course, factual statements can have connotations and innuendoes associated with them and it is their responsibility of that, in particular, that I am seeking to question him about.

THE COMMISSIONER: Yes, I see.

MR. PENNY: That is why I have been looking at things that happened 20 years ago. The fact of the matter is whether Mr. Biggs is or is not racist, a comment like this might be taken the wrong way and I think that Mr. Biggs accepts that.

A. I think it was being leapt upon by Mr. Rahman and his administration and it formed the core of their election

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2 campaign against me, which was, to my mind, a piece of very
3 negative and dirty campaigning designed to sow in people's
4 minds the thought that I was a racist. For me to make what
5 you are suggesting are insensitive comments -- and I agree
6 that I could have phrased it differently -- to extrapolate
7 that into some sort of reason that I go around with a sheet on
8 my head burning crucifixes outside people's houses is
9 ridiculous. That is effectively the impact of the statements
10 they put out. They were knocking on people's doors and
11 saying, "You cannot vote for John because he is a racist."
12 They were doing all of this stuff. It was way out of order
13 and it was a massively disproportionate response.

14 I know Mr. Choudhury, who originated the press release
15 quite well. I know Mr. Rahman less well. They could have
16 picked up the phone to me. They say in my house previously.
17 I know them personally. They are decent people on a
18 day-to-day basis and they chose not to do so and instead chose
19 to turn it into a disingenuous campaign against me. That is
20 the problem I have.

21 Q. Do you regret saying it?

22 A. I regret that we are here today.

23 Q. Do you regret saying it?

24 A. Do I regret saying it?

25 Q. Do you regret there was a petition?

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A. Do I regret saying it?

Q. That is the first question I asked you this morning at 10 o'clock and it was for a deliberate reason, Mr. Biggs.

A. Do I regret saying it? I suppose I am more of an existentialist than that, if you like, so I said it and it was said. I think regretting things that one has said and not being prepared to stand up and defend them -- do I regret it? I regret some things in life, but do I regret that? Not massively.

I regret any hurt that was caused to anybody by my saying it in the context in which it was said, but it was a statement of fact and it formed the core of our campaign to try to bring to people's minds that we had a very inward-looking administration which was not going to serve the whole community and was not serving the whole community in our opinion whereas we were very much committed to serving the entire community in Tower Hamlets, including the Bangladeshi community.

Q. It did come from your mouth. It was not fabricated, was it?

A. No, absolutely. I do not believe it was, no. I do not think that technology exists yet. It probably will one day. No, I did say that, yes.

THE COMMISSIONER: Before we leave this document, can I just confirm this. Are these the only statements by Mr. Rahman and

BIGGS - PENNY

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Mr. Biggs that contained in the programme?

MR. PENNY: I believe so in that particular programme. I understand that it was a piece on the Labour Party generally in London. There was a piece on other boroughs.

THE COMMISSIONER: I was just interested in whether Mr. Rahman said anything else or indeed whether Mr. Biggs had been asked any further questions.

MR. PENNY: My understanding, as I say, is that there was a piece of Lambeth, there was a piece on Brent ----

THE COMMISSIONER: A sound bite here, a sound bite there on someone else.

MR. PENNY: Yes.

THE COMMISSIONER: Yes, I see.

MR. PENNY: I do not know if that is right or not, Mr. Biggs? Is that your recollection?

A. I think we may have said other things, but they certainly were not broadcast. I think this is the entirety of the broadcast.

MR. PENNY: What was broadcast. I mean, it is pretty obvious, is it not, how the reporter took what you had to say because you can see that what was broadcast was, "Come election day next May, at least in this part of London, Labour will not be able to rely on an ethnic minority vote which was once firmly theirs." In other words, the community was divided.

A. I think he was not saying that in the context of what I had

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just said. I think he was saying that in the context of the way things were, which was as representing what I had just said. It is a bit more complicated.

Q. We can move on. You made reference to the letter which was written to Mr. McNichol, General Secretary of the Labour Party.

A. Yes.

Q. Could you go to page 1014 in the same volume, at paragraph 6. This, of course, was a private letter written to the General Secretary of the Labour Party, was it not?

A. Apparently, yes. That is the reason I never saw it, I think.

Q. I am at paragraph 6: "Perhaps most shockingly of all, on the BBC Sunday Politics show, John Biggs said (reads to the words) while those who were not were allowed to remain." That is correct, is it not?

A. No, it is not correct.

Q. "Further, when I formed my cabinet, I invited Labour Group members, including white members, to join my administration, but they were forbidden from doing so by the party." That is correct, is it not?

A. No, that is not correct either.

Q. Can you just explain how it was that the attempts to recruit those Labour councillors into the cabinet failed, Mr. Biggs? You negotiated with Mr. Rahman about it, did you not?

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A. No, I did not.

Q. You tell us what happened then.

A. Okay, so Mr. Rahman was elected the Mayor of Tower Hamlets and he had no councillors on his side. Everyone was a member of the Labour Party with a few Tories and one Liberal.

Q. This is 2010.

A. This is 2010. I think that was the sum total of the Council. So he encouraged presumably. I do not know; you will have to ask him when he appears as a witness, if he does. A number of people chose to cross the floor and under Labour Party rules, they are automatically excluded if they no longer follow the whip of the Labour Party. There was no formal discussion that I was aware of between Mr. Rahman and the Labour Party about how he could enter into a power-sharing deal. Under the Labour Party rule book -- you will have to speak to the Labour Party about this for an official version -- any such agreement would have to be agreed by the National Executive Committee of the Labour Party.

Q. As happened in the case, for example, of when Ken Livingstone became Mayor of London.

A. I think so, yes. I think it has happened in other places. I am thinking Doncaster maybe, but yes. So there was no negotiation and if there was, it was, as they say, way above my pay grade. I did have a number of informal conversations

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2 with Mr. Rahman after he became Mayor. I used to have
3 catch-up meetings with him as the Assembly member. I no
4 longer seem to have those meetings where we talk about a range
5 of local issues. Into those meetings, I would introduce the
6 subject of reconciliation between himself and the Labour
7 Party. We never got very far with those. I made three such
8 attempts, I think. I reported back to the Regional Labour
9 Party about this and then drew a blank. I concluded that if
10 there was any such accommodation, it would have to be made
11 through other avenues. The statement in the letter that
12 people in some way appeared racially selected to be part of
13 his group or not, people chose to cross the floor. If any of
14 the white members, if you wanted to be selected and out of
15 fashion with the group, had chosen to cross the floor and
16 become part of his administration, they would have been
17 expelled without any different favour or prejudice than any
18 other member of the Labour Party.

19 Q. So they could not do it without leaving the Party.

20 A. No, absolutely, unless there was an agreement endorsed by the
21 National Executive Committee.

22 Q. And yet you chose to identify in what you had said in
23 September 2013 that those who did support him were Bengali.

24 A. It happened. There were one or two non-Bengali members who it
25 was thought at the time might decide to join his

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administration but they, in the end, chose not to.

Q. What was the relevance of the fact that they were Bengali?

A. I suppose you would have to ask Mr. Rahman that.

Q. I am talking about what you said on 22nd September 2013 in that first clause. You chose to say it. What was the relevance?

A. I suppose it is about the history of years in which people, including myself, have attempted to build bridges with a lot of success between different parts of Tower Hamlets and the way in which this election and this campaign had rent asunder a lot of those accommodations, understandings and agreements.

Q. I do not understand that answer. Why would that be relevant to why you would choose to draw attention to their ethnicity?

A. Because I am angry, I suppose, at the way in which the politics had been torn apart by the independent group on the Council.

Q. Because they are Bengalis?

A. No, because it had undone a lot of the community reconciliation and work that we had done down the years in the East End.

MR. PENNY: We will see what you said.

THE COMMISSIONER: Is this a good time to draw breath and take lunch?

MR. PENNY: Yes.

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BIGGS - PENNY

(Discussion on timing and warning to the witness)

(Adjourned for a short time)

THE COMMISSIONER: Before you resume, Mr. Penny, it has been brought to my notice that some people appear to be unaware of the rule that we do not bring food and drink into the court. I understand that my usher had a certain amount of unpleasantness this morning about somebody who thought it would a good idea to bring food and drink into the court. It is completely forbidden. Please do not. Mr. Penny.

MR. PENNY: Thank you, my Lord.

Mr. Biggs, would you be good enough just to look at the letter that was written by Mr. Rahman. We were at 1013, and then if you turn over to 1014, we were looking at paragraph 6. Then 1015, the second paragraph, this is to Mr. McNicol: "I do not have to explain to the magnitude of the implications of stirring up racial tensions in an area where the EDLC is a key target. Indeed, in his speech, appendix 10, at the racist march at the borough on Saturday, 7th September the EDL's leader, Tommy Robinson, referred to my having been 'kicked out of the party' for my extremist views." If you just turn to 1028 within this bundle, can you see, this is a speech of Mr. Robinson, who I think was then the leader of what called itself the EDL. 1.16, can you see the sentence in that transcript, "During this time, Mr. Rahman was the mayor of

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Tower Hamlets. He was kicked out of the Labour Party for his extremist views"?

A. Yes, I can see that.

Q. Complete nonsense, as you know; yes?

A. Yes.

Q. Absolutely. So, we turn back to 1015 and just continue with the letter: "Similar references to allegations that have been made by Tower Hamlets Labour Party (read to the words) ... an administration that represents the best of Labour politics." You agree, do you not, that some of the things that Mr. Rahman was doing in his capacity as the mayor were good?

A. It is a generally well-run borough, yes. I have never said it was not.

Q. On, for example, educational maintenance, allowance and housing and awards that the council run, they did some good things, or they have been doing some good things?

A. I think in saying that it is a generally well-run borough, I am referring to the years of work under different administrations -- probably since we got rid of the Liberals, with respect to the Liberals, what respect they deserve -- that have built up the strength of the management team, the quality of the schools, and so on.

Q. All right. You do not want to give him any credit for it at

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all; is that it?

A. Don't want to give who credit?

Q. Mr. Rahman any credit for it at all?

A. There is a good team of officers, and, speaking as a former council leader and Opposition leader, a lot of the council's work is administratively carried out by officers, school teachers and so on, and the political leadership has some (but limited) influence over that. Of course, politicians tend to claim credit for things that they have not done and tend to avoid the blame for things that they have not done as well, of course. But it is not a badly run borough. There are weaknesses.

Q. Let us move on. "These smears of which the best are mere falsehoods and the worse are nasty, cynical blasts on the proverbial dog whistle that have demonstrably stirred up racial tensions fall greatly beneath the standard I expect of a party I myself joined in 1989 and served loyally for many years. Speaking under the banner of the Labour Party and the respectability and profile that it confers to speak responsibly, these individuals, apart from anything else, are bringing the Party into disrepute. I hope you will take these concerns as seriously as I do."

Now, the position was, was it not, that on 4th October 2013 Mr. Iain McNicol was indeed the General Secretary of the

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Labour Party?

A. Yes.

Q. And this letter was sent to every member of the National Executive Committee of the Labour Party, was it not?

A. I have no idea. In Mr. Rahman's first statement, he says that it was, but I have no evidence that it was.

Q. You are close to members of the National Executive Committee, are you not?

A. Remarkably, not, no. I know very few of them.

Q. So, no one even mentioned this at any stage to you?

A. Not to my recollection, no. No one waved it in front of me, showed it to me, forwarded it to me.

Q. Really?

A. I had no knowledge. Absolutely.

Q. Nobody within the Labour Party said to you, "Lutfur is up to his old tricks again", anything along those lines?

A. Certainly, no one at the regional party raised it with me. I think I had a conversation with Mr. McNicol in which he did not raise the contents of the letter, but he said that there were continued representations from Lutfur Rahman's administration. The fact is that they ----

Q. Do you know when that was? Forgive me for interrupting you. Do you know when that was?

A. I probably bumped into him at the Labour Party conference, or

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something.

Q. The Labour Party conference would be in October, would it not?

A. I think, interestingly, 22nd September, when this famous broadcast happened, was during the Labour Party conference.

So, I guess it was the week after that.

Q. This letter is plainly, as we see, 4th October. You have insinuated that there is something suspicious about the fact that there were no press releases until February on this particular issue?

