

# Operation Lansdowne

Decision of IOPC Director General  
Michael Lockwood as to whether to  
criminally investigate the Right Honourable  
Boris Johnson MP

Regulation 14(1) of the Elected Local Policing Bodies  
(Complaints and Misconduct) Regulations 2012  
(the 2012 Regulations)

18 May 2020

## Purpose of this document and summary conclusion

1. The purpose of this document is to set out my decision as to whether it is necessary to criminally investigate the Right Honourable Boris Johnson MP (Mr Johnson) for the common law offence of misconduct in public office (MIPO). I have decided that it is **unnecessary** to criminally investigate Mr Johnson for MIPO. The remainder of this document details how I have reached this decision.
2. In summary, my decision is based on the following conclusions (based on the information we acquired during our scoping exercise):
  - There is some evidence that Mr Johnson and Ms Arcuri may have been in an intimate relationship during some of the relevant time period when Ms Arcuri attended trade missions (this is relevant to whether there could ever be a sufficiently serious breach of the public's trust to engage MIPO).
  - There is no evidence that Mr Johnson influenced the payment of any sponsorship monies to Ms Arcuri or her companies.
  - There is no evidence that Mr Johnson sought to influence, or played an active part in securing, Ms Arcuri's participation in trade missions.
  - There is some evidence that Mr Johnson may have been aware (disputed by Mr Johnson) that Ms Arcuri was on an attendee list for a New York trade mission event, but this awareness is not sufficient for me to suspect Mr Johnson of having committed MIPO.
  - While Mr Johnson was not under an obligation to declare on his register of pecuniary interests Ms Arcuri's dealings with the Greater London Authority (GLA)/London and Partners (L&P), if Mr Johnson was in an intimate relationship with Ms Arcuri, it would have been wise for him to have declared this as a conflict of interest, and a failure to do so could have constituted a breach of the broader Nolan principles contained within the GLA 2012 Code of Conduct.
3. In referring this matter back to the GLA (as I am required to do further to the 2012 Regulations) I have, based on the information we acquired during our scoping exercise, made five learning recommendations to be considered by the relevant GLA Committees (the Police and Crime and/or Oversight Committee), which relate to the following areas:
  - Recommendation 1: GLA information management and retention
  - Recommendation 2: the decision-making and record-keeping with regard to trade missions

- Recommendation 3: the decision-making on the payment of sponsorship monies
- Recommendation 4: the GLA Code of Conduct
- Recommendation 5: GLA support and training for the Monitoring Officer on the referral process

Recommendations 1 and 5, in particular, seek to address the difficulties we have faced in acquiring the relevant background material from the GLA to enable me to reach a proper conclusion. These difficulties have significantly lengthened the time it has taken me to make this decision. More detail on the learning recommendations is provided at paragraph 83 below and in the Learning report (Appendix D to this document).

## Background

### The referral

4. On 27 September 2019, the IOPC received a referral from the Monitoring Officer of the Greater London Authority (the GLA) of a "conduct matter" in respect of Mr Johnson concerning *"...an indication that he may have committed misconduct in public office when he was the occupant of the Mayor's Office for Policing and Crime (MOPAC) and Mayor of London."*
5. The referral came in the form of:
  - a letter from the Monitoring Officer to me dated 27 September 2019
  - an IOPC referral form dated 27 September 2019
  - a copy of a letter the Monitoring Officer had sent to Mr Johnson dated 27 September 2019
6. I have appended these documents collectively as Appendix A to this decision document.
7. The letter to Mr Johnson was the most detailed document. The letter:
  - outlined the "legal position" as to why the alleged criminal conduct fell for consideration under the 2012 Regulations
  - set out the allegations against Mr Johnson relating to his association with Ms Jennifer Arcuri (Ms Arcuri), in the context of her, and her companies' (Innotech and Playbox), association with L&P, the Mayor's promotional agency.
8. Detailed below are the relevant extracts from the Monitoring Officer's letter to Mr Johnson:

#### Current allegations

Matters have recently come to my attention from the Media and elsewhere regarding your conduct between the Relevant Dates. In broad terms they appear to involve the following matters:

- 2013: London & Partners (L&P), the Mayor's promotional agency, provided Ms Jennifer Arcuri's (JA) company, Innotech with £10,000 sponsorship for an event at the World Islamic Economic Forum.
- 2014: L&P paid Innotech £1,500 to sponsor an event in Parliament.
- Nov 2014: JA applied to attend the Trade Mission in Singapore via her company, Innotech. The application was declined.
- JA re-applied to attend via her company, Playbox. The application was successful, and JA attended the Trade Mission to Singapore and Malaysia.
- Feb 2015: Although JA did not qualify to attend a Trade Mission to New York she was allowed to attend and participate in some events even though she was not an official member of the delegation.
- Nov 2015: JA's application to attend the Trade Mission to Israel was rejected however JA was able to go on and secure permission to attend.

The offence of misconduct in public office has been publicly raised and so I have to consider whether that offence is potentially involved.

#### Conduct matters

I am under a statutory duty pursuant to regulation 12(1) to record any conduct matters that I become aware of. A "conduct matter" is a matter defined by section 31(1)(b) of the 2011 Act as "*matters in the case of which there is an indication (whether from the circumstances or otherwise) that a relevant office holder may have committed a criminal offence*".

I emphasise it is not my role under the 2012 Regulations to investigate or determine whether any offence has been committed. Similarly I do not investigate the veracity of the allegations or whether they are substantiated to any particular evidential level or degree. I am simply required to satisfy myself as to whether there is disclosed the potential presence of an offence during the Relevant Period, to the point of there now being present an indication that such an offence may have been committed from the circumstances or otherwise.

### Determination

I have come to the conclusion that the necessary threshold for there to be a conduct matter is met for the following reasons:

- a) At the material time of the alleged conduct, you were in public office. The alleged conduct is directly linked to the circumstances in which you discharged your public duties.
- b) On the basis of information in the public domain, it is alleged that you have on more than one occasion used your position as Mayor to benefit and reward your friend or her companies with sponsorship monies and access to Trade Missions that she would but for your friendship or intervention not have received.
- c) Subject to any explanation provided by you, these matters give rise to a suggestion that there has been a failure to safeguard the public purse and if so that amounts to a significant breach of public trust.

These are the ingredients of the offence of misconduct in a public office.

Given there is an indication you may have committed misconduct in public office in the Relevant Period and between the Relevant Dates:

- I have formally concluded that there is a conduct matter for the purposes of regulation 12(1); and
- I have, accordingly, recorded this as required by that regulation.

### Referral to IOPC

As a result I am now required by regulation 13(2) to refer this conduct matter to Mr Michael Lockwood, the Director-General of the IOPC ("the Director-General"). He is required under regulation 14(1) to determine whether or not it is necessary for the matter to be investigated. I have copied this letter to him. I have done this today.

The IOPC's investigative jurisdiction and my decision to scope the referral before deciding whether it was necessary to investigate the allegations

9. Following receipt of the referral, I have a duty to determine, further to the statutory scheme, "*...whether or not it is necessary for the... [conduct] matter to be investigated.*"<sup>1</sup>
10. Our investigative jurisdiction in relation to referrals further to the 2012 Regulations differ in comparison with those undertaken concerning the police.<sup>2</sup>

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<sup>1</sup> Regulation 14(1) of the 2012 Regulations.

<sup>2</sup> Further to the *Police Reform Act 2002* (the PRA) and related regulations.

11. Our investigative jurisdiction under the 2012 Regulations<sup>3</sup> extends only to criminal matters, whereas our jurisdiction in relation to, for example, the 43 Home Office police forces, includes criminality, misconduct, complaints and death or serious injury matters – a much broader investigative jurisdiction. In addition to a broader investigative jurisdiction, referrals received from police forces often include more than simply the complaint or allegation – very often we receive underlying material from the relevant force professional standards department. This gives us an insight into the incident or allegation the police force wishes to bring to our attention in order that we can decide whether an investigation is necessary and, if so, how the investigation should be conducted.<sup>4</sup>
12. By contrast, referrals we receive further to the 2012 Regulations can amount to bare allegations of criminality with very little, if any, underlying evidence related to the allegation(s) itself. As the letter from the Monitoring Officer to Mr Johnson put it “...I emphasise it is not my role under the 2012 Regulations to investigate or determine whether any offence has been committed. Similarly I do not investigate the veracity of the allegations or whether they are substantiated to any particular evidential level or degree...” This can result, as it did in this case, with only a bare allegation being referred to us and the provision of no underlying material – material which might provide context or insight to assist us in determining whether it was necessary for the matter to be investigated and, if so, in what form.
13. Therefore, on 3 October 2019 I made the decision “... to devote IOPC investigative resources to collate relevant material through engagement with external parties in order for me to have more background/underlying information about the matter so that I can reach an informed decision as to whether it is necessary for this matter to be investigated and if so, what method of investigation is appropriate. This process of acquiring background material is often referred to as a ‘scoping exercise’...”
14. I wrote in my 3 October 2019 decision that, in my view, this exercise was necessary for the following four reasons:
  - a. “**Little substantive detail to date:** The referral letter from the Monitoring Officer provided no detail as to the underlying basis of the allegation. Her letter to Mr Johnson (quoted above) does provide some detail as to the underlying basis of the allegation but significantly little to no information as to how Ms Arcuri’s alleged friendship with Mr

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<sup>3</sup> ‘Relevant office holders’ include: police and crime commissioners, their deputies, the Mayor’s Office for Policing and Crime and the Deputy Mayor for Policing and Crime – see the definitions of ‘relevant office’ and ‘relevant officer holder’ further to regulation 2 of the 2012 Regulations.

<sup>4</sup> Investigative options in relation to police matters include: independent investigations conducted by the IOPC, investigations directed by the IOPC, or local investigations, usually conducted by the police force itself.

Johnson 'resulted' in Ms Arcuri (and or her companies) receiving sponsorship monies and access to trade missions.

- b. **The existence of relevant and accessible material:** I have become aware from our engagement with the GLA Monitoring Officer that material related to this matter has been collated by the GLA (in response to a Freedom of Information Act (FOIA) request) and also by London and Partners (the Mayor of London's official promotional agency) the latter, I understand, being involved in the provision of sponsorship monies and the trade missions. At the time of making my decision to conduct a scoping exercise in order to assist my necessity decision (Monday 30 September 2019), I was already aware of the existence of the FOIA material collated by the GLA Monitoring Officer (I had been informed on the day of the referral (Friday 27 September 2019).

To assist me in acquiring this material, the 2012 Regulations provide me with the power to require disclosure from:

- the Policing and Crime Panel (in this case the London Assembly Police and Crime Committee)
- the relevant office holder (in this case Mr Johnson) and
- every chief constable

as appear to me to be required for the purposes of the carrying out of any of my functions under the 2012 Regulations [regulation 35(1)]. This includes disclosure to assist me in deciding whether it is necessary to investigate this conduct matter.

At the time of documenting this decision (Thursday 3 October 2019), we have received a copy of the GLA material and received confirmation from London and Partners that they are minded to release the material they hold to the IOPC for the purposes of our decision-making, subject to their receiving a response from Ms Arcuri (deadline for this is next Monday 8 October), and having assessed whether release of this material to the IOPC would be GDPR compliant.

- c. **The low threshold of referral and the nature of the offence:** The threshold for referral of an allegation of criminality against a 'relevant office holder' under the 2012 Regulations, is simply that the monitoring officer (in this case) is satisfied that there is "...an indication (whether from circumstances or otherwise) that a relevant office holder may have committed a criminal offence." This is a low threshold – deliberately so under the Regulations so that matters are referred, at an early stage, to an independent body to make subsequent assessments. Indeed, an indication that a criminal offence may have been committed is arguably a lower threshold than the trigger for using criminal investigative powers under the Police and Criminal Evidence Act 1984 ('reasonable grounds to suspect'). The retrieval of underlying material might assist me in assessing whether criminal suspicion is made out, thus allowing IOPC staff re. an independent investigation, or police officers re. a managed investigation, to exercise criminal investigatory powers [regulation 20(3)]. This is particularly so bearing in mind the nature of the offence referred – the common law offence of

*misconduct in public office (MIPO) – which is a very serious offence with four limbs, one of which is that the conduct must be serious enough to amount to “an abuse of the public's trust in the office holder”, which is very context specific. Review of underlying material may assist me in understanding the context in which decisions relating to engaging with Ms Arcuri were made.*

d. **Resources:** *Conducting a scoping exercise will enable me to understand better what further resources I might need to bring to bear (such as specialist financial investigative expertise) should I decide that the matter requires investigation (this might influence my method of investigation decision).”*

15. In summary, obtaining underlying material would assist me in assessing:

- whether there were reasonable grounds to suspect that there may have been offences committed and their seriousness
- and whether the use of investigative resources is necessary and proportionate

16. I wrote in my 3 October decision that this scoping exercise could be conducted expeditiously. I appointed a Regional Director and team to carry out the scoping exercise and I would “...endeavour to decide whether it is necessary to conduct a criminal investigation as soon as I consider there is sufficient information to make an informed decision.” Unfortunately, the time it has taken for me to reach this position has not been as quick as I would have liked, despite the best efforts of my team.

17. In the ‘Methodology of scoping’ section detailed below I have outlined the reasons for this. Specifically, information we requested from the GLA could not be immediately and easily accessed. There were also several gaps in material, which required us to go back to both GLA and L&P to request further information. Furthermore, it took a significant period of time:

- for the GLA to provide a clear position on what interests required registering and declaring (during the relevant period)
- for our scoping team to acquire from the GLA confirmations as to what relevant email traffic remained in existence and available for review

18. I have included in full my scoping decision at Appendix B below.

#### Methodology of scoping

19. The scoping exercise was conducted by a small group of investigators led by the IOPC Regional Director for London, Sal Naseem, together with an IOPC Senior Lawyer, Danny Simpson (the scoping team). I received regular updates as to their progress.

20. Their enquiries focused on the following allegations:<sup>5</sup>

- grants from L&P to Ms Arcuri's company Innotech of £10,000 in 2013 and £1,500 in 2014
- a grant from the GLA to Innotech for £12,447 (November 2013) to attend a trade mission in South Africa
- in November 2014, Ms Arcuri's company Playbox being allowed to participate in a trade mission to Malaysia when the company did not have the required trading history
- participation in a trade mission to New York in February 2015 – the referral says that records show she was told she did not qualify
- participation in a trade mission to Tel Aviv in November 2015 – Ms Arcuri was told she did not qualify but she advised London and Partners "*that she had secured permission from a mayoral advisor to attend*"

21. The scoping enquiries sought further information/evidence in relation to these allegations, with a view to:

- determining if Ms Arcuri and/or her companies did not meet the eligibility and assessment criteria for the grants/sponsorship
- establishing if Mr Johnson influenced the awards
- determining if Ms Arcuri was told she was ineligible for trade missions but was permitted to attend following an intervention by a senior mayoral aide

22. This required the scoping team to approach a number of organisations to seek to recover relevant material (including the GLA, L&P, *The Sunday Times* and *New York Times*).