A. I do not think I have insinuated it. I have stated that.

Q. All right. Would you just help us, by looking, please, at a few documents that we have within the bundle?

A. Could I say something else about this letter?

Q. Of course.

A. Which is that it can be viewed in one of two ways: either a deeply offended individual is writing in a letter sincerely held beliefs that he wants the Party to take note of; or else somebody who is about to engage in an election campaign is setting up a series of trip wires, if you like, which will help them in their campaign. So, there are different ways of looking at this. My experience of politics is that a party receiving something from another party expressing anxiety or hurt about something, would normally tend to be disregarded -- I do not know exactly what they would do with it -- because

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they would see it as the usual game of politics. Quite often, someone sending such a letter would then press release it later on. I appreciate Mr. Rahman did not. But the fact is that parties receive objections from other political parties and they tend to treat them with a mixture of sentiments.

Q. You have just contradicted yourself in the context of the same answer, though, have you not, because if the argument you are making is that they would seek to make political capital out of it, the fact of the matter is that nothing was said or done about it for four months?

A. But I think the fact the Party did not take it upon themselves to raise it with me, for example, I would assume, because they receive these sorts of things all the time as part of the political process.

Q. That is a slightly different point.

A. That is not a different point. That is the same point I was making.

Q. All right. So far as your suggestion that the letter is, as it were, setting up a campaign which in fact did not then materialise, in the form of a press release back in October 2013, is concerned, I suppose the same suggestion could be made about what you said in your interview on 22nd September 2013?

A. Certainly, I was setting out my stall for a campaign. You are

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quite right, yes.

Q. That, as we have gone through -- and let us not go there again -- involved the identification of the ethnicity of the councillors involved?

A. But I think the difference is that I would suggest that there is evidence that this was setting out a campaign which was designed to create false impressions about my personal views and nature, and that was a deliberate strategy by the first respondent and his party to discredit me in the eyes of the community, in order to try and secure victory.

Q. One way or another, it was undoubtedly a reaction to something that you had chosen to say, was it not?

A. Well, everything is a reaction to something else, but I think it was as much proactive as reactive.

Q. All right. Let us leave your views on one side and have a look at some documents, please. Can we see, at page 1032 ----

THE COMMISSIONER: Pausing there, Mr. Penny, as I understand it, Mr. Rahman says he did not get a reply to this letter.

MR. PENNY: That is correct. The point of these documents is to establish that it was chased with the Labour Party.

THE COMMISSIONER: I follow that. I just wanted to get that clear.

MR. HOAR: Before we leave this issue, no doubt the first respondent will adduce evidence that this was shown to members

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of the NEC. I have not seen it.

THE COMMISSIONER: We shall see Mr. Hoar. We shall see.
Mr. Penny, your page reference.

MR. PENNY: 1032. 4th October 2013, to Mr. McNicol, chasing the
matter -- forgive me -- enclosing the matter. Over the page,
1031, do you know who Scott Langdon is?

A. I have no idea, no.

Q. There had obviously been a conversation in relation to the
letter, pursuing the matter, on the face of it at least?

A. I have no idea.

Q. Then on 30th January, again, communication between someone by
the name of Scott Langdon and (unclear due to coughing). Then
on 13th February, again, chasing the matter yet again?

A. Mmm mm.

Q. It is quite surprising, is it not, that you would not even
send a one-liner back, saying, "That is a load of rubbish, go
away", is it not?

A. I do not know. I have no idea how the General Secretary's
office works. But as I say, in politics, people often say --
I have been on the receiving end, and I do not feel aggrieved
about it, in a totally different context of press releases
denouncing me for not replying to a letter which I had never
received but everyone else had received. It is not unusual.

Q. I dare say there has been the odd Labour Party release which

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has not been entirely accurate, as well?

A. I am sure there never has been. I am sure the transcript will recall that I was being entertaining at that point. But yes.

Q. Yes. All right. Anyway, let us move forward, please, if we may. I just want to try and keep with the chronology, because you will remember that I mentioned Mr. Randall Smith earlier today. Can you take, please -- and it is on the general context of the political aspect of this -- can you take volume V, please, and would you be kind enough to turn to page 1515. I do not suggest that this a document you have ever seen before, Mr. Biggs. Do not misunderstand me. But you know Randall Smith and you know that he was active within the Tower Hamlets Labour Party?

A. Yes.

Q. This is on a Facebook page, I believe, a sort of discussion group in advance of the election. Contributor, including someone called Stuart Madewell, whom I think you also know?

A. Yes.

Q. And Stuart Madewell, of course, made a witness statement in relation to this case and in relation to you; yes?

A. Stuart Madewell....

Q. Has made a witness statement in relation to this case. Maybe you have not seen it?

A. I have seen it. Essentially, yes, I am aware he has issued

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something he calls a witness statement. I am not sure it witnesses anything.

Q. Let us see if we can move forward. Leave the arguing to the right time of the case. This is a quote of what Randall Smith had to say. All right?

A. Everything here is a quote of what Randall Smith has said.

Q. Just the first three lines. "At the first mayoral election the turnout was only 28%. They are normally in excess of 35%. Essentially, if more non-Bangladeshis, i.e. white, black, Chinese, had voted, we would not have had Lutfur as our mayor." Do you agree with those sentiments?

A. I have no idea. I think it is very much a supposition. I do not have any evidence to substantiate it.

Q. It is the same idea that underlies the suggestion that is made about what you said in September, is it not; in other words, non-Bangladeshis might vote for you?

A. One of the great strengths of the Bangladesh community, if I can make a sweeping assertion, is that the political engagement in that community is far greater than most others, and so you tend to have a higher level of turnout. So, I suppose if you have a supposition that a community is tending to vote in one direction, then people who do not turn out and might have voted in another direction could have changed the result. But I think this is all very theoretical.

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Q. But it was a matter of some importance, was it not, in terms of mobilising the vote that might vote for you?

A. It was very important that we had a good turnout in order to win the election. I think I was on the record as saying that.

Q. Indeed, on the day itself, the bookies, and so forth, the pundits were suggesting that because there was a high turnout the chances were that you were going to win?

A. I think that one or two people placed bets on it, yes. You are right -- not myself.

Q. Certainly, on the television programmes, and so forth, when the polls closed, the suggestion was that you were going to win because the turnout had been high?

A. I was rather busy doing stuff on the shop floor. So, there may have been, yes.

Q. Forgive me. Let me just try and analyse ----

A. I am in court and I do not want to admit to having seen things I have not seen.

Q. Do you agree with the presumption underlying Mr. Smith's observation?

A. No, I do not. I think it is rather crude, really. You know, it may be technically correct if you make a number of suppositions about which way different communities will vote, but certainly my aspiration is that the Labour Party should secure support fairly evenly from different communities

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without respect for their ethnicity. I mean, I appreciate the world is not like that -- we discussed that before lunch -- but it seems a rather resigned statement in the sense that it -- I know Randall is a mate of mine, but you are asking me my view -- it seems a rather resigned statement, in that it supposes that the differential voting behaviours of people is set in some form of stone.

Q. According to their ethnicity?

A. Yes.

Q. Quite. I suppose every vote counts, does it not?

A. I certainly hope so, yes.

Q. So, again, we come back to what was said in September. In September, it was the ethnicity of the councillors that you chose to highlight in that statement?

A. I would not say it is what I chose to highlight. It was part of the statement.

Q. You said before lunchtime that you can understand why some people found that offensive?

A. I said that I understood that some people who were sensitive might consider that to be an unnecessary part of the sentence, yes.

Q. We can look at the transcript, Mr. Biggs, but I think you did say that you can understand that some people might have found that offensive.

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A. I mean, I do appreciate that your job is to try to extract from me statements which can be strung together into an argument that I regret everything I have ever done, or something, but that is not actually the case.

Q. As a lawyer, you will appreciate that ----

A. I am not a real lawyer.

Q. Well, you will appreciate that your position is to answer the questions and not make submissions; neither is it to comment upon what I am doing. Just answer the question, Mr. Biggs. The question I want you to focus on, please, is simply this. What you said in September, you accept, could have been offensive to some people?

A. I think it might have been offensive to a very small group of people, who would probably be the independent councillors themselves.

Q. I am very sorry, I did not actually hear that. Would you just repeat that again?

A. I think it might have been offensive to a very small number of people, who would be the councillors themselves.

Q. Only the councillors?

A. I think it might be. I am not an expert on how other people across the world feel about things that I might have said.

Q. Undoubtedly, you accept that it was clumsy?

A. Yes, I agree that it was clumsy, but I do not think it was

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clumsy to the extent that justifies the vilification that I then experienced at the hands or the pens of Tower Hamlets First.

Q. Can we look at what was said about you then, please, in the various statements, or, rather, what was said in the various press releases.

THE COMMISSIONER: Have we finished with the ----

MR. PENNY: With that particular volume, yes, for the time being. Thank you. I think, probably, F is the easiest place to do this, actually, 865.

A. EDL Fun Day.

Q. Yes, please -- the barbecue. The barbecue had been planned since 24th July 2013?

A. I have no idea, but I was aware that it had been planned.

Q. There is some correspondence that you produce which suggests that.

A. Okay.

Q. As of the publication of this, it was undoubtedly the fact that the plan was for the barbecue to go ahead. I mean, it is not wrong, is it?

A. I am not sure. I was certainly actively lobbying that it should be cancelled, because I had a nasty feeling that it would be misconstrued by people who wanted to misconstrue it.

Q. I do not think, in fact, the question about whether the march

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was going to go ahead had even been determined at that stage?

A. No. The march had been planned, I think, for 24th August, or something, and it then changed on its date.

Q. All right. Let us just look at it. "Mayoral hopeful, John Biggs, and his Labour council colleagues were left struggling to explain why they will be attending an exclusive members-only barbecue fun day in leafy Bow on the day EDL plans to march upon the borough." That was the proposal, so far as there being a barbecue on 7th September 2013, was it not?

A. Well, Bow is not fantastically leafy, and it was not exclusive. But with that caveat, there was a plan for a Labour barbecue.

Q. Thank you. "Councillor Choudhary said while a diverse community coalition gathers to show the EDL that Tower Hamlets is no place for hate, John Biggs and his Labour chums will be letting their hair down over nibbles. Labour have faced criticism for their lack-lustre response to the EDL since 2011, when they urged local people to stay at home and off the streets, rather than coming out to support Tower Hamlets." It is true, is it not, that there was a straightforward policy dispute as between you and Tower Hamlets First or, rather, the supporters of Mr. Rahman, as to the correct way to react to an EDL march?

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A. Not really, no. Certainly, a previous leader of the Labour group, Joshua Peck, had argued that because of the very severe fears at that time of public unrest, people, and particularly young people, should stay at home when the EDL marched in the borough previously. But certainly myself and many other Labour Party members were out on the street that day and participated in the demonstration and spoke on public platforms. So, there was not a sort of blanket boycott of demonstrating against the EDL. I think that is a mischievous misinterpretation of what happened. The record will show that I spoke at that rally. It is something that happened.

Q. I am not suggesting that you were not at the rally. What I am saying is that there was a policy dispute as between the two parties at the time of the publication of this statement. There was a very significant difference between the two?

A. No, there was not.

Q. You had said in the past something along the lines of "fighting the far right with democracy, rather than on the streets"?

A. No, no, not "rather than on the streets". I think we need to choose the precise wording, which is that I will always fight -- it is in front of you, on 865 -- I will always fight the far right using the democracy they fear, rather than the violence and confrontation they crave. I think "violence and

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confrontation" is a phrase which means demonstrating, provoking violence. I think peaceful demonstration against that is a perfectly legitimate thing to do and something I have been doing for many years and hopefully -- well, hopefully, I do not have to -- but as necessary, for future years.

Q. So, is it wrong that in 2011 the Labour Party urged local people to stay at home and off the streets?

A. I think a number of us, including myself, urged people to participate peacefully in the demonstration. Others, including the leader of the Labour Group, Joshua Peck, I think at the time, argued that people should stay at home. I felt that was a misplaced policy.

Q. So, it is not a false statement, is it; this is accurate?

A. I was at City Hall in those days. I was not a mayoral candidate.

Q. Forget about that ----

A. So, people did say that, yes.

Q. Labour did say that?

A. People did not (unclear due to over-speech). Labour did not unequivocally say as a policy, that we wanted everyone to stay at home, tucked up in their beds, or whatever. We did not say that.