23. As the scoping exercise progressed, it became clear that the lack of detailed records from both organisations (GLA and L&P) – in particular, the fact that Mr Johnson's GLA email account had been deleted by the GLA – necessitated:

- a more substantial exchange of correspondence seeking clarification in relation to a number of factual issues (in particular the Code of Conduct and register of declarations)
- conducting more witness interviews than originally anticipated

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<sup>5</sup> These allegations were distilled from the referral documentation and from material provided by the GLA during the weeks following the referral (collated by the GLA for the purposes of replying to FOIA requests), which included a 'chronology' of various interactions between Ms Arcuri, her companies and the GLA/L&P.

24. Further to paragraph 23 above, this included contacting the following current and former L&P and GLA employees:
- Mr C (former [REDACTED] at L&P)
  - Ms G (former [REDACTED] of the Mayor's International Business Programme at L&P)
  - Mr I (former [REDACTED] for the Mayor)
  - Mr K (former [REDACTED] to the Mayor of London for Business and Enterprise)
  - Mr J (Foreign Office liaison re Mayor's Export Programme)
25. A lack of clarity and understanding regarding the Code of Conduct applicable to Mr Johnson at the relevant time necessitated taking witness statements from:
- Emma Strain (the current Monitoring Officer for the GLA)
  - Ed Williams (the former Monitoring Officer & Head of Committee and Member Services for the GLA, who is now the GLA Executive Director of Assembly Secretariat)
26. The scoping team emailed Ms Arcuri on 18 November 2019 asking if she would provide evidence to the scoping exercise. We received an initial response from her lawyer indicating that she would "*accept written questions*" and then an email in early December stating "*...There will be no response of any kind from Ms Arcuri.*" Despite this, the team made further approaches to Ms Arcuri, following which she agreed to provide written answers to questions and did so on 17 January 2020.
27. Finally, as a result of the deletion of Mr Johnson's GLA email account and those of his appointees (see paras 17 and 23 above), and as a consequence the absence of email correspondence, we acquired a draft statement from Mary Harpley (the Chief Officer of the GLA) detailing:
- what steps had been taken by the GLA to recover all relevant evidence generally, and in particular
  - to confirm that this data could not be retrieved
- This was reviewed and external advice sought from the Serious Fraud Office on techniques for analysing bulk data.
28. As a result, on 31 January 2020, the scoping team raised a number of further issues for Ms Harpley to address, including that a number of additional search terms should be used in the search of the shared drives and email servers, and a meeting was held with Ms Harpley on 6 February 2020. As a result, the GLA's

Technology Group team conducted six further searches of all of the GLA's network shared drives and email servers for information. The result of the searches was provided on 6 March 2020. Following further consultation with the Serious Fraud Office on the approach adopted by the IOPC, the scoping team is now satisfied that all reasonable and proportionate efforts have been made to obtain relevant material and that there is no realistic prospect of obtaining more during an investigation. Ms Harpley provided her signed statement to that effect on 31 March 2020.

29. The volume of material generated by this scoping exercise has been significant. Investigators have reviewed eight years' worth of emails provided by L&P and the GLA relating to the trade missions and correspondence with, or relating to, Ms Arcuri, as well as material concerning each trade mission attended by Ms Arcuri. The scoping exercise has registered over 900 documents, some of which are several hundreds of pages long. This material has taken a significant period of time to review to the level of detail required for this scoping exercise. The team has also conducted a number of interviews with witnesses.
30. I have reached my conclusion on the basis of the 'relevant' material acquired during this scoping exercise (a fraction of the total material obtained), and this material alone.

The criminal offence of misconduct in public office (MIPO) and its application to the allegations referred for our assessment

31. The Law Commission *Reforming Misconduct in Public Office* Consultation Paper No 229<sup>6</sup> provides useful background as to the development of this common law offence and the various factual circumstances where the offence has been prosecuted. I have also received comprehensive internal and independent external legal advice concerning the application of this offence. I am aware that the Law Commission is due to publish its final report making recommendations to the government as to reform in this area and I look forward to reading the report upon publication.
32. Paragraphs 2.3 and 2.4 of the consultation paper state the following:

*“2.3 Misconduct in public office is a common law offence: it is not defined in any statute. It carries a maximum sentence of life imprisonment.*

*2.4 The current law has been developed in a piecemeal fashion by the courts over many years. It is difficult to see with absolute certainty where the boundaries of the offence and each of its elements lie. The leading modern case is Attorney General's Reference (No 3 of 2003)*

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<sup>6</sup> Available on the Law Commission website: [www.lawcom.gov.uk/project/misconduct-in-public-office/](http://www.lawcom.gov.uk/project/misconduct-in-public-office/)

*(“AG’s Reference”),<sup>7</sup> in which the Court of Appeal stated that the elements of the offence of misconduct in public office are:*

- (1) a public officer acting as such;*
- (2) wilfully neglects to perform his duty and/or wilfully misconducts himself;*
- (3) to such a degree as to amount to an abuse of the public’s trust in the office holder; and*
- (4) without reasonable excuse or justification.”*

33. It is clear to me when reading the Consultation Paper that the common law offence of MIPO lacks clarity as to precisely what conduct is sufficiently serious to justify a criminal charge<sup>8 9</sup> and precisely what mental element must be proved – although willfulness or at least recklessness as to the breach or neglect of duty is a prerequisite.<sup>10</sup>
34. However, in addition to the Consultation Paper, I have referenced below two Hong Kong cases referred to me where MIPO has been prosecuted involving allegations of a failure to declare a conflict of interest. In the absence of clarity as to the position in England and Wales, these cases have been instructive in relation to the mental element of the offence and the assessment of seriousness. Particularly relevant extracts include the following:

**HKSAR v TSANG YAM-KUEN, DONALD [2019] 4 HKC 359 N.B. para 70–73**

[70] In a case where the allegedly wilful misconduct consists of a failure to comply with an obligation to disclose information, and there is a viable issue as to whether disclosure was, and was regarded as, necessary, a direction which treats a conscious decision not to disclose as the equivalent of deliberate failure to disclose, or, even worse, concealment, is dangerously ambiguous.

<sup>7</sup> [2004] EWCA Crim 868, [2005] QB 73 at [61]

<sup>8</sup> “This is without doubt a difficult area of the criminal law. An ancient common law offence is being used in circumstances where it has rarely before been applied.” Lord Thomas CJ in Chapman [2015] EWCA Crim 539, [2015] 2 Cr App R 10.

<sup>9</sup> Paras 2.13-2.14 of the Consultation Paper

**(3) Abuse of the public’s trust**

2.15 The wilful breach of duty must be serious enough to amount to an abuse of the public’s trust. That is, the breach of duty must meet a threshold of seriousness such that the misconduct has the effect of harming the public interest. We call this the “seriousness test”.

2.16 To be guilty of the offence it must also be proven that the public office holder was aware of the circumstances existing that made his or her breach of duty serious. It is not, though, a requirement that he or she had in fact concluded that it was serious. [Chapman [2015] EWCA Crim 539, [2015] 2 Cr App R 10 at [48] and [49]].

<sup>10</sup> Para 2.14 of the Consultation Paper

[71] As the present case was argued, and left to the jury, references to the true nature of the relationship between the appellant and Mr Wong, and a serious conflict of interest, and to the appellant's being hopelessly compromised, were put in the context of the prosecution's primary case, on Count 2 as well as Count 1, of corruption. In that context, there was no viable issue of the kind referred to above. However, on an approach to Count 2 without the element of corruption, those matters fell to be considered in a different light. There was a viable issue on the element of wilfulness, and it was not explained to the jury.

[72] It is in the nature of the offence of misconduct in public office that a jury is required to make an assessment of whether the alleged misconduct is so serious as to involve an element of culpability which is of such a degree that the misconduct is calculated to cause injury to the public interest so as to call for condemnation and punishment. This does not involve a quasi-legislative process. Jurors are not required to give reasons for their decision, but they are expected to have them. This expectation is meant to be satisfied by a trial process that involves reasoned argument by counsel, and judicial directions appropriate to the case.

[73] In a passage in *Shum Kwok Sher v HKSAR* which was cited with approval in *A-G's Reference (No 3 of 2003)* Sir Anthony Mason NPJ said:

'Whether it is serious misconduct in this context is to be determined having regard to the responsibilities of the office and the officeholder, the importance of the public objects which they serve and the nature and extent of the departure from those responsibilities.'

To that, the English Court of Appeal added, 'the seriousness of the consequences which may follow from an act or omission.'

**SIN KAM WAH LAM CHUEN IP AND ANOTHER v. HKSAR — [2005] HKCU 672 [46]**

[46.] The misconduct must be deliberate rather than accidental in the sense that the official either knew that his conduct was unlawful or wilfully disregarded the risk that his conduct was unlawful. Wilful misconduct which is without reasonable excuse or justification is culpable.

## Application of MIPO principles to the referral

35. Page 3 of the Monitoring Officer's letter to Mr Johnson applies the elements of the criminal offence to the alleged conduct in the following manner:

*(a) At the material time of the alleged conduct, [Mr Johnson was] in public office. The alleged conduct is directly linked to the circumstances in which [Mr Johnson] discharged [his] public duties.*

*(b) On the basis of the information in the public domain, it is alleged that [Mr Johnson had] on more than one occasion used [his] position as Mayor to benefit and reward [his] friend or her companies with sponsorship monies and access to Trade Missions that she would but for [his] friendship or intervention not have received.*

*(c) Subject to any explanation provided by you, these matters give rise to a suggestion that there has been a failure to safeguard the public purse and if so that amounts to a significant breach of public trust."*

36. Therefore, for the purposes of our scoping exercise, the crucial issues are:

- whether there is any evidence that Mr Johnson knew and encouraged the behaviour of Ms Arcuri in securing public funding
- alternatively, did he know or encourage her to rely on their relationship to garner the assistance of public servants
- and did Mr Johnson have grounds to know or suspect that Ms Arcuri was not entitled to funding or assistance

37. This has required us to consider the following as part of our scoping exercise:

- Was there an association, friendship or relationship between Mr Johnson and Ms Arcuri and, if so, when did this association/relationship begin?
- What public funding or assistance was provided to Ms Arcuri and/or her companies by L&P/the GLA?
- What declarations did Mr Johnson make in relation to conflicts of interest/register of interests and was Mr Johnson required to make any declarations in relation to Ms Arcuri further to the Code of Conduct applicable to him during the relevant period?
- Who authorised the public funding or assistance and what processes were followed?

- Is there any evidence that Mr Johnson had any involvement in this decision-making?

38. In order to help me understand the evidential backdrop addressing these questions, I have received a briefing note analysing the evidence (the analysis document) from Regional Director for London Sal Naseem and Senior Lawyer Danny Simpson, who have led and advised on the scoping exercise – attached at Appendix C below.

## The necessity decision

The evidential threshold for deciding whether it is necessary to investigate the referral

39. In deciding whether it is necessary for this referral to be investigated, the relevant evidential threshold is whether there are reasonable grounds to suspect that an offence has been committed – a low threshold. As it was put by Lord Devlin in **Hussein Chong Fook Kam [1970] AC 942 at 948**:

*“Suspicion in its ordinary meaning is a state of conjecture or surmise where proof is lacking. ‘I suspect but I cannot prove’. Suspicion may or may not be based upon reasonable grounds but it still remains suspicion and nothing more.”*

40. I have footnoted further authorities summarised in Zander on PACE Ed 8<sup>th</sup> in relation to what ‘reasonable grounds to suspect’ means in practical terms.<sup>11</sup>

The evidence – against which to assess reasonable suspicion

41. The analysis document has provided me with a valuable summary of the evidential picture. I have not repeated this evidential material below, but I have

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<sup>11</sup> Extracts from Zander on PACE 8<sup>th</sup> Ed

[3-13] .....Sir Frederick Lawton said in *Castorina* that the facts upon which a reasonable cause was said to have been founded did not have to be such as to lead an ordinary cautious man to conclude that the person arrested was guilty of the offence. It was enough if they could lead a reasonable person to suspect that he was guilty. This is not a very exacting standard.

[3-14] .....Suspicion is a lesser requirement than belief. In *Johnson v Whitehouse* Nolan J said: “the dictionary definitions of those words ... of course, do show that the word ‘believe’ connotes a greater degree of certainty, or perhaps a smaller degree of uncertainty, than the word ‘suspect’.” In *Alexander, Bull, Farrelly and Fox* Lord Chief Justice Kerr said: “Belief involves a judgment that a state of affairs actually exists; suspicion that a state of affairs might well exist.” He cited the Canadian case of *Gifford v Kelson* in which it was said: “suspicion is much less than belief; belief includes and absorbs suspicion”.

[3-15] It is enough that the arresting officer’s suspicion relates to a category of offence—such as “VAT fraud”. It does not have to be more specific. Nor need it be based on solid evidence. The courts recognise that at the early stage of an investigation the police may, for instance, be operating on the basis of a tip-off from a member of the public or information from an informer—though information from an informer should be treated with caution. Hearsay information can be enough. It is not required that there be a *prima facie* case.

relied upon it and have referred to it as necessary. The numbers in square brackets at the end of relevant sentences in this document refer to the paragraph numbers from the analysis document.

### **The relationship between Mr Johnson and Ms Arcuri**

42. It is clear from the evidence detailed in the analysis document that Mr Johnson and Ms Arcuri knew each other during Mr Johnson's time as London Mayor (it is also clear to me having seen footage of his attendance at Innotech events). However, although issues of a conflict of interest may arise in relation to a close relationship short of a sexual one, in my view friendship alone is insufficient to create an obviously disclosable obligation in the context of an allegation of MIPO. Therefore, it is necessary that I assess whether there are reasonable grounds to suspect that there was an intimate relationship.
43. An L&P email of 18 February 2013 described Ms Arcuri as "*close to Boris*". As to if and when their relationship became close, or rather might be reasonably suspected to be a sexual relationship, the evidence made available during the scoping exercise suggests that this started some time before [REDACTED] 2014 and that it ended before Ms Arcuri's relationship with her present partner began, which media reports suggests was in 2016. The evidence of this sexual relationship comes from an associate of Ms Arcuri [6–9].
44. The analysis document details extensively the available material from which the existence of a sexual relationship could be inferred [85–108]. This does not mean that there is any direct evidence of a sexual relationship – Ms Arcuri's press interviews have been ambiguous on this point and it was deemed unnecessary and inappropriate to ask Mr Johnson at this stage of the process. However, at this stage in our decision-making, I am only interested in whether there are reasonable grounds to suspect that there was an intimate relationship between Mr Johnson and Ms Arcuri – not whether one actually did occur.
45. People are obviously entitled to engage in personal relationships and ordinarily are not required to divulge their existence – in most circumstances, one has a reasonable expectation of privacy about such matters.<sup>12</sup> Therefore, the only relevance of this issue to my decision-making is simply whether there are any reasonable grounds to suspect an intimate/sexual relationship between Ms Arcuri and Mr Johnson during the relevant period and whether the intimate/sexual relationship had any influence on the benefits Ms Arcuri or her companies received from L&P – and, in association with this issue, what declarations (if any) Mr Johnson should have made under the relevant code of conduct.

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<sup>12</sup> *K v News Group Newspapers* [2011] 1 WLR 1827; *PJS v News Group Newspapers Ltd* [2016] AC 1081.

46. I have firstly listed the instances of public funding/assistance, secondly addressed the application of the code of conduct to Mr Johnson, and thirdly analysed the occasions/allegations where public funding or assistance was provided.

**The six occasions reviewed by our scoping team where public funding or assistance was provided**

47. The scoping team has identified the following instances where Ms Arcuri and/or her companies (Innotech and Playbox) have benefitted from payments or access to trade missions from L&P or from the GLA:

1. a payment of £10,000 in October 2013 made by L&P to sponsor Innotech's 'Google Hang Out' at the World Islamic Forum Event
2. a payment of £12,447 by the GLA in November 2013 to the International Conclave of Entrepreneurs to support its trade mission to South Africa in which Innotech participated
3. a payment of £1,500 in June 2014 made by L&P in respect of the Innotech sponsored 'Tech vs Brains' event at the House of Commons
4. Ms Arcuri's participation, representing Playbox, in a trade mission arranged by the GLA under the Mayor's Export Programme to Malaysia and Singapore in November 2014
5. Ms Arcuri attending events during a trade mission to New York in February 2015 arranged by the GLA under the Mayor's Export Programme
6. Ms Arcuri attending events during a sponsored trade mission to Israel in November 2015 arranged by L&P under the Mayor's International Business Programme

**Code of Conduct and duties on Mr Johnson as a public officer [25–27 and 187–211]**

48. Prior to assessing the evidence in relation to each of these six occasions, it is important in my view to understand whether Mr Johnson was obliged under the applicable code of conduct to declare/register as an interest, a relationship such as this – and if so, when. As the analysis document states, "*For Mr Johnson to have committed an offence of misconduct in a public office, there must be evidence, either that he wilfully misconducted himself or that he wilfully neglected his public duties. This requires consideration of the Code of Conduct which applied to the Mayor at the relevant time and any other identifiable public duties*" [187].

49. As the analysis document makes clear, the initial referral of this matter did not include all of the relevant information and material concerning the code of conduct applicable to Mr Johnson during the time period of these allegations.

The last piece of information received on this issue was from Mr Williams (GLA Monitoring Officer at the time of the allegations/occasions) and was not provided until 13 January 2020. I make no criticism of Mr Williams here, but simply suggest that it would have been helpful if the GLA had been able to provide this information more swiftly, and this, combined with delays resulting from the lack of detailed records (see para 23 above), has prolonged the scoping exercise.

50. A summary of the relevant evidence on code of conduct issues is as follows:

- A single code of conduct, introduced on 1 July 2012 to comply with the *Localism Act 2011*, applied during the relevant period [191].
- Prior to its introduction, the London Assembly endorsed it by resolution on 11 May 2012 and by way of a Mayoral Decision, so did Mr Johnson on 23 May 2012 [191].
- Prior to it coming into force, Mr Williams wrote to Mr Johnson on 26 June 2012 and specifically asked him to read the letter carefully and notify him of any 'Disclosable Pecuniary Interests'. Mr Johnson signed and returned his declaration on 26 July 2012 [192–193].
- The letter from Mr Williams also suggested that Mr Johnson would receive a personal briefing about the new code, but Mr Williams' recollection is that this did not occur. However, the Mayor and Deputy Mayor had attended the Standards Committee to discuss the new arrangements and therefore, an inference could be drawn that Mr Johnson was aware of the content of the new rules [194].

#### **'Pecuniary Interests' provisions**

- The 'Pecuniary Interests' definition in paragraph 8 of the code extended to interests of:
  - a 'spouse or civil partner'
  - 'a person with whom you are living as husband and wife'
  - 'a person with whom you are living as if you were civil partners and you are aware that that other person has the interest' [195]
- Between 26 July 2012 and 7 April 2016, Mr Johnson provided a number of declarations of his Disclosable Pecuniary Interests and none made reference to Ms Arcuri [196].
- The form reflected the requirements of paragraph 8 – it only asked about the disclosable interests of a 'spouse of partner' [196].
- A dip sample of Registers of Interests for other GLA members did not reveal any declarations of interests for persons who were not a spouse

or partner but with whom they were in an intimate relationship.<sup>13</sup> This suggests a common understanding amongst GLA members that only declarations concerning 'spouses and partners' are required [196].

- Press reports have referenced a 2010 complaint that Mr Johnson had breached the requirement in the then code to declare the business interests of a 'close associate'. The provisions in the pre-2012 code requiring these declarations to be made, were **not** included in the 2012 code, Mr Williams explaining that the new 2012 code reflected the legislative intent of the *Localism Act 2011* to introduce a 'lighter touch' standards regime [197]. Ms Strain has expressed the view in her statement to us that, following the introduction of the new code in 2012, Mr Johnson was **not** required by the new code to declare the pecuniary interests of a 'close associate' [198].
- Therefore, in conclusion, regardless of the extent of the relationship between Mr Johnson and Ms Arcuri there is no indication from the evidence that they were living together as if they were civil partners and so there was **no requirement** for Mr Johnson to "...include her business interests in his own declaration of pecuniary interests at the relevant time." Had the pre-2012 code been in place during the relevant period, then the inclusion of 'close associates' in the registration requirements may well have warranted a declaration, but it was not and therefore, did not [199].

#### **'Other 2012 code provisions and the Mayor's public duties'**

- The code of conduct states that it should be read together with the 'principles of public life' (sometime referred to as the Nolan principles) – selflessness, integrity, objectivity, honesty etc. [200]
- Other prohibitions were included in the 2012 code such as:
  - not doing anything which compromises or was likely to compromise the impartiality of those working on behalf of the GLA
  - not conducting himself in a way that could be regarded as bringing their office into disrepute
  - not using their position to improperly confer on or secure for themselves or any other person, an advantage or disadvantage
  - not to engage in 'single member action' when a disclosable pecuniary interest exists [203]
- The June 2012 letter sent by Mr Williams to Mr Johnson introducing the new regime also included important advice that:

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<sup>13</sup> Of the current GLA members, the vast majority only make reference to spouses or partners or no third parties at all. Two members make reference to other family members.

*“My view, as Monitoring Officer... is that the new interests regime may prove to be too narrow in practice, given the duty upon all members to observe the highest standards of ethical conduct. Accordingly, I am advising Members to continue to apply the prejudicial interests test (namely, that Members rely on a reasonable estimation of whether a member of the public, with knowledge of the relevant facts, would reasonably regard it as so significant that it was likely to prejudice the Member’s judgement of the public interest) – which is based on the law of bias – and to exercise their judgement as to whether or not, in view of their outside interests and the interests of others close to them, they should participate in discussions and/or decisions within and by the GLA.” [204]*

- Mr Williams’ evidence to the scoping team was:
  - The Nolan principles were ‘applicable but not actionable’ [201].
  - His advice to Members was that there was no requirement to disclose pecuniary interests of friends, even intimate ones “...so long as they have nothing to do with the GLA...[but that]...once they start coming into that world then my advice would be...a conflict situation is starting to arise and that means a disclosure needs to be made” [sic]. Also that if the Mayor knew a friend was relying on their relationship to secure a favourable decision “somebody’s gaming the system and letting people know one way or another you know explicitly or implicitly that they’re a special friend of the Mayor then I think yeah then I think there’s a big problem” and that it could “create a very big reputational problem” and make the GLA look “pretty bad.” [205].
  - Regarding L&P, Mr Williams’ view was that if the Mayor was aware of a personal association making a bid for funding he did not “think as the rules stand it actually breaches the rules but if you look at the principles you could make certainly construct an argument that that would be a time for him... to say that they’re aware of a personal association making a bid for funding yeah[sic].” Further that, “for me if he if he didn’t know what she was doing that’s one thing. I think if he knew and if she was gaming L&P you know or heavily indicating to them what was going on then yeah I think that that would be a problem.” [sic] [206].

51. Therefore, in summary it appears to me that Mr Johnson was **not** required by the 2012 code to declare Ms Arcuri’s pecuniary interests on his register of interests.

52. Nevertheless it seems to me that it is arguable that, assuming that Mr Johnson was in an intimate relationship with Ms Arcuri, he could still be in breach of the Nolan-type principles of the code and thus bring the GLA into disrepute, **if he used his influence to benefit her, made decisions in her favour having failed to declare a conflict of interest and/or he knew she was using their relationship to obtain benefits but failed to take steps to prevent it** [210].
53. The issue I address below is whether there is any evidence that Mr Johnson **did** behave in this manner and, if so, whether it could be considered so serious as to amount, not just to a breach of the code, but to reasonable grounds to suspect the commission of the criminal offence of MIPO.

#### Allegations/occasions 1–4 (see paragraph 47 above)

54. Having reviewed the analysis document [11–18 and 111–156], it seems to me that allegations/occasions 1–4 can be disregarded in terms of potential criminality – by that I mean that I do not think that there are reasonable grounds to suspect any offences were committed on those occasions. I have reached this view for the following reasons:

- It is not clear whether Mr Johnson and Ms Arcuri were in an intimate/sexual relationship before November 2014. Although issues of a conflict of interest may arise in relation to a close relationship short of a sexual one, there is no clear evidence by which the strength of their relationship can be gauged with sufficient precision before November 2014. The evidence suggests that they were friends from 2012 onwards, but in my view friendship alone was insufficient to create an obviously disclosable obligation.
- There is evidence that the payments of £10,000 (allegation 1) and £1,500 (allegation 3) were influenced by the decision-makers' belief that there was a friendship between Ms Arcuri and Mr Johnson.<sup>14</sup> There is, however, no direct evidence and no reasonable grounds to suspect that Mr Johnson knew that the relationship had been used by both Ms Arcuri and the decision-makers in that way nor, in the case of the payment of £1,500, that the payment appeared to be largely unjustified [11–13 and 15].
- There is no evidence that Ms Arcuri's participation in the trade missions to South Africa (allegation 2) or Malaysia/Singapore (allegation 4) was influenced by Ms Arcuri's connection to Mr Johnson. Ms G, who made the decision that Playbox/Ms Arcuri should be sponsored to go to

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<sup>14</sup> For example in February 2012 an L&P email records: "We need friends like Jennifer. She is trying to get Boris to come out [sic] way and putting in good words for us with the Mayor is certainly in our interest so let's push on this to help." In July 2014 a L&P email records in relation to the £1,500 payment; "She's [Ms Arcuri] is very good at name dropping and has Boris eating out of her hand... so we need to help where we can; as she's prone to a whinge."

Malaysia and Singapore, claims that she met Ms Arcuri for the first time at the interview to assess her application and that she considered Playbox qualified for sponsorship without any knowledge of the relationship between Mr Johnson and Ms Arcuri. This account is inconsistent with Ms Arcuri previously naming Ms G as a contact in connection with occasion 2 (the South Africa mission) [17]. Some people expressed surprise at the time: *“Surprised to see Jennifer Arcuri’s new company (pre revenue!) is going on the Mayors trip”* and *“it is a mystery to me as to how Jennifer was selected by UKTI to go on the mission.”* However, even though one could infer that Mr Johnson was aware that Ms Arcuri had joined the mission (since Mr Johnson attended the mission) there is no evidence that Mr Johnson or his office knew of the application to join the mission, or influenced her acceptance for it or (if that was the case) knew that her relationship with him had influenced the acceptance of her application [18].

#### Allegations/occasions 5–6

55. Analysis of the evidence concerning allegations/occasions 5 and 6 warrants greater scrutiny. I have dealt with these allegations/occasions in reverse order (re chronology) because allegation 5 requires the most scrutiny.

#### **Allegation/occasion 6**

56. This concerned the L&P organised mission to Tel Aviv during November 2015.
57. In summary, the email evidence suggests that Ms G permitted Ms Arcuri to attend functions on the Israel trade mission if Mr I agreed and because Ms Arcuri had told Ms G that Mr I had done so [185]. This is consistent with what Ms G informed the scoping team [176]. This conflicts with Ms Arcuri’s written answers to our questions in which she said that Mr Johnson’s aides had no role in her being permitted to attend [185].
58. Mr I’s account to the scoping team was that he had no recollection of Ms Arcuri being on the trip. He had some recollection of a conversation he had with Ms Arcuri either outside City Hall or on the phone, in which she had mentioned Hacker House, Israel, phone hacking and that Ms Arcuri had offered to sort out their phones, and that while Mr I had responded positively at the time, he did not intend to take Ms Arcuri up on this offer [181].
59. However, regardless of the differences in accounts and perspectives, neither the email evidence nor the various accounts make reference to Mr Johnson being involved in agreeing to Ms Arcuri’s attendance on the trip, or indeed that Mr Johnson knew that Ms G had asked Ms Arcuri to clear it with Mr I [183] [186]. There are no reasonable grounds to suspect that Mr Johnson influenced her attendance on the trip or (if that was the case) knew that her relationship with him had influenced the permission she was given to attend.

60. Therefore, I have disregarded allegation/occasion 6 in terms of any possible criminality on Mr Johnson's part.

### **Allegation/occasion 5**

61. The February 2015 New York trade mission occurred after the time when we have evidence suggesting that there may have been an intimate/sexual relationship between Ms Arcuri and Mr Johnson.
62. The analysis document summarises the evidence in relation to this allegation at paragraphs 19–22 and gives the detail at paragraphs 157–173.
63. It is clear from the evidence that Ms Arcuri and her companies were not eligible to attend this event as formal delegates and indeed that she did not attend in this capacity. Rather it appears that she was in New York regardless and was added to the attendee list of a few events. There are conflicting accounts as to precisely how Ms Arcuri managed to be added to these attendee lists and the evidence is neatly summarised in paragraphs 170–173 of the analysis document and bears repetition here:

[170] It is clear from the evidence that Ms Arcuri's company was not eligible to participate in this mission. The contemporaneous email evidence supports that she told Mr C that she was invited to attend events on the mission by Ms G. However, Ms G has denied inviting her and says that Ms Arcuri asked to be on the mission, was told she was ineligible but then said she would be there anyway and asked to attend some of the events. Ms G has said she agreed on condition Ms Arcuri checked with Mr I that it was okay with him.

[171] In her replies to the review, Ms Arcuri stated that neither Mr Johnson nor any of his aides had any involvement in her attending the events. However, this appears to be contradicted by Ms G's evidence that she said she had spoken to Mr I to secure his agreement to her attending and Mr C's email stating she had spoken to "*Boris and [Mr I]*".