Q. There was room for debate as to whether Labour had said that;

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shall we agree on that?

A. Yes. But that was not a consistent policy.

Q. All right. So, this was back in August, and we can pass on now, bearing in mind that the Sunday Politics interview was on 22nd September and the correspondence we have just seen in relation to Mr. Rahman's letter took place as between 4th October 2013 and the early part of February 2014. Do you accept that? We have just looked at the document.

A. You had better repeat that, because I was trying to find my document.

Q. I am just trying to get the chronology right, Mr. Biggs, so that it is all clear. The letter to Mr. McNicol was written on 4th October 2013.

A. Okay.

Q. It was chased on the three occasions we have just looked at. We do not need to go back to those documents. We are now in February 2014.

A. Okay.

Q. All right?

A. Yes.

Q. This is when Councillor Choudhary makes his complaint to the EHRC, and releases the press release.

A. I wanted to bring to your attention another press release that went out, which was -- I am trying to find it now.

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Presumably, you can stop me from doing this, but ----

Q. Well, Mr. Biggs, I am not in any way going to seek to prevent you from saying whatever you want.

A. Here we are. So, on 4th September 2013 -- why is it 4th September 2013? The press release was issued way back in August, before, I believe, Alibor Choudhary's press release about the barbecue, in which we announced that we would be participating in a demonstration against the EDL. I think it was on the public record at that time.

Q. Had the barbecue been cancelled?

A. I do not think the barbecue had been cancelled then. I think there was still an intention, and there was a statement out from the Labour Party saying that the barbecue would take place in the evening and, therefore, would not clash, which I thought was rather naive, but that was the view of the officers of the ----

Q. As of 27th August?

A. I think so, yes.

Q. We can check that if it matters.

MR. HOAR: If it assists, I think that the correspondence in relation to that matter starts at 930 in this bundle F.

MR. PENNY: I am obliged.

MR. HOAR: I think there is a mixture of correspondence there.

(Pause)

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THE WITNESS: For some reason, this is dated 4th September. It must have gone out before that, because the demonstration was actually on the ----

MR. PENNY: The 7th.

A. Okay.

Q. The demonstration was on the 7th. But the important point is -- and this is what I am trying to focus on -- 27th August, which is when the Tower Hamlets First -- I do not dispute, Mr. Biggs, that there was then debate in the Labour Party about the cancellation of the barbecue. The mere proposition I am seeking to suggest is true is that the barbecue, as of 27th August, had not been cancelled and was arranged for 7th September?

A. I think my bundle tells me that there were thoughts about this and that there was correspondence indicating that officers (wisely or otherwise) felt that it would not clash with their event.

Q. This is private correspondence within the Labour Party?

A. It may or may not be. Perhaps we should look at this outside of this conversation.

Q. I tell you what, I am going to move on. If there is a point that you wish to come back on, then I am sure that, with an adjournment, you can do that. I am just trying to get through these statements.

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- A. Here we are, page 921, "Setting the record straight",
27th August. This was our response, then, to Alibor
Choudhary's e-mail.
- Q. So, it is a basic proposition. Shall I go with it again? As
of 27th August, when the Tower Hamlets press release was
issued, the barbecue was still on?
- A. Yes. But we were very clear, or my officers at the Labour
Party in Tower Hamlets were very clear, that it would not
clash.
- Q. Mr. Biggs, you have just said twice that there was debate in
the Labour Party about it going ahead before the publication
of the Tower Hamlets First press release, and these documents
do not support that. Okay? Now, I am not seeking to
criticise you about that, because I accept entirely that there
was then debate about it and there was cancellation of it.
Can we move on?
- A. Well, on page 916 you will see my correspondence dated
19th August, identifying the clash and suggesting that we
think very hard about not holding the ----
- Q. You were going to be out of town and then you were going to
come back in the evening?
- A. Yes.
- Q. Private correspondence within the Labour Party?
- A. Yes.

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Q. I think we are actually ----

A. I think the point I am making is that it does not exactly paint the picture of a racially insensitive person who says "I would rather eat a canapé than demonstrate against a racist party", because that is not the case.

Q. Can we move on?

THE COMMISSIONER: So, the barbecue was cancelled?

A. Yes. Goodness, I would not have gone to it anyway; but yes.

Q. Did the march take place?

A. The march did take place, yes, and there was a static demonstration in Tower Hamlets of those opposed to the march.

MR. PENNY: By the police. The static demonstration was imposed on the march by the police, or at least those were the conditions upon which the march ----

A. No. I believe the EDL actually physically marched from City Hall to Aldgate, but the static demonstration was in a park known as (unclear due to coughing) by Aldgate Station.

Q. Can we move forward to 2014. Are you happy?

A. It is probably about time for us to do that, yes.

Q. I am not trying to trip you.

A. Do not worry.

Q. 19th February 2014. Now, this is the press release that was made there: "Pressure was today mounting on Tower Hamlets Labour mayor hopeful, John Biggs, after he was referred to the

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2 Equalities and Human Rights Commission for remarks made on
3 BBC's Sunday Politics programme. The complaint by Councillor
4 Choudhary refers to a statement made by Mr. Biggs. Attempting
5 to refute claims of institutional racism in the Labour Party
6 ... (read to the words) ... Bangladeshi community." So, that
7 is the first sentence, is it not, obviously, of what you had
8 said. Councillor Choudhary then says what Councillor
9 Choudhary says: "First off, the makeup of the mayor's cabinet
10 as a result of the (read to the words) of
11 non-cooperation." You dispute that?

12 A. Could you refer me to a page number?

13 Q. I am sorry. 876.

14 A. What would I dispute about that?

15 Q. That the makeup of the mayor's cabinet was as a result of
16 Labour's policy of non-cooperation?

17 A. Yes, I would dispute that.

18 Q. We went through it before lunch. It is all about whether
19 anyone could be allowed to join the mayor's cabinet or to
20 support the mayor's cabinet without leaving the Labour Party.
21 That is the issue there, is it not?

22 A. I am not aware that there was ever a request for cooperation,
23 in which a decision of non-cooperation followed, if you see
24 what I mean.

25 Q. You are not aware of whether the mayor ever made such an

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invitation to Labour colleagues?

A. He may have made informal requests across the Council Chamber, but, as I said, the mayor was formerly a member of the Labour Party and would be aware of the rule book. They do not have the authority to agree a coalition, if you like. It has to go through the Party office.

Q. All right.

A. Sorry, this is all very pedantic stuff.

Q. Shall we go back into the history of when Ken Livingstone was elected as the Mayor of London?

A. You can, if you like.

Q. What happened the following day was that Mr. Blair gave permission for the Labour members of the GLA to serve and cooperate with Mr. Livingstone as the independent Mayor of London.

A. Yes.

Q. So, it would not have been impossible, would it?

A. The National Executive Committee ----

Q. Had the power to?

A. Yes.

Q. But it did not happen?

A. It did not happen.

Q. Notwithstanding Mr. Rahman's attempts to make it happen?

A. Well, I have no idea what those attempts were.

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Q. He can give evidence about that. We can move on.

A. Okay.

THE COMMISSIONER: Were the Labour members on the Greater London Assembly then in the majority?

MR. PENNY: Well, I think -- haven't they always been? I am not sure.

THE COMMISSIONER: Was the effect of Mr. Blair's decision that Mayor Livingstone, as it were, obtained overnight a majority on the GLA?

MR. PENNY: Let us ask the expert. I do not know what the answer is.

A. It is a long time ago. I cannot remember. But it certainly gave him a working -- there are two majorities in City Hall: one is the blocking third, that stops other people from overturning your budget; and the other is an arithmetic majority. I think he secured with the Green Party an arithmetic majority, but I am not sure.

Q. The history, of course, establishes that he was back within the Labour Party within 12 to 18 months?

A. Yes. I am not saying that life is fair, but that happened, yes.

Q. You see, the problem is, just on that point, it is just possible, I suppose, that Mayor Rahman and his supporters -- we think that he was unfairly treated by the Labour Party?

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A. They repeatedly plead that that is the case, yes. Certainly for the record, I was pretty implacably opposed to the readmission of Ken Livingstone. I felt it was perfectly reasonable for him, as an independent mayor, to work with our cooperation as agreed by the NEC. But, you know, this is all esoteric stuff.

Q. You and Ken, let us face it, do not come from the same wings of the Party, do you?

A. We actually get on pretty well, you know. He describes me as "an honest right-winger". I am not too sure I quite like that label, but his implication is that I am not dodgy, like some right-wingers, in his experience.

Q. Let us move on. I think the fact is that, notwithstanding the fact that he had been readmitted to Labour, his support was for Mayor Rahman in the election in May of last year?

A. Well, he did actually endorse me. He was photographed with me. We stood in his garden together. We issued a press statement together. Then, three days later, he issued a similar press statement endorsing, not supporting, Mayor Rahman. I think, technically, under Party rules he managed to skirt around them in a way that did not formally endorse Mayor Rahman. But there we are.

Q. Okay. It is probably not germane to the principal issues in the case.

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A. No. Well, you did raise it.

Q. Yes, you are quite right. My fault.

THE COMMISSIONER: Spread betting, really.

MR. PENNY: Yes. "Secondly, John might want to think of me as a foreigner, but I was born here and am as British as he is." You could have said in your September statement "British Bangladeshis", could you not?

A. I could have done, yes. I take it as read. I mean, he is as British as I am; in many ways, more so, in the East End. He talks more like a Cockney than I do.

Q. That is the difficulty, is it not, with the insinuation of just saying "Bangladeshi"?

A. It may be your difficulty. I appreciate the wording was a little bit clumsy, but I think you are stringing it out excessively.

Q. The wording may be important, and for someone in your position, it might be thought that you would want to be careful with your words?

A. As I think I said before lunch, the community in Tower Hamlets is often at risk of being polarised, and I feel that the political events of the last few years have re-polarised it in a number of ways, and I regret that enormously, and I feel that the conduct of the administration had helped that to happen further.

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Q. "Thirdly, policies like free home care, bringing back EMA and building the most affordable homes in the UK benefit everyone. John's remarks are untrue and inflammatory and are doing lasting damage to community cohesion in the East End. The comments reported to the Commission are the latest in a long line of racially charged comments by the Labour mayor hopeful. In 1998 he campaigned against the creation of Banglatown." In 1998, there were submissions, were there not, in relation to the drawing of boundaries within the local council?

A. Yes.

Q. The record records that your submission did not support the creation of a ward which incorporated the name Banglatown?

A. No, no, no, that is not the case. I submitted that the loss of the name Spitalfields would be a great loss to the history and fabric of Tower Hamlets. I made no observation on whether the name Banglatown could be incorporated. The happy compromise, I think, for everyone was that we have a ward called Spitalfields and Banglatown, which retains the geography and the current community interest in one ward name.

Q. You made detailed submissions. There were three submissions, were there not, one of which was yours?

MR. HOAR: Are they in evidence, because, presumably, if my learned friend is cross-examining, he is going to take Mr. Biggs to them.

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MR. PENNY: I suppose if Mr. Biggs's answer is that he cannot remember, then he can say he cannot remember and then I am bound by the answer, but there is nothing to prevent me putting a proposition on the basis of ----

MR. HOAR: My learned friend seems to know the content of these submissions. His legal team have been preparing this case for well over half a year. If they have not got them, that is not good enough.

MR. PENNY: I have a copy of them, because I have read them. I do not imagine anybody else has.

MR. HOAR: Why are they not in the bundles?

THE COMMISSIONER: They are not in the documents?

MR. PENNY: They are not in the documents, no, because it is a slightly marginal issue. They can be prepared overnight.

MR. HOAR: It is actually not a marginal issue, my Lord, because he has been accused of false statement.

THE COMMISSIONER: I am not totally certain it is quite that marginal, if you are going to cross-examine, presumably, along the lines that the statement that he campaigned against the creation of Banglatown was correct.

MR. PENNY: I was precise in the question I put. (To the witness) The suggestion that I put was that your submission to the local government commission did not include the inclusion of the name of a ward which incorporated the name Banglatown.

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A. I cannot remember whether I made a detailed submission at that time about the whole proposal for Tower Hamlets, but I did make a submission ----

Q. That is my suggestion.

A. I made a submission about the loss of the name St. Dunstan's, from Stepney ward, and the loss of the name Spitalfields from the Spitalfields ward; and I felt St. Dunstan's, not because I am some sort of crusader or something, but St. Dunstan's is one of the oldest buildings and parishes in London and in the East End and I felt that that would be an historic loss, and, similarly, I felt the loss of the name Spitalfields. So, I was being a bit of an historical anorak at that point. I was not making a proposition about ethnic representation in Tower Hamlets.

THE COMMISSIONER: The question, Mr. Biggs, is this: did you campaign against the use of the word Banglatown to describe any part of the borough?

A. I made no submission mentioning the word Banglatown, no.

Q. Strictly speaking, it would not be true to say that you campaigned against the creation of Banglatown?

A. I made a written representation to the local Boundary Commission saying that I felt the loss of the name Spitalfields would be a regrettable act. I did not express a view on Banglatown. Indeed, I would argue that simply sending

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a written submission to the Boundary Commission is not actually campaigning. I did not go out on the streets with placards saying ----

MR. PENNY: That is a different point.

A. It is the same point, because in this press release it says, "It is the latest in a long line of racially charged comments", and one of them -- I think there are three comments, and one of them is this supposition that I had said something about Banglatown, which I did not. So, it is quite important.

Q. Can you just answer the question?

A. I am answering the question.

Q. Did your submission include the proposal for a ward which incorporated the name Banglatown?

A. My submission was silent on the question of the name of the ward, other than that the loss of the name Spitalfields would be regrettable.

Q. Your submission incorporated a list of wards and their proposed names, and did not include the name Banglatown. That is my suggestion.

A. Okay. I do not recall that I did a detailed submission at that point. But I think it is all on the internet somewhere. I am not trying to hide it away. Certainly, I read the boundary report back in the autumn, because I was reminded of

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this point by this press release, and what I reminded myself of was that I objected to the loss of the name Spitalfields and not the addition of the name Banglatown. I would be very, very happy with Spitalfields and Banglatown; it is both historical and current in its name.

Q. In 2013 -- let us move on -- "his dog whistle claims of housing were picked up and used as propaganda by the EDL who marched on the borough just a couple of months later"?

A. Again, I think we are clear that they were not my comments; they were those by members of the Labour Group, who had made a members' inquiry, which had established the number of housing units, including where they were in the borough, and the EDL had chosen to interpret that in its own wicked way. But I do not have any influence over the EDL, thankfully.

Q. The accusation of course was in relation to what you described as "dodgy old-fashioned politics"?

A. Yes.

Q. "More recently, one of his Labour colleagues accused him of having a problem with outspoken Bangladeshis" -- Councillor Anwar Khan?

A. Yes. We can talk about him, if you like.

Q. No. I just want you to consider the narrow proposition, which is, had Councillor Khan made such an allegation?

A. It is an interesting question. I need to give you a proper

1
2 answer, which is that Councillor Anwar Khan was a sitting
3 councillor. There were conduct issues, which I was not
4 involved in, which meant that when he was re-interviewed to
5 see whether he was able to be put forward as a candidate for
6 the May elections, the decision was made by the people
7 interviewing him (which did not include myself) that he was
8 not, and he was, therefore, excluded from the list, and he was
9 effectively deselected as a candidate. He was very angry
10 about this, and he lashed out at various people, including
11 myself, including Councillor Joshua Peck, his fellow ward
12 member, who he remonstrated with in a council meeting; and
13 yes, he was very, very upset, and he made an interview with a
14 newspaper. Interestingly, he stood as an independent
15 candidate in the election in May last year, in the one seat
16 which Tower Hamlets First did not put up a candidate for.
17 Equally, I think he did not join Tower Hamlets First; he was
18 collaborating in some way, I suppose, with them. But there we
19 are. But he was an angry man, that is true.

20 Q. Did he make that accusation?

21 A. He made an interview in a newspaper which included those
22 words, but he never formally raised that with me or the Party
23 or with anybody else.

24 Q. There is a link, indeed, to a report of that referred to on
25 the following pages.

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A. You see, I am torn, really. I need to defend my reputation, but I do not want to rake over the old coals as to why Councillor Khan was deselected as a candidate. It bore no relationship to his ethnicity. It was all about behaviour and conduct in an issue and the relationship to the council officers.

Q. That is why I asked you a very tight, focused question, to which you have very kindly given me an answer. Thank you.

A. I do not think I had any dealings with him which could be viewed as in any sense racially insensitive. That would be for him to stand here and justify or defend. I had a very friendly exchange with him recently by e-mail. He says how pleased he is to be off the council; he has got his life back -- which I think a lot of people experience when they cease to be councillors.

Q. Then at page 868 to 869, we have a copy of the letter that Councillor Choudhary wrote to the EHRC. I am not going to ask you about that. Can we move forward, please, to the correspondence that took place, which I think you got involved in, involving Ted Jeory?

A. Yes.

Q. Because what happened was, so far as the EHRC letter was concerned, Ted Jeory then investigated that and he informed you of the result of the e-mail correspondence that we have

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got at 880 to 881?

A. Yes. That is a substantial part of the correspondence.

Q. So, trying to move on and take it reasonably swiftly, the bottom line is that the EHRC said one thing one day and something else the following day?

A. I think they said one thing which was rather clumsy and, in terms of a public body was, they could not make, because they had not carried out an investigation.

Q. They said one thing one day and something else the other?

A. Well, yes. That is your words, but I think ----

Q. Are they inaccurate?

A. One needs to understand the context of what happened. I perceive, whatever else we are doing here, that my reputation is somewhat on trial at this meeting. I appreciate that it is not direct evidence. So, I do need to defend myself.

THE COMMISSIONER: I think, Mr. Biggs, that Mr. Penny is putting to you the very simple proposition that the EHRC, as it were, fired from the hip the first time round, then had second thoughts and decided, as it were, to try and retrieve the bullet.

A. Indeed; and they did, but ----

THE COMMISSIONER: Not, as I said, the EHRC's finest hour. But there we are.

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MR. PENNY: Can I just say that I do not necessarily, with the greatest of respect, adopt the analogy. The question I put was a relatively precise one, which is one thing one day and something else the other day. The merits of it did not feature in the question I asked at all.

THE COMMISSIONER: I appreciate that.

THE WITNESS: Can I respond again?

MR. PENNY: It was not even a question, Mr. Biggs. But you are going to say it anyway, I imagine.

A. They said one thing one day and the other day they said another thing, and, in saying the other thing, they said, "You cannot rely on the thing that we first said." So, they did not say, "We have two opinions. Choose one."

Q. They said, "Go to the police", did they not? That is what they said in the end?

A. They did not say, "Go to the police." They said that if people felt that they were aggrieved in that fashion, then the option existed to go to the police.

Q. Shall we look at the absolute text?

A. You can do that, yes.

Q. I do not want to do that, because I know that his Lordship will take account of what is written in black and white, Mr. Biggs. If you will forgive me, I am going to try and move on. It is not an attempt to close you out from what you want

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to say about it. The record records what the record records
in this correspondence. All right?

A. Indeed.

Q. If you feel I am misconstruing you, if you feel I am
misleading you, if you feel I am putting words in your mouth,
then no doubt you will be in a position to say so in response
to the next question I ask you.

A. With respect, I am sure you are a lovely man, but it is your
job to misconstrue me, it seems to me. So, you know, I am
respectful of that.

Q. Really?

A. Yes, I think so.

Q. You know that is not true.

A. I think you need to find ----

THE COMMISSIONER: Which bit of it is not true?

MR. PENNY: That it is my job to misconstrue.

THE COMMISSIONER: Oh, I see.

MR. PENNY: Without seeking to, as it were, reduce the levity, I
do rather take offence to that suggestion.

THE WITNESS: Okay.

THE COMMISSIONER: Mr. Briggs, Mr. Penny is doing his job and
putting these matters to you. So, you just answer, will you?

THE WITNESS: Okay. I apologise unreservedly, your Lordship.

MR. PENNY: I do not suppose it was something involving you

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shooting from the hip or being a little bit clumsy, was it, Mr. Biggs?

A. It is an interesting point, because I do have a reputation, whether it is dealing with Mr. Livingstone or Mr. Johnson or in Tower Hamlets politics, of shooting on occasion from the hip, but I think I do so with a reasonable sensitivity. I do not imagine you are going to go away -- I think you are a big lad and you will not go away aggrieved from this. If you were a weeping widow and I had said that, then I would feel justly guilty about it.

Q. It would not be wise, as a politician, to speak first and think later, would it?

A. By and large, I do not.

Q. Page 887, please. The last day for notice of the publication of the election was 14th April 2014, and you became a candidate on 14th April 2014, in statutory terms. Do you accept that? You signed an expenses form saying that, but I am not going to bother taking you to it.

A. I think there are various disputes about various dates, but yes, I think that is the case, yes.

Q. Thank you. So, this is the day afterwards: "John Biggs urged to distance himself from divisive journalists and apologised for 'Bangladeshis only' remark". Can I just pause there. The Panorama programme was broadcast on 30th March 2014; so, two

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weeks previously. Yes?

A. Okay.

Q. You have commented upon what you think about the Panorama programme in your witness statement. I am not going to challenge you about that. By and large, you thought it was a bit of shoddy journalism?

A. I think it was misconstrued, if we can use that word again, yes.

Q. "John Biggs, Labour mayor hopeful for Tower Hamlets, was today being urged to distance himself from the divisive of narratives being pedalled by right-wing journalists claiming that Tower Hamlets is a hotbed of extremism." There are, and there were, divisive narratives pedalled by right-wing journalists about Tower Hamlets, are there not? ^^ (end of OD^^

A. I believe so, yes. It depends what you mean by right-wing journalists, but certainly Mr. Gilligan is widely viewed as being such a beast.

Q. Absolutely. Let us face it, when it comes down to matters of policy, you and Mayor Rahman have a lot in common, have you not?

A. Indeed. Yes.

Q. Mr. Gilligan has a particular agenda.

A. He seems to have, yes.

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Q. And a particular relationship with the mayor as well?

A. Which mayor?

Q. The Mayor of London.

A. Yes.

Q. Certainly, he is a supporter of the Mayor of London?

A. And he works at City Hall as well.

Q. Yes. Mr. Gilligan, upon his resignation, following Lord Hutton's conclusions, became an employee of the Spectator, where Mr. Johnson was the Editor?

A. Okay.

Q. That is correct, is it not, I think, as a matter of history?

A. I do not know, but, yes. I am not disputing it.

Q. All right. In 2013, the mayor appointed Mr. Gilligan as the Cycling Commissioner for London?

A. Yes.

Q. "Recent media coverage by Panorama's John Ware and Andrew Gilligan... (reads to the words) that he aimed to set up an Islamic Republic in Tower Hamlets." Do you agree that the coverage around Mayor Rahman's election in 2010 was hysterical?

A. I think these aspects of it were quite hysterical. Yes.

Q. This is to do with an organisation called the Islamic Forum for Europe and various wild allegations that were made about Mr. Rahman in 2010 by Mr. Gilligan.

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A. Yes.

Q. "Both Ware and Gilligan have also made the false accusation ... (reads to the words) by Labour mayoral candidate Biggs."

A. Well, of course that ----

Q. You are disputing -- just let me see if I can put your position fairly.

A. Okay.

Q. You say that that is a misconstruing and a misquoting of what you said in September of 2013, and that is principally because you say that there is a world of difference between "primary policy focus" and "exclusively", in terms of the language used?

A. There is a massive difference; not just in terms of the language used, but what that means in terms of the deployment of the Council's resources.

Q. However, having said that, is it also your position that the phrase "primary policy focus", which you used in the September 2013 public statement, in response to the interview, was intended to be in relation to the principle role of an Executive Mayor, as you saw it, in the circumstances in which Mr. Rahman found himself; namely the allocation of public resources.

A. I think it is about the discretionary areas of those

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resources, as I outline in my statement.