[172] Mr I has confirmed Ms Arcuri did speak to him: "*I just said it's nothing to do with me but look sounds okay blah blah blah.*" He has also said that he remembered what appears to have been a subsequent conversation "*late in the day about the trip to America when it was raised with me that she didn't qualify to come, which was something that I probably should have been a bit more kind of front on and asked her sort these sort of questions but I never did [sic].*"

[173] The only evidence that Mr Johnson was asked if she could attend is in Mr C's email, which relies on what Ms Arcuri had told him. Ms Arcuri's credibility is undermined by the contradictions between her accounts and the other evidence. However, the account given in Mr Johnson's solicitor's letter that "*if and when Ms Arcuri did attend any such events, our client was not previously*

*expecting her to attend*" is also undermined, by Mr I's evidence that he remembers Mr Johnson being told she would be attending and that he had "rolled his eyes".

64. In relation to the last point summarised in paragraph 173 of the analysis document, Mr I's account to the scoping team was: *"I think when we did a briefing meeting for the trip to the US erm the guest list was the final guest list was kind of read and she was mentioned and yeah I'll be honest with you he rolled his eyes because there was a kind of like oh good old Jennifer sort of thing and that was this..."* [164].
65. Therefore, as paragraph 219 of the analysis document points out, only in relation to allegation/occasion 5 is there any evidence to support that, while in an alleged intimate relationship with Ms Arcuri, Mr Johnson may have influenced L&P/GLA staff to make a decision that benefitted Ms Arcuri or rather knew (or rather could have suspected) that she was using their relationship to obtain benefits but failed to take steps to prevent it.
66. Mr I confirmed in his account to the scoping team that Ms Arcuri told him she was going but said he told her it was nothing to do with him whether she was permitted to or not (and that he had not known she was ineligible at the time) and there is no evidence that he discussed it with Mr Johnson. Therefore, the evidence of influence by, or awareness of, Mr Johnson comes from only two sources:
  - Mr C's email at the time that Ms Arcuri had told him that Mr Johnson was happy for her to attend [214/220] (influence)
  - Mr I's more recent account that when Ms Arcuri's name on the attendee list was raised at a pre-mission briefing Mr Johnson *"...rolled his eyes because there was a kind of oh good old Jennifer sort of thing and that was this..."* [164] (awareness)
67. As for what is recorded in Mr C's email, Ms Arcuri's more recent written answers to the scoping team contradict what she appears to have said at the time [165]. Furthermore, there are a number of reasons why one might doubt the credibility of various statements Ms Arcuri has made – these are detailed in the analysis document at paragraph [215].

## 'Reasonable grounds to suspect'

68. So where does this leave reasonable grounds to suspect Mr Johnson of MIPO?
69. The evidence at its highest appears to be that Mr Johnson indicated to Ms Arcuri that he was content for her to attend the NY event, although this is disputed by Mr Johnson and now Ms Arcuri herself, and/or that Mr Johnson was

made aware, at a pre-mission briefing, that Ms Arcuri was on the attendee list. This is in the context that he may have been in an intimate relationship with her at the time of this event.

70. This is insufficient in my view to give me reasonable grounds to suspect that Mr Johnson has committed MIPO.
71. The evidence of Mr Johnson playing an active part (i.e. indicating he was content/acquiescing) in Ms Arcuri's attendance comes only from a contemporaneous claim in an email from Mr C, apparently repeating what Ms Arcuri had told him. There is no evidence that Mr Johnson was copied in on that email. There is also evidence that undermines Ms Arcuri's credibility, in addition to the fact that she has now distanced herself from her original claim [215]. However, the evidence that Mr Johnson was *aware* that Ms Arcuri was on the New York attendee list of a few events (in contradiction to the assertion made by his solicitors) is stronger – i.e. Mr I's recollection of Mr Johnson being told this and rolling his eyes. But in my view, assuming they were in an intimate relationship by this point, his awareness that she was on the attendee list, and his inaction thereafter, are not enough to form a reasonable suspicion of MIPO in the absence of any clear material founding a suspicion that his inaction was the result of his knowingly or recklessly ignoring a duty to act, or for the purpose of conferring any benefit on himself or Ms Arcuri.
72. In my view, if Mr Johnson knew that Ms Arcuri was on the attendee list, then Mr Johnson was unwise not to have:
- declared their relationship
  - acted to ensure that L&P's decision to grant Ms Arcuri access to this event was made purely on the basis of what they considered the best interests of the mission or London's commercial interests, as opposed to any impression they may have got that granting access to the event would have been viewed favourably by Mr Johnson
73. A failure by Mr Johnson to ensure a complete separation between him and this decision-making could be construed as a breach of the broader Nolan principles in the sense that he could see that Ms Arcuri was obtaining a networking opportunity via the Mayor's own business enterprise agency (L&P) by being able to attend the New York events. The advice in Mr Williams' letter to him, which enclosed the new 2012 code, emphasising the need to continue to recognise 'conflicts of interest' situations, should have arguably figured more prominently in his mind. Mr Johnson's passive approach could be characterised as a breach of paragraph 5 of the Code of Conduct: *"the Mayor must not conduct himself in a manner which could reasonably be regarded as bringing their office or the authority into disrepute"* [208].

74. However, in my view, any such alleged failure (inaction) by Mr Johnson is not so serious as to amount to misconduct *“to such a degree as to amount to an abuse of the public’s trust in the office holder”* – an essential ingredient of the offence. Indeed, the example cases of conflict of interest leading to charges of MIPO have involved far more active involvement by the defendant in using (or misusing) their public position or powers, as well as the deliberate purpose of achieving a benefit to the office holder or the person in whom they are interested.

### **‘Reasonable and proportionate’ investigation**

75. Even if I had reached a different conclusion and found that there were reasonable grounds for suspicion (other decision makers faced with this material could have reached a different view to me), I would then still be required to go on to consider whether an investigation was ‘reasonable and proportionate’ in the circumstances.
76. As the analysis document helpfully states, the evidential test for suspicion is low but, to meet the evidential test for a prosecution, the Crown Prosecution Service Code for Prosecutors requires that they must be satisfied there is sufficient evidence to provide a realistic prospect of conviction. A case which does not pass the evidential stage cannot proceed, no matter how serious or sensitive it may be. Where suspicion exists, but there are no reasonable lines of enquiry which could be expected to yield evidence sufficient to meet the evidential test for a prosecution, then it may be unreasonable and disproportionate to conduct an investigation [224].
77. It is clear from the analysis document that the scoping team believes it has exhausted opportunities to recover hard copy and electronic material which is relevant to the issues, from the GLA and L&P [224]. It seems to me that it is not realistic to expect, given the publicity at the time of the referral, that any incriminating material which may have existed in the hands of witnesses, Ms Arcuri or Mr Johnson, still exists or is recoverable from them. The age of any electronic communications means that they are no longer recoverable from service providers even using criminal powers.
78. Furthermore, a number of key witnesses have been interviewed by the scoping team and accounts obtained from Ms Arcuri and Mr Johnson. Although in Mr Johnson’s case the account given amounts to no more than a bare denial, there is no reason to suspect that interviews under criminal caution or further witness interviews or wider enquiries would provide evidence to support a prosecution. ‘Sources’ for newspaper accounts would by now be aware of the scoping exercise and it is not realistic to expect any more will come forward to give evidential accounts [224].

79. The team has conducted a thorough scoping exercise – required by the need for public confidence in the handling of such a high-profile matter – and there is little indication that the evidential picture would change if we moved to the next stage of conducting a criminal investigation [225].
80. Therefore, in my view, even if I had concluded that there were reasonable grounds to suspect criminality, I would not consider it reasonable and proportionate to conduct a criminal investigation following such a thorough scoping exercise.

## In conclusion – next steps and learning recommendations

81. Therefore, in conclusion, the available material does not give me reasonable grounds to suspect that Mr Johnson has committed MIPO. If others would have come to a different conclusion, I am also satisfied that it is not reasonable and proportionate to conduct any further criminal investigation. The scoping team has been very thorough, and I am not aware of any further lines of enquiry that are likely to provide further material evidence.

### Referring this matter back to the GLA Police & Crime Committee

82. Further to regulation 14(2) of the 2012 Regulations, if I determine that a conduct matter does **not** require investigation, then I “...shall refer the... matter back to the police and crime panel – (b) in the case of a conduct matter, to be dealt with by that panel in such a manner (if any) as that panel may determine.” Therefore, I duly refer this matter back to the GLA Police & Crime Committee for it to be dealt with in such manner as the Committee may determine.

### Learning recommendations to the GLA

83. In referring this matter back to the GLA Police & Crime Committee, while it is entirely a matter for it in relation to what action it may wish to take, I have, based on the information we acquired during our scoping exercise, detailed below **five learning recommendations**. The detailed background for making these recommendations is provided in the Learning report at Appendix D, but I have summarised these below:

- **Recommendation 1: GLA Information Management and Retention**

**Context:** The difficulties the GLA encountered in collating all the relevant material necessary to enable me to decide whether to conduct a criminal investigation, leads to the following **recommendation 1**:

*The GLA conducts a full audit of its policies, processes, tools and systems relating to the management and retention of information. In*

*particular, it should review its practice of promptly deleting email accounts and electronic material held on the devices of outgoing officials and employees, and put in place procedures to ensure that material concerning the conduct of GLA business is retained when staff leave, particularly following a Mayoral transition. The GLA may wish to consider the benefits of automatic backup of electronic material and retaining it for periods reflective of its legislative, accountability, business and regulatory obligations. It should ensure adequate and robust arrangements, in line with legislative and best industry practice requirements, to ensure information is properly stored, managed and is easily retrievable. In doing so, the GLA may wish to seek advice from the Information Commissioner's Office (ICO).*

- **Recommendation 2: Governance and decision-making on trade mission attendance, including the role and responsibilities of respective bodies involved**

**Context:** Concerns about the record keeping of the decisions as to participation in trade missions, leads to the following **recommendation 2:**

*L&P, with input from the GLA, reviews its policies and processes around the selection of companies to attend trade missions to ensure transparency and consistency in decision-making. Policies should include clear, standard criteria, and require a record of rationale for decisions taken. Roles and responsibilities should be clearly defined. L&P should also ensure that it carries out necessary due diligence around the information that applicants provide. This recommendation reinforces some of the conclusions drawn in the recent independent review of L&P's process of selection of trade mission delegates and decisions about sponsorship.<sup>15</sup>*

- **Recommendation 3: Decision-making on the payment of sponsorship monies**

**Context:** The absence of clear policies and guidance concerning sponsorship payments, leads to the following **recommendation 3:**

*The GLA considers using its inspection, scrutiny and audit powers to conduct a review of L&P policies and processes around the payment of sponsorship money. L&P may also wish to commission its own audit to review sponsorship payments, the reasons for them, and whether they have been appropriately authorised and provided value for money. L&P's*

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<sup>15</sup> [www.london.gov.uk/press-releases/mayoral/review-into-london-and-partners-published](http://www.london.gov.uk/press-releases/mayoral/review-into-london-and-partners-published)

*Procurement Policy must ensure that sponsorship payments comply with the principles and standards to be expected when spending public funds. To ensure transparency and accountability, it should consider implementing a process for sponsorship applications to be considered against agreed criteria, and require recorded rationale for payments, including when decisions are taken that diverge from policy. L&P should also ensure that any interests of relevance are declared. L&P may wish to refer to The Chartered Institute of Public Finance and Accountancy (CIPFA) for guidance.*

- **Recommendation 4: GLA Code of Conduct**

**Context:** The lack of clarity in relation to the obligations placed on GLA members by the Code of Conduct and the inconsistency of application of the Code of Ethics, leads to the following **recommendation 4**:

*In any revised Code of Conduct, the GLA ensures that requirements to disclose interests are consistent and do not conflict with one another or with other applicable policies and/or procedures. The GLA may wish to consider how public expectations of the obligations of public officials and the standard to which they should be held, including 'The 7 Principles of Public Life', may be appropriately reflected in requirements to disclose any interests. It may also wish to consider the applicability of the Code of Ethics to elected members to avoid circumstances in which (more junior) Mayoral staff are, or are perceived to be, held to a higher standard than the Mayor themselves.*

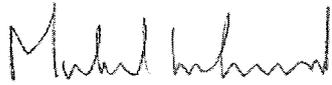
- **Recommendation 5: GLA Monitoring Officer knowledge of referral process**

**Context:** The absence of any background material accompanying the original referral and the difficulties encountered in retrieving supporting material, leads to the following **recommendation 5**:

*The GLA develops and provides training and guidance for Monitoring Officers (MOs) that clearly explains the referral process, their obligations and the expectations related to the provision of relevant material. We would welcome the opportunity to work with the GLA to develop and/or deliver any necessary material. The GLA may also wish to assess the need for a Standards Committee to provide additional advice and support to the MO.*

84. While I am obliged by regulation 14(2) to refer this matter back to the GLA Police & Crime Committee, it may be that other GLA committees are more appropriate to examine some of these issues. Following receipt of the referral, we have received regular correspondence from Len Duvall AM, Chair of the GLA Oversight Committee. No doubt his Committee may wish to consider

recommendations 4 and 5 in particular, but this is of course entirely a matter for the GLA.

A handwritten signature in black ink, appearing to read "Michael Lockwood". The signature is written in a cursive style with a large initial 'M'.

**Director General Michael Lockwood**

**Independent Office for Police Conduct**

**18 May 2020**

## List of appendices

### Appendix A

The referral material from the GLA Monitoring Officer, 27 September 2019:

- a letter from the Monitoring Officer to Michael Lockwood, IOPC, dated 27 September 2019
- an IOPC referral form dated 27 September 2019
- a copy of a letter sent by the Monitoring Officer to Mr Johnson dated 27 September 2019

### Appendix B

Michael Lockwood's decision of 3 October 2019 to conduct a scoping exercise to assist him in determining whether it is necessary to criminally investigate this referral

### Appendix C

Analysis of evidence document from IOPC Regional Director for London Sal Naseem and IOPC Senior Lawyer Danny Simpson

### Appendix D

Learning report

# **Appendix A – The referral material from the GLA Monitoring Officer, 27 September 2019**

**Referral from the Monitoring Officer of the Greater London Authority (GLA) to Michael Lockwood, Director General of the IOPC, on 27 September 2019:**

This referral is comprised of the following documents:

- a letter from the Monitoring Officer to Michael Lockwood, IOPC, dated 27 September 2019
- an IOPC referral form dated 27 September 2019
- a copy of a letter sent by the Monitoring Officer to Mr Johnson dated 27 September 2019

All three documents are attached.

**GREATER LONDON AUTHORITY**  
Monitoring Officer

City Hall  
The Queen's Walk  
More London  
London SE1 2AA  
Switchboard: 020 7983 4000  
Web: [www.london.gov.uk](http://www.london.gov.uk)

Mr Michael Lockwood  
Director General  
Independent Office for Police Conduct  
10 South Collonade  
The South Collonade  
Canary Wharf  
London  
E14 4PU

27 September 2019

Dear Mr Lockwood,

**Conduct Matter Referral concerning The Rt. Honourable Boris Johnson MP**

I am the Monitoring Officer of the Greater London Authority.

I discharge the statutory functions of a police and crime panel under the Police Reform and Social Responsibility Act 2011 ("2011 Act") and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 ("2012 Regulations"). I do this under a delegation from the London Assembly Police and Crime Committee, which is the police and crime panel for the Greater London Metropolitan Police District.

I have today determined that there exists a "conduct matter" in respect of conduct of Mr Johnson concerning an indication that he may have committed misconduct in public office when he was the occupant of the Mayor's Office for Policing and Crime (MOPAC) and Mayor of London.

Mr Johnson vacated these offices on 8 May 2016.

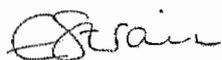
During the period Mr Johnson was the occupant of MOPAC (between 16 January 2012 and 8 May 2016 - "the Relevant Period") he was subject to the 2011 Act and the 2012 Regulations regarding conduct, including in his capacities as Mayor of London and the occupant of MOPAC.

Complaints as to conduct in the Relevant Period, or information as to circumstances applying in that Period that would amount to a conduct matter, are still subject to that legislation even if they are made or come to light subsequently. I therefore continue to have jurisdiction concerning such conduct and I continue to exercise the functions of a police and crime panel under those Regulations in respect of conduct during that time.

I have therefore recorded a conduct matter in accordance with regulation 12(1) of the 2012 Regulations and made this referral to you under regulation 13(2).

I have completed Form 7.1 and enclose a copy of a letter sent to the Mr Johnson regarding the referral today (sent as a pdf to 10 Downing Street and a hard copy delivered by hand). This letter gives details of the basis of the referral.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Emma Strain'.

**Emma Strain**  
**GLA Monitoring Officer**

Force Name/Logo



Phone: 0161 246 8504 or 0300 020 0096

E-mail: [nat\\_referrals\\_inbox@policeconduct.gov.uk](mailto:nat_referrals_inbox@policeconduct.gov.uk)

## IOPC – Referral Form

Please fill in as much of this form as possible and e-mail it to us immediately. We need this information to assess the complexity of the case and the appropriate level of investigation needed. If information is not available at this stage of the investigation, please send us further details within five working days or provide reasons for the delay.

<b>A Force/Agency name: Greater London Authority</b>		<b>Contact details: 020 7983 4959</b>
<b>1. What was the date the matter came to the attention of the appropriate authority: 27 September 2019</b>		
<b>1a. Referral date</b>	<b>27 September 2019</b>	
<b>2. Referral time (24-hour clock)</b>	<b>1800</b>	
<b>3. Initial contact name</b>	<b>Emma Strain</b>	
<b>4. Role or job title</b>	<b>Monitoring Officer</b>	
<b>5. Station address</b>	<b>City Hall, The Queen's Walk, More London, London SE1 2AA</b>	
<b>6. Phone number</b>	[REDACTED]	
<b>7. Fax number</b>	<b>n/a</b>	
<b>8. E-mail address</b>	[REDACTED]	

<b>B General Details</b>		
<b>1. Force or authority reference number</b>	<b>n/a</b>	
<b>2. Our reference number</b>	<b>n/a</b>	
<b>3. If there has been a delay in the referral, please give the reasons for the delay.</b>		
<b>N/A</b>		
<b>4. Origin of referral (tick one box only)</b>		
Complaint <input type="checkbox"/>	Recordable conduct matter <input checked="" type="checkbox"/>	Death or serious injury <input type="checkbox"/>
<b>5. Nature of referral</b>		
Mandatory <input checked="" type="checkbox"/>	Voluntary <input type="checkbox"/>	Called in by IOPC <input type="checkbox"/>
<b>6. If voluntary please state reason for referral to IOPC</b>		
<b>6a If voluntary, is this a direction and control matter? Y/N</b>		
If you have answered YES to the above question, have you sought permission from the IOPC? Y/N:		
<b>7. Is the complainant (tick one box only):</b>		
the subject of the conduct <input type="checkbox"/>	adversely affected by the conduct <input type="checkbox"/>	
a witness to the alleged conduct <input type="checkbox"/>	acting on their behalf <input type="checkbox"/>	
does not apply (conduct matter) <input checked="" type="checkbox"/>		

<b>C Details of the complainant/subject/deceased</b>	
<b>1. First name or names:</b>	Not applicable
<b>2. Last Name:</b>	
<b>3. Address (including postcode):</b>	
<b>4. Date of birth:</b>	
<b>5. Sex:</b>	Male <input type="checkbox"/> Female <input type="checkbox"/> Transgender Male <input type="checkbox"/> Transgender Female <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/>
<b>6. Ethnic origin (select one only):</b>	<p>white: English/Welsh/Scottish/Northern Irish/British <input type="checkbox"/></p> <p>white: Irish <input type="checkbox"/></p> <p>white: Gypsy or Irish Traveller <input type="checkbox"/></p> <p>white: any other white background <input type="checkbox"/> please describe</p> <p>mixed: white and black Caribbean <input type="checkbox"/></p> <p>mixed: white and black African <input type="checkbox"/></p> <p>mixed: white and Asian <input type="checkbox"/></p> <p>mixed: any other mixed/multiple ethnic background <input type="checkbox"/> please describe</p> <p>Asian: Indian <input type="checkbox"/></p> <p>Asian: Pakistani <input type="checkbox"/></p> <p>Asian: Bangladeshi <input type="checkbox"/></p> <p>Asian: Chinese <input type="checkbox"/></p> <p>Asian: any other Asian background <input type="checkbox"/> please describe</p> <p>black: African <input type="checkbox"/></p> <p>black: Caribbean <input type="checkbox"/></p> <p>black: any other black/African/Caribbean background <input type="checkbox"/> please describe</p> <p>other: Arab <input type="checkbox"/></p> <p>other: any other ethnic group <input type="checkbox"/> please describe</p> <p>not known <input type="checkbox"/></p> <p>prefer not to say <input type="checkbox"/></p>
<b>7. Sexual Orientation (select one only):</b>	<p>Heterosexual or Straight <input type="checkbox"/></p> <p>Gay or Lesbian <input type="checkbox"/></p> <p>Bisexual <input type="checkbox"/></p> <p>other <input type="checkbox"/> please describe</p> <p>not known <input type="checkbox"/></p> <p>prefer not to say <input type="checkbox"/></p>
<b>8. Religion and Belief (select one only):</b>	<p>no religion <input type="checkbox"/></p> <p>Christian (including Church of England, Catholic, Protestant and all other Christian denominations) <input type="checkbox"/></p> <p>Buddhist <input type="checkbox"/></p> <p>Hindu <input type="checkbox"/></p> <p>Jewish <input type="checkbox"/></p>

Muslim   
 Sikh   
 any other religion  please describe  
 not known  prefer not to say

**9. Name and address of any other injured parties (if this applies)** Not applicable

**10. Details of all other relevant parties**, for example, next of kin, coroner, solicitor, FLM.  
 Not applicable

D Details of officers/staff concerned					
Officer(s) / staff member(s) involved including location and rank (if known)	Sex	Ethnic origin	Sexual Orientation (if known)	Religion and Belief (if known)	Have notices of investigation been served? If 'Yes', please provide copies.
N/a					

**E  
Details of the Complaint, Recordable Conduct Matter or Incident**

1. Date of the alleged incident  
 2. Time of the alleged incident :  
 3. Date the complaint was made (if this applies)  
 4. Address where the incident took place

**F  
Description of the Complaint, Recordable Conduct Matter or Incident**

1. Description of the complaint, recordable conduct matter or incident  
 Please include FULL details, including actions, outcomes, injuries and medical assistance.  
 Please see attached letter

2. Nature and number of allegations Please see attached letter

3. What evidence is available? (please send with this form if possible)

Custody report  Coroner's report  CCTV  Complaint form   
 Forensic evidence  Officer's notes  Other (give details below)  None   
 Medical evidence  Other evidence: please give details

4. Number of police witnesses N/A  
 Number of independent witnesses N/A

**G Nature of Complaint, Recordable Matter or Incident****1. Relevant factors** *(tick all that apply)*

- Acute Behavioural disorder/excited delirium
- Article 3 ECHR
- Body worn camera
- Call Handling
- Civil/neighbour hood dispute
- Corruption /perjury
- Custody
- Death
- Discrimination
- Domestic violence/gender abuse
- Drugs/alcohol
- Failure to investigate
- Mental health
- Missing person
- Near miss in custody
- Public order
- Risk assessment
- Road traffic incident
- Self harm/ suicide risk
- Serious injury
- Sexual assault or harassment
- Stop/search
- Terrorism
- Use of force
- Young person
- None of these

**2. Are any of the following relevant to the incident or allegation?** *(tick all that apply)*

- Age
- Disability
- Gender/gender reassignment
- Other discrimination
- Race
- Religion & Belief
- Sexual Orientation
- None of these

*If 'Yes', please describe.*

**3. Are drugs or alcohol relevant?** *(tick all that apply)*

- Drugs  Alcohol  No known drug or alcohol use

*If 'Yes', please describe.*

**4. Is mental health relevant?** (tick all that apply)Held under the Mental Health Act (Sec. 135 and 136)  Other evidence of a mental-health issue 

If mental health is relevant, please give details:

**H Details of the Relevant Contact** (include role, names, addresses, phone numbers, e-mail)

1. Investigator or other main contact: N/A

**I Other Information**

## 1. Details of the press or public interest

Please see attached letter.

**J Sub Judice Considerations**

## 1. Are there any charges preferred or likely to be preferred against the complainant or other parties?

Yes  No 

If 'Yes', please provide details and the next court date.

**GREATER LONDON AUTHORITY**  
Monitoring Officer

City Hall  
The Queen's Walk  
More London  
London SE1 2AA  
Switchboard: 020 7983 4000  
Web: [www.london.gov.uk](http://www.london.gov.uk)

**The Rt Hon Mr Boris Johnson MP**

Prime Minister  
10 Downing Street  
London  
SW1A 2AA

27 September 2019

Dear Prime Minister,

I am the Monitoring Officer of the Greater London Authority ("GLA").

I write, in that capacity, to inform you that I have today recorded a "conduct matter" against you and consequently today referred the conduct matter to Mr Michael Lockwood, the Director-General of the Independent Office for Police Conduct ("IOPC") for him to determine whether or not it is necessary for the matter to be investigated in accordance with the relevant regulations, to which I later refer.

The conduct matter relates to your time as Mayor of London between 2008 and 2016. During this time it has been brought to my attention that you maintained a friendship with Ms Jennifer Arcuri and as a result of that friendship allowed Ms Arcuri to participate in Trade Missions and receive sponsorship monies in circumstances when she and her companies could not have expected otherwise to receive those benefits.

This action has been taken in accordance with the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012<sup>1</sup> (the "2012 Regulations") and section 31 and Schedule 7 (Chapter 4) of the Police Reform and Social Responsibility Act 2011 ("the 2011 Act"). This letter provides you with an explanation of the reasons for taking that action and stands as a record of the determinations I have made under the 2012 Regulations, as well as formal notification of the referral for the purposes of regulation 13(6)<sup>2</sup>.

As the GLA's Monitoring Officer I discharge the statutory functions of a police and crime panel under the 2012 Regulations and 2011 Act. I do this under a delegation from the London Assembly Police and Crime Committee, which is the police and crime panel for the Greater London Metropolitan Police District.

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<sup>1</sup> Statutory Instrument 2012/ 62 (as amended)

<sup>2</sup> References to numbered regulations in this letter are to the corresponding numbered 2012 Regulations.

### The legal position

On 16 January 2012, in accordance with section 3 of the 2011 Act, the Mayor's Office for Policing and Crime (MOPAC), a corporation sole, came into existence and you became the statutory "occupant" of MOPAC in your capacity as Mayor of London. At that point you became subject to the provisions as to conduct contained in Chapter 4 of the 2011 Act including the 2012 Regulations which came into force on the same date.

The 2011 Act applies to any conduct during the period when you were the occupant of MOPAC ("the Relevant Period").

As the occupant of MOPAC you were the holder of a "relevant office". I refer later to the definition of conduct matter. Essentially it is an indication there may have been the commission by you of a criminal offence.

You were Mayor of London when MOPAC came into being and became its occupant on 16 January 2012. Therefore between 16 January 2012 and 8 May 2016<sup>3</sup> ("the Relevant Dates") you were subject to the 2011 Act and 2012 Regulations regarding conduct, including in your capacities as Mayor of London and the occupant of MOPAC.

I continue to have jurisdiction concerning such conduct and to exercise the functions of a police and crime panel under the 2012 Regulations in respect of your conduct during that time.

### Current allegations

Matters have recently come to my attention from the Media and elsewhere regarding your conduct between the Relevant Dates. In broad terms they appear to involve the following matters:

- 2013: London & Partners (L&P), the Mayor's promotional agency, provided Ms Jennifer Arcuri's (JA) company, Innotech with £10,000 sponsorship for an event at the World Islamic Economic Forum.
- 2014: L&P paid Innotech £1,500 to sponsor an event in Parliament.
- Nov 2014: JA applied to attend the Trade Mission in Singapore via her company, Innotech. The application was declined.
- JA re-applied to attend via her company, Playbox. The application was successful, and JA attended the Trade Mission to Singapore and Malaysia.
- Feb 2015: Although JA did not qualify to attend a Trade Mission to New York she was allowed to attend and participate in some events even though she was not an official member of the delegation.
- Nov 2015: JA's application to attend the Trade Mission to Israel was rejected however JA was able to go on and secure permission to attend.

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<sup>3</sup> You vacated the office of Mayor of London on this date when the new Mayor took office following the 5 May 2016 Mayor of London and London Assembly elections.

The offence of misconduct in public office has been publicly raised and so I have to consider whether that offence is potentially involved.

#### Conduct matters

I am under a statutory duty to pursuant to regulation 12(1) to record any conduct matters that I become aware of. A "conduct matter" is a matter defined by section 31(1)(b) of the 2011 Act as *"matters in the case of which there is an indication (whether from the circumstances or otherwise) that a relevant office holder may have committed a criminal offence"*.

I emphasise it is not my role under the 2012 Regulations to investigate or determine whether any offence has been committed. Similarly I do not investigate the veracity of the allegations or whether they are substantiated to any particular evidential level or degree. I am simply required to satisfy myself as to whether there is disclosed the potential presence of an offence during the Relevant Period, to the point of there now being present an indication that such an offence may have been committed from the circumstances or otherwise.