Q. Yes. Absolutely. So, that is what you meant by "primary policy focus", although it is right, is it not, as it were, that the rationale for what you meant by "primary policy focus" only finds itself, if I can put it this way, identified or expanded upon in this statement which you have had to make for these proceedings?

A. Yes. I think that is the only place it is written down.

Q. Because "primary policy focus" could mean a lot of things to a lot of people, could it not?

A. Indeed, it could. Yes.

Q. Your complaint, so to speak, here, is, as it were, the transposition of that from "primary policy focus" into "exclusively", because undoubtedly you did not say "exclusively", and nor am I suggesting that you did use the word "exclusively". All right? We agree on that, do we not?

A. We might agree on something this afternoon.

Q. We do agree, Mr. Biggs, that you have never used the word "exclusively". However, nonetheless, is the case that you used the words "primary policy focus"?

A. I do blame my scientific education. I am a bit pedantic on these points. (Unclear) the words mean precisely -- I feel they have a precise definition, yes. Maybe the wider world does not appreciate them.

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Q. All right. That is the difference, that is the distance on that particular proposition, is it not? "Primary policy focus" versus "exclusively"?

A. "Exclusively" would imply that ----

Q. I know what "exclusively" means, Mr. Biggs. All I am trying to identify is the gap as between the two of us. Forgive me for interrupting. Please, say what you want to say.

A. I think it is a bigger gap than, perhaps, a listening person here might perceive it to be, because "exclusively" would imply that the mayor would try to secure all whatever it is, £500 million of the Council resources and spend that on one community, which would be outrageous, unlawful, improbable, and I know Lutfur Rahman well enough to know that he would not dream of doing such a thing.

Q. Is that not the message that you have been trying to get across ----

MR. HOAR: I do not think he has finished, has he, my Lord? He was saying "on the one hand", and I think he was going to get to "on the other hand".

MR. PENNY: I do apologise. You go ahead, Mr. Biggs. I am sorry if I sounded as if I was interrupting.

A. So, there is no possibility of that happening.

Q. Being realistic about it, just sitting there in front of the television in September of 2013, casually, if you are the

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normal viewer from Tower Hamlets, and you listen to what you said, is that not the message that you are going to take from what was said in the course of that interview? "He is looking after his mates." That is the message?

A. I think there is a fair degree of truth in that statement, but that does not mean that the entire resources of the Council are deployed to that purpose.

Q. "He is looking after his mates and they are Bengali's."

A. I do not think it said that, but anyway, go on.

Q. That is the thrust of it -- you are a plain-speaking man, Mr. Biggs -- is it not?

A. Not as plain-speaking as I have been in the past.

Q. All right. Move on. Thank you. "The mayor denies the claim ... (reads to the words) and therefore a matter for the police." So far as this is concerned, the final sentence, your position is that that was an inaccurate representation of the whole of the correspondence involving the EHRC.

A. No. It was a deliberate misrepresentation of the correspondence with the EHRC. Mr. Chaudhury, when writing this, was in full knowledge of the clarification from the EHRC, and was not only in that position, but even if he had, for some bizarre reason, not received the second communication from them, it could not be interpreted as a reasonable reading of the first communication from them.

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Q. "The word I used was inaccurate." Is your position that it was accurate or inaccurate?

A. It is inaccurate.

Q. Thank you.

A. I would say it is wilfully inaccurate.

Q. Counsellor Chaudhury said, "John Biggs needs to apologise for his own divisive remarks ... (reads to the words) ... in the lead up to the elections." That was 15th April. 23rd April, please, on page 889.

A. Am I allowed to -- I could add, I know we are going on a bit, but I am not too sure how I am meant to distance myself from people with whom I have no association, other than in the case of discussing bicycle lanes.

Q. The suggestion here is, of course (and I think you do know this), the suggestion whether it is right or wrong is in relation to that which we have discussed mainly; you dispute that the mayor was working exclusively for the Bengali community. That is the suggestion. Let us not go over the rights and wrongs of whether it only means "exclusively" or "primary policy focus" means "exclusively".

A. Okay. But I think we need to be clear and understand, also, that the whole purpose of this press release, in my mind, was to simply to try to place a further story in the public realm which would create this false impression about one. It is a

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serious ----

Q. You have made two witness statements, in which you have expressed all those views.

A. Yes. I know.

Q. Let us try, if we can, because we have a certain amount of ground to cover, Mr. Biggs, to confine it to the old traditional method of questions and answers, rather than the odd speech when you feel like it. Is that okay?

A. I find that rather rude but, nevertheless, let us give it a ago.

Q. I do apologise. I have been accused of plain-speaking in the past.

A. Good. Good.

Q. Can we go to page 889? "Former Labour leader accused ... (reads to the words) as early as 1995." That is the document that we looked at during the course of this morning. I do not need to ask you anything further about it. "Professor Michael Keith, now Director of the Centre for Migration Policies ... (reads to the words) in the production of an inflammatory election leaflet." That is the document to which Mr. Keith made reference within the body of the letter that we were looking at.

"This is not the first time Biggs hand been marred in a race row ... (reads to the words) to be added to the

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Spitalfields war" and we have dealt with that, "... and in 2013 ... (reads to the words) on the Sunday Politics show." "Irresponsible"; do you accept they were irresponsible?

A. No.

Q. No.

A. I tried to follow your ordinance of not answering questions with speeches, so no.

Q. All right. You said earlier "clumsy" and you can see how they may have caused offence. That would not characterise them as irresponsible?

A. I think probably not. No.

Q. All right.

A. No.

MR. PENNY: Forgive me. I have lost my place.

THE COMMISSIONER: "John Biggs' 20-year record"

MR. PENNY: Yes. Thank you. "John Biggs' 20-year record of dubious racially-charged remarks ... (reads to the words) to run a diverse borough like Tower Hamlets." What do you understand by the phrase "cultural sensitivity", Mr. Biggs?

A. I am not too sure. I assume it means an understanding of the range of cultures, faiths, values, interests and the potential conflicts between those, and the need to balance and reconcile

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the desire to not offend people, while at the same time offering clear leadership. Yes. I would argue that I do have that, obviously; otherwise I would not have stood and my party members would not have selected me.

Q. They said you did have; you say you do have?

A. Yes. Pretty straightforward. By the way, I am saving you time, I am not disputing every paragraph in this, but I do actually dispute every paragraph, but I think we covered that already.

MR. PENNY: I think we have.

THE COMMISSIONER: Have we?

A. I do not know.

THE COMMISSIONER: "In short, I would accuse John Biggs of racism after Biggs was apparently involved in the production of an inflammatory election leaflet."

A. I have not seen that.

THE COMMISSIONER: That, surely, was not what he was being accused of by Professor Michael Keith.

MR. PENNY: Do you want to go -- shall we go back and look at the letter? The letter is at 1595.

THE COMMISSIONER: Yes. I think you better, because -- of which volume?

MR. PENNY: I think it is W, or 1995.

THE COMMISSIONER: 1995, W.

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MR. HOAR: If it helps, it is certainly my interpretation that at no point in that lengthy memo was Mr. Biggs ever accused of having anything to do with those leaflets. They were used purely as analogies.

MR. PENNY: I do not know, my Lord ----

MR. HOAR: That is the whole point, is it not?

MR. PENNY: Perhaps it is because I come from a different form of advocacy, but I would have thought that the time for submissions is at the close of the case, and questions and answers are the way to proceed. I will address the question that your Lordship has raised ----

THE COMMISSIONER: Fine. You made that point, and I am with you on that. I just wondered, where do you find -- I may have missed it, in which case I will be happy to have it pointed out. Where do I find the suggestion that Mr. Biggs has been involved in the production of an inflammatory racial leaflet or whatever the phrase is? An inflammatory election leaflet.

MR. PENNY: The phrase that is used in the Tower Hamlets -- forgive me, "an inflammatory election leaflet".

THE COMMISSIONER: Yes.

MR. PENNY: And the allegation, as I understand it, so far as the document which had given rise to the fax, I would ask you to consider whether the image, page 1997 ----

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THE COMMISSIONER: Yes.

MR. HOAR: In no way -- I am not making a submission ----

THE COMMISSIONER: The image of Mike Tyson appeared on a document produced by the Liberals.

MR. PENNY: That is true. I know that. However, what Professor Keith is talking about is a document produced by Mr. Biggs about which people got upset, rightly or wrongly, whether they were right or wrong, within the Labour Party. Am I wrong about that, Mr. Biggs?

A. I think we are talking ----

Q. Why was Keith accusing you of racism? It was about the document that you had some responsibility for.

A. I do not accept that he was accusing me of racism. He was saying that if such and such a person was accused of it then, by his equivalence, he would accuse me no less or no more of the same thing.

Q. Exactly so. It is all about coding. He said that the term that you had used amounted to you being a racist?

A. Although we do not know what that term is.

Q. That is what I am asking you.

A. Yes, and I do not know. If the insinuation in 889 is that I produced this leaflet, the answer is no, I do not. It was produced by the National Labour Party. I remember it quite well at the time.

BIGGS - PENNY

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THE COMMISSIONER: The reason I query it, Mr. Penny, is this: I may possibly have missed it, but having read what Mr. Keith was saying in 1995, I did not take that as being an allegation that Mr. Biggs had been responsible for an election leaflet that was inflammatory.

MR. PENNY: I think you are probably right about it being an election leaflet.

THE COMMISSIONER: To that extent, the statement of 23rd April 2014 would not appear to be factually accurate.

MR. PENNY: Would your Lordship just give me a second?

THE COMMISSIONER: Of course. I would be happy for you to point me to chapter and verse if I am wrong about that.

MR. PENNY: (Pause) Can you go to 1996, Mr. Biggs? We did do this, this morning.

A. I know. I remember it only too well.

Q. When he says, four lines down, "In this context, it is proper to see John Biggs' use of loony-leftism accusations in the same light", bearing in mind what he said about loony-leftism in the sentences before, can you help us with what that was?

A. No, I do not think I can. It was a term that was used willy-nilly in those days.

Q. If you go over the page, at 1997, he is talking about a memo that you wrote, links to the East London Advertiser.

A. Again, I have no recollection of that memo.

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Q. You do not know what that was. Did it make reference to loony-leftism?

A. I have no idea. No idea. I thought we were trying to establish whether I played a part in authoring this leaflet, which I presume is this leaflet.

MR. PENNY: No, no. That was not my suggestion at all.

THE COMMISSIONER: What I was anxious to get at was, the statement he was apparently involved in the production of an inflammatory election leaflet.

A. Yes.

THE COMMISSIONER: Whatever else Mr. Keith was going on about in 1995, it was not that.

MR. PENNY: This letter says what this letter says.

THE COMMISSIONER: Looking at it in the round, though, it is not saying that Mr. Biggs was involved in the inflammatory leaflet.

MR. PENNY: I do not think I have made that suggestion to Mr. Biggs.

THE COMMISSIONER: No, but the letter does. Sorry, the press release does.

MR. PENNY: Yes. The press release does.

A. Okay.

Q. I want you to look at some transcripts of interviews that you did on -- sorry, forgive me, that release was on 23rd April,

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was it not?

A. Yes.

Q. The election was still however long away it was, and you were interviewed a number of times on television, were you not? On Bangladeshi television.

A. I cannot remember, but, yes. Let us assume I was.

Q. Can we go to 1451?

A. Which volume is that?

Q. It is V. Actually, it is 1449. Have you seen this before?

A. No, I have not seen it before.

Q. Do you want a moment to read it?

A. Yes. Okay. (Pause for reading) How far do you want me to read it?

Q. Just through to the top of 1451.

A. Oh, right. Goodness. Right. (Pause for reading) Yes.

Q. The point I am trying to make is, on 19th May -- it is not the point I am trying to make, I am just going to ask you this question: you had an opportunity, did you not, in relation to these questions, to respond and give your answers, so far as any allegation was being made against you?

A. Possibly, yes. Yes.

Q. Will you look at 1477?

A. Oh, I see. So, you are making the point that I had ample opportunity. I appreciate it is not my job to ask you

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questions, but yes.

Q. If you look at 1476, just at the bottom, it is a news piece about the September 22nd remark.

A. Okay.

MR. HOAR: Sorry, do we have a date?

MR. PENNY: I think it is 29th February. Sorry, I have taken them in the wrong order.

THE COMMISSIONER: 2014, is it? Certainly not 29th February.

MR. PENNY: I am turning backwards and forwards. I am sorry.

THE COMMISSIONER: Whatever it is, it is not 29th February 2014.

MR. PENNY: Yes. Quite right.

THE COMMISSIONER: It is round about that time.

MR. HOAR: That is enough for me, my Lord.

THE COMMISSIONER: I have a barely legible thing at the top, which looks like 11.2. Is that, do you think, the date.

MR. PENNY: I have no idea. I have no idea.

THE COMMISSIONER: We will take it to be about February of 2014.

MR. PENNY: The previous page suggests it was broadcast on Channel S and it is said to be the 28th and 29th February or, at least -- anyway, Mr. Biggs, Mr. Chaudhury says his piece at the bottom of 1476. Do you have that?

A. Yes.

Q. He says that he believes that your intention was to divide people in the community. "A lot of people feel that because

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2 of ... (reads to the words) an election outcome for him."
3 Then, over the page, you were given your opportunity, or at
4 least you had the opportunity to rebut that, did you not?
5 "Alibor spoke to Channel 5 television at the office of the
6 Executive Mayor ... (reads to the words) within the
7 Bangladeshi community. Understand that." That is not exactly
8 what you did say, but putting that on one side for the moment,
9 "He, I am sure, works very hard across the whole
10 community ... (reads to the words) that won funding from
11 him." E1 is Whitechapel, is it not?
12 A. As well as other places, yes, but Whitechapel is one of them.
13 Q. But the area just to the east of the City?
14 A. Yes.
15 Q. "I do not think it is true ... (reads to the words) which
16 are focused on smaller groups within the community." Then
17 1494, please.
18 MR. HOAR: Can he read the whole lot?
19 MR. PENNY: Yes, of course.
20 MR. HOAR: Yes.
21 THE COMMISSIONER: It starts at 1493.
22 MR. PENNY: I am sorry, yes. Bad reference. Read the whole
23 transcript. It will not take you long.
24 THE COMMISSIONER: I have a reference here as 11.3. Can we take
25 this, then, to be March?

BIGGS - PENNY

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MR. PENNY: I assume so. Yes. (Pause for reading) Have you read that?

A. Yes-ish.

Q. Do you remember it?

A. I did a whole number of shows at that time.

Q. The point I am trying to make is, you were challenged about the September 2013 comments on this television show.

A. Yes.

Q. On 1494, did you make any kind of comments in BBC Sunday?

A. Okay.

Q. Then what you said was, "I think, I think Alibor, I think what is happening is because the mayor's team are losing ... (reads to the words) who happens to be associated with the Mayor of Tower Hamlets." You did not actually answer the question, did you?

A. Well, I gave an answer to a question.

Q. All right, Mr. Biggs. We saw what you said.

THE COMMISSIONER: 15 all, I think.

MR. PENNY: It was without any question a politician's response, was it not?

A. Well, I am a politician.

Q. You answered the question you would have liked to have been asked.

A. I have a feeling this is one of the many shows Lutfur Rahman

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declined to turn up to at the last minute. We had quite a few empty-chair shows on TV, which was rather disappointing.

Q. A bit like what is going on with the Prime Minister at the moment, I suppose.

A. Yes. They are both cut from the same cloth, I am sure. Yes.

Q. Mr. Blair dodged them as well, did he not? And Mrs. Thatcher?

A. Yes. Well, they do. They are dodgy, these politicians. You are quite right.

Q. I suppose one way of looking at it would be, if you are in the lead, you do not want to expose yourself.

A. Yes. I think that is precisely what Mr. Cameron is doing.

Q. I suppose that is within the rules, is it not?

A. It is an interesting question. It is being debated in the media as we speak, but I do not think it really helps us today.

Q. You brought it up. Okay. Let us go on. You then went on to say, "I worry about that, but maybe it is a coincidence ... (Reads to the words) and I think the mayor has an (unclear) office." You were seeking to divert away from answering the question yourself, were you not?

A. I cannot remember what I was doing at that time. I do not know who else was on the show or what the context was, but yes ----

Q. You were trotting out allegations against Mr. Rahman and you

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2 did not answer the question about what you had said.

3 A. I think the interesting position I was in (and my campaign was
4 in), was that -- put it this way: it is quite difficult, if
5 you reach the conclusion that, at administration -- not this
6 one, but any administration is acting disreputably -- and you
7 say that that is what you feel, then the response of that
8 administration, for some reason, is to say that you are acting
9 disreputably in suggesting that they are acting disreputably,
10 then you are in a bit of a sort of catch 22 position. That is
11 roughly what happened in Tower Hamlets. So, yes, I felt that
12 the administration was acting disreputably and I still feel
13 that is the case, and I think there is a lot of evidence to
14 substantiate that. However, particularly because of the race
15 issue, it then turned into an argument about people acting
16 inappropriately because of racial sensitivities, rather than
17 being open to actively examining the record of the
18 administration in deploying resources. So, we got ourselves
19 into a bind and it was difficult to get out of. Yes.

20 So, on the media program, I did not want to keep
21 answering questions about the BBC interview. I wanted to move
22 onto questions about the conduct of the mayor. The transcript
23 here, if it is verbatim accurate, it was a rather clumsy
24 clunking of words by me, but it was trying to move the debate
25 on, as politicians do, rather than trying to answer the same

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old question again and again. So, it is about trying to get on to the front foot. This is what people do in politics.

Q. Chuck accusations at the opponent in circumstances where they do not want to answer the question about themselves?

A. That is your version of it, but that is not my version of what one is doing.

Q. Is there any other way of interpreting what you were doing there?

A. I think, again, I repeat, that in terms of a communication strategy for a campaign, one wants to try to dictate the terms of the debate. Yes, it is probably not my finest interview, but I was trying to move the debate on the TV show, with limited opportunities to speak, a very short window on the program, to issues I wanted to talk about, rather than the stale old issues that the interviewer was trying to steer me on to. This is what politicians do.

Q. You had an extensive interview with the Guardian, did you not?

A. I think I did, yes. Yes.

Q. Published in extenso, in detail.

A. Yes, I met with Dave Hill.

Q. Dave Hill?

A. Yes.

Q. Who then wrote, on the eve of the election, a careful piece about the election that was to take place, and he endorsed

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you.

A. I think he did the same thing with Mr. Rahman as well, and did a similar length interview two days later or something.

Q. Yes. However, on the day before the election, he said that if he lived in Tower Hamlets, he would have voted for you?

A. Well, he may have said that, but I think almost certainly the predominant Guardian-reading vote in Tower Hamlets would have voted for me anyway, I suspect, but maybe not. So, whether he said that or not is not of great importance.

Q. Is that a remark about who the predominant Guardian readers in Tower Hamlets are, Mr. Biggs, just by any chance? What are you trying to say?

A. Okay. I will put it another way: I do not see Tower Hamlets as being a massively Guardian-reading borough, because it is about -- I stopped reading the Guardian years ago. I do not have a very high opinion of it, even though I get on with Mr. Hill.

Q. You said it, Mr. Biggs; not me.

A. Yes.

Q. You made the remark about the Guardian reader.

A. Yes. I suppose, stereotypically, Guardian readers are ----

Q. White, middle class?

A. Yes. White, middle class, who live in nice houses in the London suburbs, I suppose.

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THE COMMISSIONER: Certainly, I would be far from sure that the Guardian would regard its readership to be white, but middle class, certainly. I can see that there might be rather fewer middle class voters in some areas of Tower Hamlets than there may be in some areas of Kensington.

MR. PENNY: If I may say so (and this is meant with all respect), the issue I was interested in was what was in Mr. Biggs' mind, rather than your Lordship's, on this particular issue.

A. I suppose I could tell you ----

THE COMMISSIONER: Did you regard the Guardian readership as predominantly white? That is the question.

A. That is an interesting question. I see it as being probably excessively public sector, in terms of representing the wider community, and probably less -- yes, I would think it is probably more racially diverse than the middle classes than most other serious newspapers, as they are called. But I think I was using the term "Guardian readers" in a very slap-dash fashion, you are quite right, because it is a stereotype view about people who eat muesli and vote Labour, you know, and have reasonable incomes.

MR. PENNY: You see, this is the whole problem, is it not, Mr. Biggs? If you, as a politician, approach society in a stratified way, and you analyse your strategy according to those circumstances, C2s, D1s, A1s, whatever you want to call

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it, then you have to be very, very careful about introducing, in addition to that analysis, issues of race, do you not?

A. Yes, you do have to be. You are quite right. I know Tower Hamlets quite well and, yes, I do agree, you have to be. Yes.

Q. Trying to add that into the Guardian matrix, why do you think your observation was that you thought that Guardian voters would all vote for you anyway?

A. I do not think they would all vote for me anyway. I was being flippant; you are quite right. This is a serious venue and I should not have spoken in that fashion.

Q. In a way, it rather demonstrates the whole problem which took place here, does it not?

A. It depends on what you think that problem is but, no, I do not think so. I think there are strengths and weaknesses in my approach to politics and my approach to speaking and, by and large, I have been moderately successful in my politics and that is the way I live. I cannot really abide the precisely calibrated politics where everyone reads a brief, memorises each word, and says exactly the same thing 104 times. I would not want to live like that. So, you know, you get what you see. If it is a problem, and if the court finds it was a problem, then so be it.

Q. It is all about presumptions and prejudices and the effects

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BIGGS - PENNY

that it has on other people, people who are your audience, is it not?

A. I do not think so. No.

THE COMMISSIONER: I think this might be a good point for a break, do you think?

MR. PENNY: I am sorry. Yes, please, my Lord. Yes.

THE COMMISSIONER: If I were to say 20 to 4, do you think that would be suitable?

MR. PENNY: Yes.

THE COMMISSIONER: You can liaise with Mr. Hoar as to whether we might be likely to get on to Mr. Smith today.

MR. PENNY: Yes.

(A short break)

THE COMMISSIONER: Yes, Mr. Penny?

MR. PENNY: Mr. Biggs, there is, is there not, an awful lot of rough and tumble in your life in politics?

A. From time to time, yes. Yes.

Q. You have swapped what might be described as rather insensitive insults with the Mayor of London over Twitter.

A. Over Twitter?

Q. Yes.

A. I do not think over Twitter, but maybe I have.

Q. Do you remember he described you as being, well, effectively, mad, by saying that you were a Care in the Community case?

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A. Yes. I do remember him saying that.

THE COMMISSIONER: Which mayor is this?

MR. PENNY: The Mayor of London, Mr. Johnson.

THE COMMISSIONER: The current mayor? Yes.

MR. PENNY: You are political opponents. There is no doubt about that, is there.

A. We have a bizarrely warm relationship when we meet in the lift, but yes, I agree with you.

Q. To some people, the mayor describing someone as "Care in the Community" is actually pretty offensive, is it not?

A. I think it is offensive to people who are in receipt of care in the community and are fragile. Yes.

Q. Or those who care for them or are family members etc.

A. Yes.

Q. You responded, I think, by saying that he had attention deficit activity disorder.

A. I cannot recall the precise words, but I think I did say something which was probably marginally less inappropriate, but not the smartest thing to say, yes.

Q. Attention deficit disorder and he should take his medicine.

A. I think I did say that although I think I was criticised for that, yes.

Q. To be fair to you, you apologised for it and said that it was insensitive of you and it was wrong. You said that he thought

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he had a problem and it was a bit Bertie Woosterish what he had said in the first place.

A. I do not recall that bit, but I will take your word for it.

Q. This is over the public airways, is it not?

A. It generally is, yes.

Q. Those are examples outside the racial context, I suppose, of insensitive remarks made by politicians by way of vile abuse of each other.

A. Yes. Some people see it as my sense of humour. Anyone who has worked in politics will know that behind the scenes in politics, the language can be absolutely appalling, yes, astonishing, yes. People use all sorts of vivid and foul metaphors in politics, yes. It is all parties on all sides, yes. Less as they get older perhaps.

Q. They do it in the oxygen of public debate as well, do they not?

A. Perhaps ill-advisedly, yes.

Q. I do not know if you watched it, but did you see Mr. Farage on Question Time about three weeks ago?

A. No, I did not.

Q. He was described by Russell Brand, who I am sure you will be aware of, as a "pound shop Enoch Powell".

A. An interesting concept, yes.

Q. But the message is clear, is it not, as far as Mr. Farage is

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concerned.