#### Determination

I have come to the conclusion that the necessary threshold for there to be a conduct matter is met for the following reasons:

- a) At the material time of the alleged conduct, you were in public office. The alleged conduct is directly linked to the circumstances in which you discharged your public duties.
- b) On the basis of information in the public domain, it is alleged that you have on more than one occasion used your position as Mayor to benefit and reward your friend or her companies with sponsorship monies and access to Trade Missions that she would but for your friendship or intervention not have received.
- c) Subject to any explanation provided by you, these matters give rise to a suggestion that there has been a failure to safeguard the public purse and if so that amounts to a significant breach of public trust.

These are the ingredients of the offence of misconduct in a public office.

Given there is an indication you may have committed misconduct in public office in the Relevant Period and between the Relevant Dates:

- I have formally concluded that there is a conduct matter for the purposes of regulation 12(1); and
- I have, accordingly, recorded this as required by that regulation.

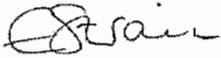
#### Referral to IOPC

As a result I am now required by regulation 13(2) to refer this conduct matter to Mr Michael Lockwood, the Director-General of the IOPC ("the Director-General"). He is required under regulation 14(1) to determine whether or not it is necessary for the matter to be investigated. I have copied this letter to him. I have done this today.

Evidence

I draw your attention to your obligations under regulation 6 to provide the Director-General with assistance and to take all such steps as appear appropriate for the purposes of obtaining and preserving evidence relating to the conduct matter under regulation 8. You are also required by that regulation to comply with any directions for that purpose from me, as the GLA's Monitoring Officer, or from the Director-General.

Yours sincerely,



Monitoring Officer  
Greater London Authority

cc:

Director-General, Independent Office for Police Conduct  
Chair, London Assembly Police & Crime Committee  
Deputy Chair, London Assembly Police & Crime Committee  
Occupant of the Mayor's Office for Policing and Crime and Mayor of London  
Deputy Mayor for Policing and Crime  
Chair, London Assembly Oversight Committee  
Deputy Chair, London Assembly Oversight Committee

# Appendix B – IOPC Director General’s decision regarding scoping exercise

## Director General Decision in relation to what action to take following the receipt of a referral relating to the Right Honourable Boris Johnson MP

### Background

1. On Friday 27 September 2019, the Monitoring Officer of the Greater London Authority (GLA), the delegate of the committee established under s.32 of the Police Reform and Social Responsibility Act 2011 (the **2011 Act**), in relation to all Police and Crime Panel decision-making under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (the **2012 Regulations**), referred to the Independent Office for Police Conduct (IOPC) a ‘conduct matter’ concerning the current Prime Minister, Boris Johnson (Mr Johnson), former London Mayor for Policing and Crime.
2. The Monitoring Officer has referred matters she considers may constitute an offence of misconduct in public office.<sup>1</sup> The referral relates to alleged improper payments made by London & Partners (the Mayor’s promotional agency) to Ms Jennifer Arcuri’s (JA) companies (Innotech) and access to trade missions (via both Innotech and JA’s other company Playbox) between 2013 and November 2015. In her letter to Mr Johnson regarding the referral, the Monitoring Officer has stated the following:

*“I have come to the conclusion that the necessary threshold for there to be a conduct matter is met for the following reasons:*

- a) *At the material time of the alleged conduct, you were in public office. The alleged conduct is directly linked to the circumstances in which you discharged your public duties.*
- b) *On the basis of information in the public domain, it is alleged that you have on more than one occasion used your position as Mayor to benefit and reward your friend or her companies with sponsorship monies and access to Trade Missions that she would but for your friendship or intervention not have received.*

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<sup>1</sup> The common law definition of MIPO is set out in *Attorney General’s Reference No 3 of 2003* [2004] EWCA Crim 868: “a public officer acting as such; wilfully neglects to perform his duty and/or wilfully misconducts himself; to such a degree as to amount to an abuse of the public’s trust in the office holder; without reasonable excuse or justification.”



c) *Subject to any explanation provided by you, these matters give rise to a suggestion that there has been a failure to safeguard the public purse and if so that amounts to a significant breach of public trust.*

*These are the ingredients of the offence of misconduct in a public office.*

*Given there is an indication you may have committed misconduct in public office in the Relevant Period and between the Relevant Dates:*

- *I have formally concluded that there is a conduct matter for the purposes of regulation 12(1); and*
- *I have, accordingly, recorded this as required by that regulation.”*

3. The next decision that falls to be taken under the 2012 Regulations is the Director General “...to determine whether or not it is necessary for the...[conduct] matters to be investigated.” [regulation 14(1)].
4. Should I determine that the matter requires investigation, then the next step would be for me (or my delegate) to decide the form of investigation, which is limited under the Regulations to either:
  - a. an investigation by the IOPC (an independent investigation); or
  - b. an investigation conducted by a selected police force under the management of the IOPC (a managed investigation). [regulation 18(4)]
5. If I decide that the matter requires investigation, then deciding which form of investigation is the most appropriate requires me to consider seriousness of the case and public interest [regulation 18(3)].

### **My decision**

6. My decision is to devote IOPC investigative resources to collate relevant material through engagement with external parties in order for me to have more background/underlying information about the matter so that I can reach an informed decision as to whether it is necessary for this matter to be investigated and if so, what method of investigation is appropriate. This process of acquiring background material is often referred to as a ‘scoping exercise’.
7. In my view, this exercise is necessary for the following reasons:
  - a. **Little substantive detail to date:** The referral letter from the Monitoring Officer provided no detail as to the underlying basis of the allegation. Her letter to Mr Johnson (quoted above) does provide *some* detail as to the underlying basis of the allegation but significantly little to no information as to how Ms Arcuri’s alleged friendship with Mr Johnson ‘resulted’ in Ms Arcuri (and or her companies) receiving sponsorship monies and access to trade missions.



- b. **The existence of relevant and accessible material:** I have become aware from our engagement with the GLA Monitoring Officer that material related to this matter has been collated by the GLA (in response to a Freedom of Information Act (FOIA) request) and also by London and Partners (the Mayor of London's official promotional agency) the latter, I understand, being involved in the provision of sponsorship monies and the trade missions. At the time of making my decision to conduct a scoping exercise in order to assist my necessity decision (Monday 30 September 2019), I was already aware of the existence of the FOIA material collated by the GLA Monitoring Officer (I had been informed on the day of the referral (Friday 27 September 2019)).

To assist me in acquiring this material, the 2012 Regulations provide me with the power to require disclosure from:

- the Policing and Crime Panel (in this case the London Assembly Police and Crime Committee)
- the relevant office holder (in this case Mr Johnson) and
- every chief constable

as appear to me to be required for the purposes of the carrying out of any of my functions under the 2012 Regulations [regulation 35(1)]. This includes disclosure to assist me in deciding whether it is necessary to investigate this conduct matter.

At the time of documenting this decision (Thursday 3 October 2019), we have received a copy of the GLA material and received confirmation from London and Partners that they are minded to release the material they hold to the IOPC for the purposes of our decision-making, subject to their receiving a response from Ms Arcuri (deadline for this is next Monday 8 October), and having assessed whether release of this material to the IOPC would be GDPR compliant.

- c. **The low threshold of referral and the nature of the offence:** The threshold for referral of an allegation of criminality against a 'relevant office holder' under the 2012 Regulations, is simply that the monitoring officer (in this case) is satisfied that there is "...an indication (whether from circumstances or otherwise) that a relevant office holder may have committed a criminal offence." This is a low threshold – deliberately so under the Regulations so that matters are referred, at an early stage, to an independent body to make subsequent assessments. Indeed, an indication that a criminal offence may have been committed is arguably a lower threshold than the trigger for using criminal investigative powers under the Police and Criminal Evidence Act 1984 ('reasonable grounds to suspect'). The retrieval of underlying material might assist me in assessing whether criminal suspicion is made out, thus allowing IOPC staff re. an independent investigation, or police officers re. a managed investigation, to exercise criminal investigatory powers [regulation 20(3)]. This is particularly so bearing in

mind the nature of the offence referred – the common law offence of misconduct in public office (MIPO) – which is a very serious offence with four limbs, one of which is that the conduct must be serious enough to amount to “*an abuse of the public’s trust in the office holder*”, which is very context specific. Review of underlying material may assist me in understanding the context in which decisions relating to engaging with Ms Arcuri were made.

- d. **Resources:** Conducting a scoping exercise will enable me to understand better what further resources I might need to bring to bear (such as specialist financial investigative expertise) should I decide that the matter requires investigation (this might influence my method of investigation decision).
8. Conducting a scoping exercise before deciding whether to mount an investigation is not novel or unusual in relation to referrals further to the 2012 Regulations and has been the practice of the IOPC and IPCC before it on a number of occasions. Notably, the referral of matters relating to Stephen Greenhalgh, Deputy Mayor for Policing and Crime, in 2013, which was subject to a period of scoping before a decision was made by the IPCC that it was not necessary to conduct a criminal investigation.
9. This scoping exercise can be conducted expeditiously and I have appointed a Regional Director and team to carry out the scoping exercise. I will be kept regularly apprised of developments during the scoping period through bi-weekly meetings (subject to other operational commitments) and I will endeavor to decide whether it is necessary to conduct a criminal investigation as soon as I consider there is sufficient information to make an informed decision.

Signed: 

Michael Lockwood, Director General, Independent Office for Police Conduct.

Date: 2nd October 2019.

# Appendix C – Analysis of the evidence

## Introduction

1. On 27 September 2019 Ms Emma Strain, the Monitoring Officer<sup>1</sup> for the Greater London Authority (GLA) referred the Right Honourable Boris Johnson MP (Mr Johnson) to the IOPC under the Elected Local Policing Bodies (ELPB) (Complaints and Misconduct) Regulations 2012, alleging that he may have committed the criminal offence of misconduct in public office (MIPO) in connection with subsidies and access to trade missions given to Ms Jennifer Arcuri or her companies.
2. Following a referral, the Director General of the IOPC must determine if it is necessary to investigate it. When making the referral the Monitoring Officer relied on “*information in the public domain*” and did not provide any evidence. Therefore, the Director General had to arrange for his own staff to carry out a “*scoping review*” (the review) to obtain the available relevant evidence for him to be able to determine if there are reasonable grounds to suspect Mr Johnson may have committed the offence of MIPO and whether it is necessary to investigate him for it.
3. The review has obtained evidence from witnesses and received a large volume of documentary evidence. Obtaining relevant evidence from the GLA and receiving assurance that adequate searches had been carried out took much longer than originally anticipated. This is due in part, it seems, to a lack of appreciation of the seriousness of the referral and the need to provide sufficient resources to collect the evidence quickly. Some of the records which would have assisted the review either never existed or have been deleted. These difficulties have raised concerns about governance and record-keeping at the GLA and London and Partners (L&P), and the training and resources available to the Monitoring Officer. This analysis includes suggested recommendations that are intended to address these concerns.

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<sup>1</sup> The Monitoring Officer is appointed by the GLA under section 5 Local Government and Housing Act 1989 and has general responsibilities for ensuring that the authority and its members comply with legal responsibilities. The London Assembly Policing and Crime Committee has delegated its responsibilities under the ELPB Regulations to refer conduct matters to the IOPC to the GLA Monitoring Officer.

## Executive summary

### The scoping review

4. Evidence and information that the IOPC believes would have been relevant to the review either never existed or has now been deleted, in particular:
  - The reasons for accepting or rejecting applications to participate in trade missions do not appear to have been recorded.
  - No formal application for the sponsorship of Innotech by L&P appears to have been made or required. Similarly, no formal record of the decision to pay sponsorship appears to have been made or required.
  - The material stored in digital devices, email accounts and computer drives belonging to Mr Johnson while Mayor and his appointees<sup>2</sup> was deleted when he left office in 2016. The requirement in the GLA Records Management Guidance for material concerning GLA business (which includes sponsorship and trade missions) to be transferred to executive officers prior to deletion appears not to have been followed.
  - Mr Johnson's solicitors have said he has no relevant material in his custody or control, and Ms Arcuri has said that she deleted any relevant email correspondence and other electronic records.
5. Learning recommendations are suggested to address the concerns raised by these issues. Despite the challenges, a large volume of evidence was recovered and is analysed below.

### The relationship of Ms Arcuri with Mr Johnson

6. There is evidence from Ms Arcuri's media interviews that she and Mr Johnson knew each other, including that "*for a long time, I was a part of his life*". She has said they first met in 2011 and became friends after he attended her first Innotech Summit in April 2012, following which she "*cast [herself] as his technical adviser*" and they "*regularly texted and met socially, for meals*". Mr Johnson has not confirmed nor denied he was in a relationship with her. Taking account of the other evidence, including Witness A's, questioning of Mr Johnson on this topic as part of the review would have been inappropriate; that should be

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<sup>2</sup> Under the Greater London Authority Act 1999 s67 the Mayor is able to appoint up to 13 appointees, who are accountable to him and whose employment terminate by operation of law at the end of the Mayoral term, unless terminated earlier by the Mayor or by the employee.

included in an interview under criminal caution if it is determined that an investigation is necessary.

7. As early as 19 February 2013 Mr B of L&P referred to Ms Arcuri being “*close to Boris*” in an email he sent to colleagues. There are a number of subsequent emails that support that staff at L&P, including the Chief Executive, believed Ms Arcuri had a close relationship with Mr Johnson and that this belief affected how she was treated by them. How this influenced the decision-making referenced in the allegations made is examined below.
8. The evidence supports that Mr Johnson arranged to attend Innotech events directly with Ms Arcuri as a favour to her and not at the recommendation of his staff, who were surprised and/or unhappy about him doing so. Mr Johnson must have known Ms Arcuri had a pecuniary interest in Innotech as he had attended its events, and it is reasonable to infer he knew she received sponsorship from L&P (since it was advertised at those events). It is also reasonable to infer that he knew Ms Arcuri had been accepted by the GLA for the Malaysia trade mission since he was present at it. He must also have been aware that she attended events at the New York and Tel Aviv trade missions, which he also attended. Whether he knew she would be attending in advance or had agreed to her doing so is examined below.
9. Some media reports have mentioned evidence from unnamed sources that there was a sexual relationship between Ms Arcuri and Mr Johnson from as early as 2012. However, the only evidence available to the review from an identifiable source is from Witness A, whose evidence is that a sexual relationship started sometime before [REDACTED] 2014. Witness A believed that it had ended before Ms Arcuri began her relationship with her present partner, [REDACTED], which media reports suggest was in 2016.
10. It follows that:
  - Allegations 1, 2, 3 were at a time when there is evidence of a “*close*” relationship between Ms Arcuri and Mr Johnson.
  - Allegations 4, 5 and 6 were at a time when there is evidence a sexual relationship had begun and may have been continuing.