A. A very down-market claim to racial prejudice, yes. Enoch Powell is a far more complex person than that but, yes, I think that is what it means in shorthand.

Q. It is part of the day-to-day of politics.

A. I notice when I speak to female politicians that quite often they have had to put up with all sorts of sexist and inappropriate abuse and get used to it. They should not have to, you are quite right, yes.

Q. So you need to watch your mouth.

A. You do need to and we all learn. Yes, if I was where I am now 20 years ago, I would be further on now, you are quite right, but I am not by any stretch a villain, I do not think.

Q. Can I ask you the question that I asked you at 10 o'clock this morning. Do you regret anything that you said during this election campaign?

A. I think in the heat of battle, one says all sorts of things. As I said, I regret that we did not win. I regret that I got crabby with my campaign team. Do I regret the comments that I made on the BBC interview, which is what you are heading towards, the answer is that I could have phrased it better, but it got the message across. The message was not the message which the First Respondent and his witnesses are claiming was being got across. It was not a dog whistle. It

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was a statement of unfortunate fact, which was about the way the administration was working and hopefully is less so now.

Q. That was the message that you intended although as you accepted shortly before the luncheon adjournment, you can understand why some people found some of it offensive.

A. I can understand how some people within the political community might have chosen to find it offensive and why some possibly did, yes.

Q. Really? Is that the extent of it?

A. I think it is, yes.

Q. Do you not think that people in the Bengali community could have been offended by it?

A. Possibly some, but I did not think it was a massively offensive comment, no.

Q. I mean, if it were the case that people were caused offence by what you said, that would be something that you would regret, would it not?

A. If people could demonstrate that they had been offended by those comments, then yes, I would regret that. I do take the view that in political debate, as you said alluding to Boris Johnson, the cut and thrust of debate with one's colleagues and adversaries in the Council debating chamber is a different order of debate from with the wider public. I would never dream of saying those things to a community group, for

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example. I think that the motives of the administration have been very questionable and I think that has been well-highlighted.

Q. You know what I am asking, Mr. Biggs. I am asking about your own view of what you did in the context of this campaign and whether you have any regrets about it because you did offend people, did you not?

A. Some people have said that they were offended. I have not had people coming up to me in the street and saying, "My God, John Biggs, you were so offensive, we will never speak to you or vote for you again." I have had a number of people making depositions to this court case who say that they were offended, but I do not have a sense of a great moral outrage at what I may or may not have said and how it may have been spun or misinterpreted. Yes, I do appreciate that one should always be careful. In the cut and thrust of debate, as in battle, things will happen which are not 100% of what one might have wanted to say, but which more or less take you in the right direction.

Q. There are a number of witnesses, in relation to which certain aspects of their evidence have been referred during the course of the day in the witness box: Christine Shawcroft, Stuart Maidwell and Mr. Jalal. If your Lordship is content with this, I am simply going to affirm with you, Mr. Biggs, that

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you have given your response in your witness statement so far as the allegations that they make against you are concerned.

A. I do not think I said anything really in relation to Mr. Maidwell.

Q. You are quite right.

A. I did comment fairly extensively about Mr. Jalal and our history.

Q. But the point is that it is all in your witness statement.

A. Yes, I think so.

MR. PENNY: If your Lordship will forgive me, I am not going to traipse through those suggestions in those circumstances.

THE COMMISSIONER: Very sensible.

MR. PENNY: There is one issue where there is a conflict that I just want to explore with you for a little bit. Would you be kind enough to go to your witness statement at page 196, paragraph 99. You are talking about Mr. Rahman, your relationship and your observations of him: "I was reminded also of LR's ability to mobilise support when at the time he was off the shortlist of 2013 and hedging his bets on how he could secure influence in the event that I became Mayor. He and a number of his colleagues, including Councillor Choudhury, visited my home late at night twice to offer conditional support and offer of their block of votes in this election in return for guarantees of positions of influence in

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the event that I became Mayor." Is that accurate?

A. It is accurate, yes. I know that from Lutfur Rahman's statement no. 4 that he says that that meeting did not take place, but there were two such meetings.

Q. We will look at that in a second. Just look at the first sentence of it: "I was reminded of LR's ability to mobilise support at the time he was off the shortlist in 2013." That cannot be right, can it? He was not off the shortlist in 2013. He was the Mayor in 2013.

A. No, you are quite right. This would be in 2009 then. Yes, I am four years out.

Q. When the squabble was going on about who was going to be elected.

A. I am four years out. It was 2009, you are absolutely correct.

Q. It can make a wee bit of a difference, can it not, four years?

A. Well ----

THE COMMISSIONER: So can we change that to 2009?

A. Yes, I apologise.

MR. PENNY: That is all right, do not worry.

A. It was certainly a year before the Mayoral election. I just got the wrong Mayoral election, you are quite right.

Q. Typographical errors can creep into the production of witness statements and so forth. So far as this witness statement is concerned, did you draft it all yourself?

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A. Unfortunately, I did, yes.

Q. Each and every paragraph is yours, is it?

A. I do not know where this is leading to but, yes, I spent many a weekend at my desk in City Hall drafting and redrafting and paraphrasing and chopping it about, looking for evidence and putting together this gargantuan thing, yes. Is that a problem?

Q. It is a question, Mr. Biggs, and you have given me an answer so I am bound by it. As you will know, the rules of evidence establish, all right. Can we move, please, to the statement of Mr. Rahman to which you have made reference. That is in volume R. It is his fourth witness statement at paragraph 85, which is at page 4319. Let me understand this. Are you suggesting that Lutfur Rahman came to your home twice in 2009?

A. Have I got the wrong year then? Yes, you are quite right, it must have been 2010. After the Mayoral referendum, there was a short period between the May election and the October election in which the Labour Party attempted to select a candidate. There was one shortlisting meeting, which was then repeated with a second shortlisting meeting. Between that and the point at which Mr. Rahman was placed back on the shortlist following the various legal interventions, he attended my house so it must have been in September or something, August/September 2010 then. For the second time, I have got

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the wrong year. It was 2010.

Q. Let us get the chronology clear for his Lordship. The position was that Mr. Rahman was unsuccessful in seeking to get on to the shortlist first time round.

A. Yes. S.

Q. The processes which the Labour Party had adopted were unlawful, there was a legal challenge and he was then put back on the shortlist.

A. I would not agree with that, but those are your words.

Q. I think the Labour Party settled the action and paid his costs; is that right?

A. They settled the?

Q. They settled the action against him and paid his costs.

A. I give an account of that in my second witness statement, which is my understanding of what happened.

Q. But one way or another, he ended up back on the shortlist.

A. Yes.

Q. He then won the election first time round. In relation to that election, you were second and Mr. Abbas was third.

A. This selection, not the election, yes.

Q. There was a list and then there was the election proper for the nomination. He was successful in votes. Forgive me, I should make it clear. He is not on the original selection list, he challenges that, he then is on the selection list.

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A. There is another iteration.

Q. Go ahead.

A. He was rejected, there was a completely fresh panel, he was interviewed again, he was rejected again, he then exercised his right of appeal to something called the Disputes Committee or something -- this is all in the appendices to his second statement -- and then following that, by whatever route, he received a letter saying that he was on it, then a second letter saying he was not, his lawyers then fired off missives and he was placed back on it.

Q. Then there was the election.

A. No, there was then the National Executive Committee meeting.

Q. I am talking about the votes for who was going to be the candidate.

A. The selection?

Q. Yes.

A. Yes.

Q. I am probably using the wrong terminology. All I am trying to establish, as I asked you this morning, is that he was first, you were second and Helal Abbas was third. Then there was intervention from the NEC and you were not made the candidate, but Helal Abbas was, which is what I was asking you about earlier on.

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Q. So far as these meetings are concerned, you say that they took place at your address. I do not want to expose that in court, but that was within the London Borough of Tower Hamlets.

A. It is my wife's home, yes. It is well-known that it is now her private address, or my ex-wife.

Q. Who else was there apart from Mr. Rahman?

A. I was thinking about this last night because I read Mr. Rahman's statement. He said the meeting did not take place. Mr. Rahman was there, Mr. Alibor Choudhury was there, Mr. Ohid Amed was there, Anwar Khan was there and I think there was a fifth person, but I am not too sure who it was. I was there on my own. He had asked that I not have anybody present with me, which I thought was a bit one-sided, but I am a reasonable guy and I accepted that.

Q. Did you make a telephone call in 2010 just prior to his court challenge?

A. I have no idea. We did attempt to communicate by telephone once or twice in this matter. I think following his election as Mayor, I attended one or two meetings with him at the Town Hall where we talked about the possibilities of reconciliation. In advance of this election, I was quite keen at finding ways of healing things over so we did have conversations.

Q. This is before the challenge to his exclusion from the Party

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shortlist. You telephoned him, did you not?

A. I have no idea. We were in the business of speaking to each other to maintain ----

Q. Look at paragraph 85 of his statement rather than ----

A. I have no recollection. We have spoken on the phone in the past, but not for a long, long time. We must have spoken at about this time, but the contents of the conversation which he relays in this statement are not true.

Q. So there is no possibility of you having said to him that if he withdrew from the proceedings against the Labour Party, he may have a future in Parliament or the House of Lords?

A. I certainly could not have offered him such a future.

Q. You see what is in the witness statement, Mr. Biggs. I am just asking you whether such a conversation may or may not have taken place.

A. I took this paragraph to mean that, in some way, I had threatened, offered or attempted to cajole him into not challenging something in order to please myself and offered him the inducement that he might get confirmed as a result of that and no such conversation took place.

Q. Did you say that senior figures within the Party would come down on him like a ton of bricks?

A. I have no recollection of saying that.

Q. Is it a possibility?

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A. Okay, I have no recollection of saying that in the context in which it is placed here and I have no recollection of a detailed conversation with him in which we covered these matters. I do not recall that, no.

Q. Are you ruling it out?

A. I am ruling out that I did not have a conversation with him in which my tone could be construed as threatening. I did not have a conversation with him at which I offered him a seat in Parliament or the House of Lords because they are not within my gift. Even if I wanted to make such an offer, I could not have done so. We did talk during this because it was a stressful time for both of us. We were both mighty pee'd off, I was going to say, that the whole thing had been deferred again and again. It was stressful for every candidate and we did try to maintain civil conversations during it. That was my interpretation of what happened.

Q. Was there a telephone conversation in which you invited him to desist from the legal action that he was taking?

A. I do not recall such a conversation. I think he may have told me that he was considering legal action, I have no idea. What would I have said in response to that? I do not know.

Q. You heard my question. Did you invite him to desist in the legal action that he was taking against the Labour Party?

A. You keep asking this question and I am just trying to be

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helpful by trying to remember something that I do not remember. I do not remember having any conversation with him which could be phrased in the fashion in paragraph 85.

Q. You keep saying that you cannot remember. I am asking you whether it could have happened or not. In other words, are you ruling this out?

A. I am ruling out a conversation in which I threatened him or offered him inducements or tried to encourage him to get out of the way to give me a free field or whatever is insinuated in this paragraph.

Q. Are you ruling out a conversation in which you invited him to desist in his legal action against the Labour Party?

A. Yes, I am ruling that out. I mean, we may have had a conversation in which he said that he was minded to do that. We might have talked about what that might mean in various guises, but I have no recollection of such a conversation.

Q. What would the conversation have been about then? "Oh, John, they have deselected me." How does it go after that?

A. I have no recollection of such a conversation. I am just trying to imagine what would happen if I had a conversation with someone in that position who was a mate of mine. I would say, "Life is not at an end. You could consider a legal challenge. The Party may not support you." I have no idea what I would have said.