#### Allegation 1 – October 2013: sponsorship of £10,000

11. Mr C at L&P, arranged this payment to Ms Arcuri with the agreement of another employee, Ms D. There is evidence that he knew of Ms Arcuri's relationship with Mr Johnson and may have treated her differently on account of it.
12. The circumstances of the payment may support that it was not a standard transaction and/or did not comply with the standards to be expected when spending money, part of which at least, was public. However, Ms D appears to have been genuinely enthusiastic about Ms Arcuri's proposals and the amount of the sponsorship was within the limits of her own and Mr C's authority to agree.
13. There is no evidence Mr Johnson was aware Ms Arcuri made the application for the payment, that he directly influenced the payment or knew (even if it could be said to be the case) that she had used her relationship with him to obtain it. Ms Arcuri has stated that he was not involved in any way with the payment.

#### Allegation 2 – November 2013: Innotech participation in a trade mission to South Africa, supported by a grant of £12,447<sup>3</sup>

14. There is no evidence presently to support that money was paid to Ms Arcuri or her companies by the GLA or L&P in connection with this event. The only evidence is that she may have made an application for funding to UK Trade & Investment (UKTI), to assist her to attend the mission.

#### Allegation 3 – June 2014: sponsorship of £1,500

15. The email evidence supports that Mr C made this payment to Ms Arcuri despite Ms D believing it was a not a good use of the budget. Email correspondence indicates that the payment was made at least in part to "*smooth out* [Ms Arcuri's] *irritations*" that she had not been invited to a "*London Tech Week*" event. This does not appear to be a proper use of L & P's budget, but there is no evidence that Mr Johnson or his office knew of her request for the payment, influenced it being made, or knew that her relationship with him had influenced Mr C to pay it.

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<sup>3</sup> This was not referenced in the referral but in a separate chronology document prepared by the GLA as part of a Freedom of Information Act exercise.

#### Allegation 4 – November 2014: participation in the Malaysia and Singapore trade mission

16. There is evidence that Mr C and/or Ms E of L&P encouraged and facilitated Ms Arcuri's application to UKTI to go on this mission. Innotech was selected to pitch for inclusion on this mission, although it was ineligible because it was not a technology company. During the pitch to Mr F of UKTI and Ms G [L&P] (who was, at the time, seconded from UKTI to the Mayor's Export Programme), Ms Arcuri was allowed to substitute her new company, Playbox, which did not meet the eligibility requirement to have a trading history. Ms G has said this was not unique and she had allowed another company to participate in a mission without the required trading history.
17. A third party, Ms H [L&P], expressed surprise to Mr C about Ms Arcuri's inclusion on the mission. In his reply Mr C appeared to try and distance L&P from Ms Arcuri's selection for the mission, which may be inconsistent with the evidence of his and Ms E's initial involvement with her application. Ms G's account of first meeting Ms Arcuri at the selection panel appears to be inconsistent with Ms Arcuri previously naming her as a contact in connection with Allegation 2.
18. Mr Johnson attended the mission, and so it may be inferred that he knew Ms Arcuri had a business relationship with the GLA, which ran the Mayor's Export Programme at that time (although staff in L&P appear to have been organising it). However, there is no evidence that Mr Johnson or his office knew of her application to join the mission, influenced her being accepted for it or (if that was the case) that he knew that her relationship with him had influenced her being selected to go on it.

#### Allegation 5 – February 2015: attendance at the New York trade mission

19. It is clear from the evidence that Ms Arcuri's company was not eligible to participate in this mission. The contemporaneous email evidence supports that she told Mr C that she was invited to attend events on the mission by Ms G. However, Ms G has denied inviting her and says that Ms Arcuri asked to be on the mission, was told she was ineligible but then said she would be there anyway and asked to attend some of the events. Ms G says she agreed on condition Ms Arcuri checked with Mr I [Mayor's Office] that it was okay with him.
20. In her replies to the review, Ms Arcuri stated that neither Mr Johnson nor any of his aides had any involvement in her attending the events. However, this appears to be contradicted by Ms G's evidence that she said she had spoken to

Mr I to secure his agreement to her attending and Mr C's email stating she had spoken to "*Boris and [Mr I]*".

21. Mr I has confirmed Ms Arcuri did speak to him and added: "*I just said it's nothing to do with me but look sounds okay blah blah blah.*" He has also said that he remembered what appears to have been a subsequent conversation "*late in the day*" about the trip to America when "*it was raised with me that she didn't qualify to come, which was something that I probably should have been a bit more kind of front on and asked her sort these sort of questions but I never did.*"
22. The only evidence that Mr Johnson was asked if she could attend is in Mr C's email, which relies on what Ms Arcuri had told him. Ms Arcuri's credibility is undermined by the contradictions between her accounts and the other evidence. However, the account given in Mr Johnson's solicitor's letter that "*if and when Ms Arcuri did attend any such events, our client was not previously expecting her to attend*" is also undermined by Mr I's evidence that he remembers Mr Johnson being told she would be attending and that he had "*rolled his eyes*".

#### Allegation 6 – November 2015: attendance at events on the Tel Aviv trade mission

23. The email evidence supports that Ms G permitted Ms Arcuri to attend functions on the Israel trade mission if Mr I agreed and because Ms Arcuri told her that he had done so. This is in contradiction to Ms Arcuri's answers to this review in which she said that Mr Johnson's aides had no role in her being permitted to attend. Ms G's statement to Mr K that Ms Arcuri's presence had been agreed "*above our pay grade*" would be consistent with her belief, relying on Ms Arcuri's emails that Mr I had agreed to her attending. Mr I has denied that he agreed to Ms Arcuri attending the mission, although he remembers her referencing that she would be attending in a passing conversation.
24. There is no evidence from Ms Arcuri, Mr I or any other source that Mr Johnson was asked to agree to her attendance or knew Ms G had asked her to clear it with Mr I.

#### Mr Johnson's compliance with the Code of Conduct and Public Duties

25. There is no evidence that Ms Arcuri was Mr Johnson's "*partner*" within the meaning of the GLA's 2012 Code of Conduct. It follows that there was no requirement in his code of conduct for him to declare Ms Arcuri's pecuniary

interests on his register of interests even though she may have been a “close associate”.

26. Although there was no requirement on Mr Johnson to register the pecuniary interests of Ms Arcuri, he may nonetheless have breached the Code of Conduct, by bringing the GLA into disrepute, if he used his influence to benefit her, made decisions in her favour having failed to declare a conflict of interest, and/or knew she was using their relationship to obtain benefits but failed to take steps to prevent it.
27. The obligation on the Mayor to register the pecuniary interests of a close associate was removed from the Mayor’s Code of Conduct in July 2012. This is in contrast to the staff at the GLA, whose code of ethics requires that they declare the pecuniary interests of anyone with whom they have a close personal relationship and who has any business dealings with the GLA. The review has drafted a recommendation suggesting that the GLA should review this apparently anomalous position.

Whether there is reasonable suspicion that an offence of MIPO may have been committed

28. Only for allegation 5 is there any evidence which could support a reasonable suspicion that Mr Johnson misconducted himself in his public office, by bringing the GLA into disrepute by:
  - permitting Ms Arcuri to attend events at the New York trade mission when he should have refused to make the decision and declared his relationship with her
  - or, knowing that she had used her relationship with him to obtain that benefit, failing to take steps to prevent it
29. Evidentially that suspicion would have to rely on Ms Arcuri’s account to Mr C that she has “*been speaking to Boris and [Mr I] about [her] being in NY and they are both, apparently, happy with that*”. There is evidence which undermines the credibility of Ms Arcuri, but also some which undermines Mr Johnson’s denial that he knew she would be attending events at the New York trade mission. The Director General will need to consider the issues of credibility when deciding if there are reasonable grounds to suspect Mr Johnson did misconduct himself.
30. If the Director General does have reasonable grounds for suspecting that Mr Johnson so misconducted himself, he must go on to consider if that misconduct

could be sufficiently serious to meet the high threshold required for the offence of MIPO, that the breach of duty must be shown to be serious enough to involve an abuse of the public's trust and harm to the public interest.

31. If the Director General believes there are reasonable grounds for suspicion then additionally, before deciding that it is necessary to investigate, he may also need to consider if there is any realistic possibility that, when any outstanding reasonable lines of inquiry have been pursued, the evidential test in the Code for Crown Prosecutors could be met.<sup>4</sup>

### Necessity for an investigation

32. The scoping review believes it has exhausted opportunities to recover relevant hard copy and electronic material from GLA and L&P and that it is unrealistic to expect that incriminating material still exists in the hands of witnesses, Ms Arcuri or Mr Johnson, or remains recoverable from them. Given their age, relevant electronic communications are no longer recoverable from service providers even using criminal powers. A number of key witnesses have been interviewed by the review and accounts obtained from Ms Arcuri and Mr Johnson. Although Mr Johnson's account is no more than a bare denial, there is no reason to believe that interviews under criminal caution would provide additional evidence to support a prosecution. Sources for newspaper accounts have had the opportunity to come forward during the review and there are no grounds on which to believe they would do so if an investigation were announced. It may not therefore be realistic to believe that there are any reasonable and proportionate lines of enquiry that could be carried out as part of an investigation, which could result in sufficient evidence being obtained to meet the evidential test for a prosecution.

### Concerns and learning recommendations

33. The review has raised concerns about:
  - the GLA Monitoring Officer's knowledge and support
  - GLA information management and retention

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<sup>4</sup> Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction. (...) They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be see: <https://www.cps.gov.uk/publication/code-crown-prosecutors>

- governance and decision-making in relation to trade missions
- decision-making on the payment of sponsorship by L&P and the propriety of it

34. These concerns are referenced where appropriate and suggested recommendations are attached.

## Organisations and people referred to

35. **The Greater London Authority** is a body corporate consisting of the Mayor of London and the London Assembly.
36. **London and Partners** is the Mayor's official promotional agency. It is a not-for-profit public-private partnership, incorporated as a company limited by guarantee with the Mayor as a member. It is funded by the Mayor, European and national funds, its partner network and other commercial ventures. The payments in 1 and 3 were made from L&P funds. The email evidence recited below, referencing Ms Arcuri's relationship with Mr Johnson, was generated by several different members of its staff, including the Chief Executive, and was widely copied within the organisation. L&P helped with the arrangements for the Malaysia and Singapore, and New York trade missions (which were managed by GLA) and managed the trade mission to Tel Aviv.
37. **Mr C** was [REDACTED] at L&P. He was instrumental in the grants of £10,000 and £1,500 being paid to Ms Arcuri (see below). He provided a witness interview to the review. He introduced Ms Arcuri to a senior member of the Mayor's Office, Mr I, in an email dated 21 February 2013 mentioning she had worked on the Mayor's campaign in 2012. In subsequent emails he references Ms Arcuri's influence on Mr Johnson. When Ms Arcuri emailed Ms E (below) requesting to attend the Singapore and Malaysia mission she said that she was sitting with Mr C at the time. There is possible inconsistency between this and his subsequent email of 21 November 2014, apparently distancing L&P from the decision to accept her on it. Ms Arcuri has said that he and she got on immediately when they met, that he made most of the executive decisions that are subject to the allegations, but that she believes he always made her go through due diligence.
38. **Ms E** was [REDACTED] at L&P. The emails reference a close relationship between Ms E and Ms Arcuri. Ms Arcuri refers to her as "*one of my first and closest friends in London when I arrived. We grew apart but she and I were two peas in a pod at one point because we went to all the events*

*together and had a fantastic time building relationships and partnerships between my networks in NY, the west coast and now London.*” There is email evidence that implies that, when Mr Johnson queried Ms Arcuri’s absence at a London Tech Week event, she telephoned Ms E and “yelled” at her. There is an email from Ms Arcuri to Ms E requesting £500 rent.

39. **Ms G** has been [REDACTED] at L&P since [REDACTED]. Previously she had been Mayor’s Export Programme [REDACTED], on secondment from UKTI since 2013. The Malaysia and New York Missions came under the Mayor’s Export programme, run by the GLA. The Tel Aviv mission was under Mayor’s International Business Programme and took place after she moved to L&P, which managed it. She interviewed Ms Arcuri for the Singapore and Malaysia Mission and the email evidence supports that she was instrumental in arranging her attendance at events on the New York and Tel Aviv Missions. In her witness account to the IOPC she says she first met Ms Arcuri when she was interviewed for the Singapore and Malaysia trade mission, as does Ms Arcuri in her answers to questions. However, Ms Arcuri’s application for financial support to attend the South Africa mission, pre-dating the interview, names Ms G as her point of contact.
40. **Mr I** was [REDACTED] for the Mayor. In his witness interview he has said, “*I also had a sub-set role as the Mayor’s [REDACTED] and basically... an unofficial role as his sort of [REDACTED].*” It appears Mr C introduced Ms Arcuri to Mr I in February 2013. Subsequently Mr C references instructing Ms Arcuri to seek agreement from Mr I to attend the New York Mission. Ms G also sought assurance that Mr I was happy for Ms Arcuri to attend the Tel Aviv mission.
41. **Emma Strain** was GLA Monitoring Officer at the time of the referral.
42. **Ed Williams** was GLA Monitoring Officer at the time of the allegations.
43. **Mary Harpley**, GLA Chief Officer, took on responsibility for providing GLA material to the scoping review.
44. **Mr K** was employed by the Mayor’s Office. He told the IOPC that from 2013 to 2015 he worked on business policy and that, from April 2015, his title was [REDACTED]. He says he acted as a conduit between the Mayor’s private team and civil servants within the rest of the GLA to ensure they aligned with the Mayor’s priorities at the time.

45. **Mr J** was employed by the Foreign Office but worked with the Mayor's Export Programme to make sure that, while the missions were abroad, they connected to foreign office.

46. **Mr L** was [REDACTED] L&P.

47. **Mr B** was [REDACTED] L&P.