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- Q. You were rivals, were you not?
- A. It is interesting you say that. We are not rivals to the death in my opinion. I have always taken the view that the Labour Party is a fraternal organisation and that we work together and we try to secure candidates and victories. I think my record shows that on occasions when I have lost in the past, I have valiantly endorsed and supported the candidates who have won. At the moment, Lutfur was successful before the NEC suspended him. I held his hand aloft outside the Labour Party office and spoke to the TV cameras with him and put an arm around him and said, "Good on you, mate. I am behind you." I was very sincere in saying that. It is not quite like a war where one of you has to die at the end of it. It is an adversarial process in which only one of you can win, but hopefully at the end of it, you put away your swords and you work together towards the common good. That is the point of having a political party.
- Q. In 2010, were you or were you not rivals for the nomination to be the Labour Party candidate in the Tower Hamlets Mayoral election?
- A. Obviously we were.
- Q. There was no chance of the words "coming down on you like a ton of bricks" being mentioned in this conversation?
- A. Shall I read the paragraph again?

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Q. Of course.

A. The meetings at my home did not take place. They did take place. All I can say about this is at that the meeting that took place in my home, Mr. Rahman told me that he had a block of votes which he said was of the order of 200 votes -- I thought that was rather less than the number of votes at his command -- and that he would deploy those in my favour. He wanted me to offer him in return for this an assurance that I would make his nominated candidate the Deputy Mayor if I became Mayor and that I would offer half the places in the cabinet to people from his faction or grouping. I said in response to that in those conversations, misguidedly or otherwise, that what I wanted to do was to try to represent the different factions and interests in the party in the administration of Tower Hamlets in the event that I became the Mayor and that I would certainly consider his nominations, but that was not a reasonable request for him to make.

Q. I hope I made it clear that I was asking you about the telephone conversation.

A. There was no telephone conversation of the type intimated in this paragraph that I am aware of.

Q. None whatsoever?

A. We had a telephone conversations. I cannot remember what their content was, but there was certainly no conversation the

BIGGS - PENNY

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purpose of which was to threaten and to harry him or to discourage him from standing or making his legal challenge.

Q. At this stage, you still wanted to be the candidate, did you not?

A. Yes, of course I did.

Q. You were none too happy when Mr. Abbas was installed as the candidate.

A. By that stage, as I said earlier today, I thought it was a bit of a train wreck, I was weary and battered by the whole process and I thought, "Stuff it" momentarily to myself. Yes, it was my ambition to be the Mayoral candidate and I then went away and here we are today.

MR. PENNY: Indeed. Thank you very much, Mr. Biggs.

THE COMMISSIONER: Mr. Hoar.

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BIGGS - HOAR

RE-EXAMINED BY MR. HOAR.

Q. I do not want to take very long on this particular point, but Mr. Biggs has not had an opportunity to comment on the Stuart Maidwell point. I wonder if he has any comment on page 294 of bundle R where there are two paragraphs written by Stuart Maidwell, served subsequent to Mr. Biggs's second and last witness statement.

A. I have not seen this statement.

MR. PENNY: This does not arise out of cross-examination, but ----

MR. HOAR: I am conscious of that. I am grateful. It is paragraphs 9 and 10 at page 294. Do you or do you not have any comment on that?

A. It seems very similar to the earlier statement that I think you took me to -- maybe it is the same statement -- and I felt it was largely anecdotal, really. I disagree with him. I think the literature, although it may not have explicitly said, "John Biggs is a racist", was implying, although not stating, that I had a dodgy record on issues of race.

Q. May I turn to the barbecue and take you to F/194, which is the exhibits bundle. Could you also turn to your witness statement at tab 37? No, that cannot be right.

THE COMMISSIONER: The barbecue press release is 865.

MR. HOAR: No, there is another one at page 914 of F to which I did not refer. This is a press release dated 14th August,

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which is before the 27th, some two weeks before that.

A. Yes.

MR. PENNY: It is a Labour press release.

MR. HOAR: Yes. You can see that it says, "Labour condemn the EDL's plan to march in Tower Hamlets (... reads to the words ...) we enjoy in our Borough." That was the press release that was actually released. It is in the form of an email there.

A. To the best of my knowledge, yes. This is the one I was looking for earlier, yes, which preceded the Tower Hamlets First press release denouncing us for ----

Q. It precedes it by about two weeks. You have also given evidence that you had signed a letter. The letter itself is at page 917 to The Guardian in which the first signatory is the Mayor, Lutfur Rahman, and the second Ken Livingstone. Included on that lengthy list is the local MP, Jim Fitzpatrick. I cannot quite see whether Rushanara Ali is as well. Can you explain the circumstances behind this because it rather goes to the issue of what happened before 27th August?

A. The organisers of the demonstration, who were not the Mayor's office but were a group of people in the community, solicited support for this letter. I indicated to Rushanara Ali that we were happy to sign it. We did not physically sign it. I am

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2 not sure if anybody physically signed it. I was surprised to
3 see when it was published that it did not contain myself or
4 indeed Rushanara's signatures. I tried to get to the bottom
5 of this because I was rather peeved at this because we wanted
6 to show our vociferous and firm support for this letter. The
7 only answer I had was that it had been sent out by the Mayor's
8 office. I am not suggesting that the Mayor's office
9 deliberately withheld those signatures, but something happened
10 which was either an administrative error or deliberate
11 withholding of the signatures.

12 Q. So we know that the first signature is that of the Mayor. You
13 were told that it came from the Mayor's office.

14 A. I was told by a man whose name I cannot remember, who
15 organised -- I think it is Glen Power, is it? -- in the
16 community, who organised the demonstration, the mobilising
17 committee for it.

18 Q. Are the organisers of this round robin letter -- I do not know
19 if that is the description, but you do see these letters quite
20 regularly in the press giving joint statements. I do not mean
21 to be pejorative by saying that it is a round robin letter.
22 It is the form of letter showing a united position written to
23 a national newspaper. Those who organised it were aware, as
24 far as you are concerned, that you had been approached and you
25 had said that you would be willing to support this letter.

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A. I am absolutely certain that it was not Glen Power. He was a person unassociated with this so I would not want him to find himself on a court record. It was a man who lives in Bethnal Green who organised this. I am not very good at remembering names.

Q. On the next page on file F is the letter that you wrote. Is that Damian Green, the then Minister?

A. The Home Office minister, yes.

Q. Signed by you as then leader of the group and the two local Labour MPs. That is one that was written four days before the EDL barbecue.

A. I cannot recall specifically mentioning it in my statement. It is just part of the correspondence which I dug out of my files which shows activity to try to stop this march taking place.

Q. Are you aware that other than letters of this sort sent to Government ministers, is it fair to say that they are meant to have a wider target audience than just that Government minister, if that is not too leading a question?

A. I think this might have been produced in response to the failure of the signature to appear on the other letter, but certainly it went to Damian Green. I happened, for a number of years, to have been a member of the Metropolitan Police Authority and in that role became aware of the process by which marches are banned, which is not directly through a

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minister but on the recommendation of the Commissioner of the Metropolitan Police.

Q. Did anyone else before 27th August, the relevant date, apart from Mr. Green receive that letter or see that letter?

A. It would have gone ---

Q. You say Sir Bernard Hogan-Howell, Stephen Greenhalgh, who is Deputy Mayor of London, and the Police Commissioner, Dave Stringer. Apart from that ----

A. I have no idea.

MR. PENNY: He is the Borough Commander.

A. Yes. I was aware in sending this correspondence that in 2011, when a march was banned, it was only banned as with all marches in Greater London about two days before the event of the march so hope sprung eternal. Indeed, the Mayor sent further correspondence in which he was seeking to try judicial review, which I think was the wrong approach, but nevertheless he was trying to use legal process to stop the march in the week before it took place.

Q. You were also asked about Councillor Anwar Khan, is it?

A. Yes.

Q. We can see what was reported about Councillor Khan in your exhibits. It was in one of the local newspapers. It is page 902. This is a letter that was given some support by one of those press releases. At page 901, this is what it says in

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the East London News. In your experience of the Borough, what circulation and readership does the East London News have?

A. It is a free newspaper with quite a limited circulation. I think it is the sister publication of London Bangla. It has the same publisher and the same typeface.

Q. In any event, it has a readership within the Borough. It was published on 11th April. On the next page, in very, very small type, you can see that Councillor Khan says that you do not like to hear criticism. It is the fourth paragraph down: "Councillor Khan believes that John Biggs does not like to hear criticism, no matter how constructive, and especially not from Bangladeshi councillors. It is therefore important to Biggs that he surrounds himself with people agree with him. In this way, Biggs ends up perpetuating the same institutionally racist behaviour of Labour as a whole." Supportive comments about that allegation were made subsequent to that newspaper being published, were they not

A. By?

Q. By Tower Hamlets First?

A. Yes. It was certainly used as one of the exhibits in their assertion that I had insensitivity, yes.

Q. It will be for his Lordship to decide whether they had reasonable knowledge of exactly what he said. You have spoken also about the argy-bargy, if I may use that inelegant phrase,

BIGGS - HOAR

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of politics. In particular, you were cross-examined----

MR. PENNY: I am sorry to interrupt, but just on that point, the reference which is on the Tower Hamlets First press release is to the "trial by jury" blog. It is not to the ----

MR. HOAR: My Lord, there is a reference to Councillor Khan having said Mr. Biggs was uncomfortable with Bangladeshi politicians in one of the relevant ----

THE COMMISSIONER: Yes. I have it in mind. We need not turn to it.

MR. HOAR: No. That, constructively, incorporates those comments. I am not going to repeat that obvious submission. (To the witness) Moving on from that, you were asked questions about an interview that you had with Samir Saffi, which is a television programme, I think, not a radio programme, which is published with a large audience in the borough, and that was at V, if you could turn back to it, 1493. I wonder if, after you have found 1493, you could turn back to G, which is one of the blue bundles, 1229. I will go back, once you have those two in front of you. Let us look first at the interview with you on 11th March 2014, shortly before the election. You were asked by the host, Atala Faruk, "Welcome back. We are talking about residents of Tower Hamlets, what they want and what is their demand, and also invite John Biggs. We are talking about the Alibor Choudhary comment, so that means, he told the

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2 mayor, he is working only for, focusing only for the
3 Bangladeshi community, and you make this statement in BBC
4 Sunday. That means it is not right, is it?" You then give
5 the answer, about which you were cross-examined moments ago.
6 The host then says, in answer, "That should be for all
7 communities here," and you say, "I think the point is that the
8 mayor should support all communities." He then says, "Did you
9 make any kind of comments in BBC Sunday?" You say, again, as
10 you were questioned, "The mayor's team are losing the
11 arguments. They are trying to throw race into the political
12 debate, and I worry about that." Then you are interrupted.
13 So, you are asked detailed questions about that matter.
14 Compare that at 1229, at bundle G, which you have open. This
15 is what Mr. Rahman was asked when he was interviewed.

16 THE COMMISSIONER: Am I really assisted by the fact that Mr.
17 Rahman, on this occasion, may have got a slightly easier ride
18 than Mr. Biggs? The point about the Mr. Rahman interviews is
19 a point that you raise, and raise ----

20 MR. HOAR: In a different context.

21 THE COMMISSIONER: ---- in a different context, which I suspect is
22 not one on which I am going to be assisted much by Mr. Biggs.

23 MR. HOAR: It is not, but Mr. Biggs was cross-examined on the
24 basis that these were the kind of questions ----

25 THE COMMISSIONER: "You were asked a straight question and you

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dodged it" was, I think ----

MR. PENNY: Absolutely. He was cross-examined about the period as between the making of the statements by Mr. Rahman's first (unclear) and the election. What my learned friend is trying to do is show this witness the transcript of an interview with Mr. Rahman which took place in October 2013.

THE COMMISSIONER: I am aware of that. I am not sure we are getting very far with this, actually, Mr. Hoar.

MR. HOAR: It perhaps is a point for submissions, because it rather shows the different treatment of these two candidates.

THE COMMISSIONER: It is that point.

MR. HOAR: Really, that is all in re-examination that I have for Mr. Biggs.

THE COMMISSIONER: I do not suppose anyone has any objections to Mr. Biggs being released.

MR. PENNY: Thank you, Mr. Biggs. You have had a long, hard day. You are free to take no further part in this trial, but you may sit in the back and watch, if you care. But so far as your attendance at court is concerned, that is no longer compulsory.

THE WITNESS: Thank you very much, sir.

(The witness withdrew)

THE COMMISSIONER: We shall resume with, presumably, Mr. Randall Smith, at 10 o'clock tomorrow.

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(Adjourned till 10 a.m. tomorrow morning)