48. **Ms Arcuri's companies:**

- **Innotech:** The sponsorship payments of £10,000 and £1,500 were paid to Innotech, which was incorporated in February 2013. A GLA press announcement in 2019 said that by 2014 Ms Arcuri had established a track record running Innotech, which had created and developed high-profile tech and tech policy promotional events. Companies House records appear to consist only of balance sheets for the companies, it appears to have traded at a loss and to have had no significant assets. Ms Arcuri has said in her answers to questions asked by the scoping review that it was a conduit to bring people together: *"It became the tech policy events all the constituents of the eco system could come: legislators, corporates companies, and entrepreneurs to create thought leadership around innovative topics within technology."* She says any money it did earn was ploughed back into events and that she would now have made it *"a non for profit"*. She says it stopped trading in June 2016 *"after a catastrophic event with the International Festival of Business where I just felt completely burnt out with how much money energy and effort went in to producing the event where no one showed up and the Brexit vote had cast a very dark shadow over the country."*
- **Playbox:** was accepted for the Malaysia and Singapore trade mission in November 2014 when it became apparent, during interview with Ms G and Mr F, that Innotech was ineligible. Ms Arcuri says that it developed a summarisation algorithm for video. She says it had *"amazing interest from China"* and that BBC Labs were keen to incubate the company, but that in 2015, due to a change in personnel at the BBC, she was told to stop work on it and it never traded as a company. Companies House records show it was incorporated in July 2014 and dissolved in 2016. The information from Companies House appears to be inconsistent with information given by Ms Arcuri on the *"Post Market Visit Outcomes Form"* for the trade mission.
- **Hacker House:** This company was described by Ms Arcuri as an ethical hacking company. Her emails concerning attending the Tel Aviv trade

mission in November 2015 reference wanting to visit an Israeli company with a similar business (Unit 8200). The company was incorporated in July 2015 and, in the year ending 31 July 2016, made a Dormant Account filing, under section 480 Companies Act 2006. Ms Arcuri has said that *"because I was still unsure of how I was going to scale Hacker House, we continued to trade under Innotech Network Ltd."* It received a grant from the Department for Digital, Culture, Media & Sport in 2019, which was subject to a separate investigation, which found no wrongdoing. In her answers to questions from the IOPC Ms Arcuri has said the company continues to trade and, although she is running it from the US currently, she intends to come back to the UK.

49. **Mayors Export Programme:** the Singapore/Malaysia and New York trade missions were arranged under this programme. It appears they were arranged by the GLA but with L&P assistance. There were 15 missions and the Mayor personally attended three of them (New York counted as two, one for Tech and one for Bio). These were the same ones Ms Arcuri attended. It was replaced by the Mayor's International Business Programme, which was run through L&P and organised the Tel Aviv mission. One was also later arranged to Japan, which Mr Johnson attended, but not Ms Arcuri.

## The referral

50. This referral was made by the GLA's Monitoring Officer, to whom the London Assembly Policing and Crime Committee has delegated its responsibilities under the ELPB Regulations.
51. The allegations in the referral concern grants and access to trade missions provided by the GLA and/or L&P to Ms Arcuri and/or her companies, Innotech, Playbox and Hacker House, during the period 2013/15 while Mr Johnson was Mayor of London. The Monitoring Officer identified the alleged misconduct which indicated MIPO as:

*"On the basis of information in the public domain, it is alleged that you have on more than one occasion used your position as Mayor to benefit and reward your friend or her companies with sponsorship monies and access to Trade Missions that she would but for your friendship or intervention not have received."*

52. Relying on the Monitoring Officer's referral letter and a chronology prepared by the GLA press office and forwarded separately, the IOPC understood the *"sponsorship monies and access to Trade Missions"* to be:

**Allegation 1:** October 2013, L&P paid Ms Arcuri's company Innotech £10,000 for a "Google Hang Out" at the World Islamic Economic Forum event in London (WIEF).

**Allegation 2:** November 2013, a grant from the GLA of £12,447 to support a trade mission organised by 'ICE', which was attended by Innotech.

**Allegation 3:** June 2014, L&P paid Ms Arcuri's company Innotech £1,500 to sponsor an "Innotech vs Brains" event at the House of Commons.

**Allegation 4:** November 2014, Ms Arcuri's company Playbox was allowed to participate in a trade mission organised by the GLA under the Mayor's Export Programme to Malaysia/Singapore.

**Allegation 5:** February 2015, Ms Arcuri was allowed to attend an event at a trade mission organised by the GLA under the Mayor's Export Programme to New York.

**Allegation 6:** November 2015, Ms Arcuri was allowed to attend events at a trade mission organised by L&P under the Mayor's International Business Programme to Tel Aviv.

53. The definition of a conduct matter is that there is an indication (whether from the circumstances or otherwise) that a relevant office holder may have committed a criminal offence. This test is relatively low but requires more than speculation or a 'bare' allegation; any allegation or information that an offence may have been committed should be assessed against all the evidence and information that is available at the time. When making this referral, the Monitoring Officer relied on information in the public domain and did not assess it against the evidence and information that is available to the GLA. Nor did she provide relevant material for the IOPC to be able to do so.

## The scoping review

54. The Director General's duty on receipt of the referral was to determine if it was necessary to investigate the conduct matter. IOPC guidance is that the Monitoring Officer should have taken appropriate steps to obtain and preserve evidence and carried out her own preliminary assessment before making the referral<sup>5</sup>. She should then have included the evidence and assessment in the

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<sup>5</sup> Guidance for police and crime panels and the London Assembly Police and Crime Committee [https://www.policeconduct.gov.uk/sites/default/files/Documents/statutoryguidance/complaints\\_guidance\\_for\\_police\\_and\\_crime\\_panels.pdf](https://www.policeconduct.gov.uk/sites/default/files/Documents/statutoryguidance/complaints_guidance_for_police_and_crime_panels.pdf)

referral and given a timescale for providing any material which was not then available. None of the evidence in the possession of the GLA was in fact provided with the referral. This meant the Director General had to ask for this scoping review to obtain the relevant evidence and to assess it to assist him to determine if there were reasonable grounds to suspect an offence of MIPO and, if so, whether it was necessary to investigate it.

## MIPO

55. The elements of the offence of MIPO are:

- a public officer acting as such
- wilfully neglects to perform his duty and/or wilfully misconducts himself
- to such a degree as to amount to an abuse of the public's trust in the office holder
- without reasonable excuse or justification

56. Mr Johnson as Mayor of London was a public officer. If he used his position to influence payments and/or access to trade missions arranged by L&P, and/or the GLA, then he would be a public officer acting as such.

## Scoping review strategy

57. The strategy of the scoping exercise was recorded as being to:

*“Recover material... from the following bodies/persons:*

- *The GLA*
- *London & Partners*
- *The Sunday Times, original source of the allegations.*

*In addition, the scoping team will take witness statements where it is reasonable and proportionate to do so, in order to seek information essential to address the allegations made.*

*The team will also assess the reported parallel investigations into Mr Johnson and initially consider their relevance to the GLA referral sent to this office and potential for recovery of material:*

- *London Assembly Investigation;*
- *Independent Inquiry commissioned by Mayor Sadiq Khan by London Fire Brigade;*
- *Hacker House- Department of Digital, Culture, Media and Sport reviewing £100,000 grant made to Ms Arcuri; and*
- *On the granting of the Sirius Entrepreneur Visa.”*

## Challenges faced by the scoping exercise

### **Legal powers**

58. Coercive and intrusive powers of investigation, such as to search premises, seize material and arrest suspects, require reasonable grounds to suspect/believe that an offence has been committed. The use of such powers where there has been no or insufficient assessment of the credibility of allegations is unlawful.<sup>6</sup> Since the scoping exercise is to establish if reasonable grounds exist, it follows coercive powers were not available to it.
59. Regulation 35 ELPB allowed the IOPC to require Mr Johnson, as a former Mayor, and the GLA, as the local policing body, to provide information and material, but that power did not permit it to require evidence or information from any other bodies or persons.

### **Absence of suitable arrangements for material to be provided**

60. Once the scoping review had begun it became clear that no suitable resources were in place for the Monitoring Officer to obtain and provide relevant material to the IOPC. This resulted in repeated requests and delays in receiving the material.

### **Establishing the requirements of the Mayor to make declarations of interests**

61. The Monitoring Officer did not attach to the referral any material concerning the code of conduct applicable at the time of the allegations and/or the requirements on the Mayor to declare the pecuniary interests of close associates. Following requests, some relevant material was provided with an email dated 22 November 2019, but that material was insufficient. In consequence the IOPC had to use its powers under Regulation 35 ELPB to require the current Monitoring Officer, Ms Strain, to provide a witness statement,

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<sup>6</sup> For discussion of this see, for example, the reports of the IOPC and Sir Richard Henriques regarding Operation Midland.

which she did on 12 December 2019. However, further clarification had to be obtained from the Monitoring Officer in post during the relevant period, Mr Ed Williams, which he provided by way of a witness interview dated 13 January 2020.

### **Absence of decision-making records**

62. The GLA was able to recover from their records the hard copy files for the allegations relating to the trade missions. However, there was no record of the reasons for acceptance or rejection of applications to participate in the Singapore and Malaysia mission. In the case of the New York mission, there is no record on the file of any agreement to Ms Arcuri to attend events; that evidence, insofar as it exists, is contained only in recovered emails.
63. Although the IOPC had no legal powers to require material from L&P it has nonetheless co-operated with the review's requests for information and material. However, no formal application appears to have been required or made in connection with its sponsorship of Innotech events, nor of reasons for paying it. Evidence of the reasons, insofar as it exists, is contained only in recovered emails. As with the GLA, although there was a hard copy file for the Tel Aviv trade mission, it contained no record of the agreement to Ms Arcuri attending or the reasons for it; that evidence also only appears in recovered emails.
64. Learning recommendations concerning the absence of relevant records have been suggested.<sup>7</sup>

### **GLA email and computer accounts**

65. Ms Harpley, the Chief Officer of the GLA, gave a witness statement dated 31 March 2020, in which she has explained:
- The GLA email and computer drives for its staff, the Mayor and Mayoral Appointees are held on servers that are backed up in the 'cloud' for 90 days, after which they are automatically overwritten. Email and computer drives of staff, including an outgoing Mayor and their appointees, are promptly deleted once they leave the GLA.
  - GLA staff, including the Mayor and their appointees, are issued with a mobile telephone and laptop, which are returned to the GLA on their departure. All data on the devices is then deleted and the device destroyed or re-allocated.

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<sup>7</sup> See learning recommendations 2 and 3 .

- The GLA's Records Management guidance for a departing Mayor and mayoral appointees provides that they should arrange for any records relating to GLA business to be transferred to executive officers if not already held by those officers; this would include records in relationship to sponsorship by L&P and/or a trade missions. However, there is no evidence that Mr Johnson and his outgoing appointees transferred any records to executive officers at the end of the Mayoral term in 2016, nor that they were reminded of their obligation to do so before they left.
66. It follows from the above that the GLA has been unable to provide the IOPC with evidence from any email accounts, computer drives, or digital devices used by Mr Johnson and his appointees while he was Mayor. Emails and digital documents were only recoverable if they existed somewhere else on the live system, such as in the accounts of individual members of staff who had not left the organisation since they were created. Anecdotally a retention period of only 90 day for whole system back-ups is very short; it prevented recovery of material that should have been transferred under the Records Management Policy to executive officers, once the 90 days expired. However, also anecdotally, few organisations have retention periods for back-ups of over three years, which would have been necessary for the material still to have been available to the review.
67. The failure to ensure that records, including emails, which concerned the GLA's business were transferred from Mr Johnson and his appointees' accounts to executive officers may have prevented the review from reviewing relevant evidence. This is a matter of concern and, in consequence, learning recommendations are suggested that may be particularly relevant given next year's mayoral elections.<sup>8</sup> However, it does not appear that there are any further reasonable and proportionate steps that can be taken by this review or by any future criminal investigation which could result in the recovery of more material (see below).

Material obtained by the review

### **Searches for material in GLA archives and systems**

68. Following on the IOPC concerns about the Monitoring Officer's failure to provide relevant material with the referral, and in response to subsequent requests, on 21 October 2019, IOPC Regional Director Sal Naseem wrote to Ms Harpley, the Chief Officer of the GLA, itemising the categories of material for which detailed searches should be carried out. The letter also required her –

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<sup>8</sup> See learning recommendation 1.

after the searches had concluded – to provide a statement certifying that, to the best of her knowledge and belief, all reasonable and proportionate efforts had been made to recover relevant material.

69. In response, hard copy material was provided on 1 November 2019. Searches of the GLA's network shared drives and email servers were also carried out. The results were provided to the IOPC and a draft statement was received from Ms Harpley on 11 December 2019. That was reviewed, and external advice sought from the Serious Fraud Office on techniques for analysing bulk data. As a result, on 31 January 2020, the IOPC raised several issues for Ms Harpley to address including that a number of additional search terms should be used in the search of the shared drives and email servers. A meeting was held with Ms Harpley on 6 February 2020. As a result, the GLA's Technology Group team conducted six further searches of all the GLA's network shared drives and email servers for information. The result of the searches was provided on 6 March 2020. Following further consultation with the Serious Fraud Office on the approach adopted by the IOPC the review is now satisfied that all reasonable and proportionate efforts have been made to obtain relevant material from the GLA, and that there is no realistic prospect of obtaining more during an investigation.
70. Ms Harpley's signed statement certifying that to the best of her knowledge and belief all reasonable and proportionate efforts have been made to identify and search for relevant material was received on 31 March 2020.

### **London and Partners**

71. As mentioned above, L&P provided material from its archives and searches of its email servers and shared drives. The last of this material was received on 29 November 2019. The IOPC is satisfied that all reasonable and proportionate efforts have been made by L&P to identify relevant material.

### ***The Sunday Times***

72. The IOPC met with journalists from *The Sunday Times*, who provided some information verbally and agreed to seek the permission of their sources to disclose their contact details so that statements could be obtained. No contact details have been provided and so it has not been possible to obtain those statements.

### **Witness evidence**

73. The IOPC has obtained witness evidence from:

- Mr C
- Ms G
- Mr K
- Mr I
- Mr J
- Witness A
- Mr Williams
- Ms Strain
- Ms Harpley

### **Other investigations**

74. The London Assembly Investigation, which was to be carried out by its Oversight Committee, was postponed pending the outcome of this review. The inquiry by Kathryn Robinson, General Counsel of the London Fire Brigade, commissioned by the current Mayor, related to the *current* processes for the selection of delegates for trade missions and decisions about commercial sponsorship by L&P, and so none of the material it considered was relevant to the scoping exercise. Her inquiry has been completed.<sup>9</sup>
75. The investigation into the Department of Digital, Culture, Media grant of £100,000 to Hacker House concerned matters when Mr Johnson was no longer Mayor, and so the material it considered was also not relevant to the scoping exercise. Its report has been completed and found that the grant was appropriate.<sup>10</sup>
76. There has in fact been no investigation, that the IOPC is aware of, concerning Ms Arcuri having been granted a Sirius Entrepreneur visa. The IOPC has no jurisdiction to investigate this.

### **Mr Johnson**

77. In a letter dated 17 October 2019, the IOPC required Mr Johnson to provide copies of any communications he had with Ms Arcuri or her companies dated between 1 January 2013 and 30 November 2015, and the records and dates of

<sup>9</sup> <https://www.london.gov.uk/press-releases/mayoral/review-into-london-and-partners-published>

<sup>10</sup> <https://www.gov.uk/government/publications/csiif-hacker-house-ltd-grant-award>

any meetings between them. In a letter dated 4 November 2019 his solicitors said Mr Johnson did not hold any of the material requested. On consideration of that reply the review was concerned that it had not, unambiguously, answered all the questions asked and so a further request was made dated 22 February 2020. His solicitors replied in an email dated 4 March 2020 that Mr Johnson had none of the requested material.

### **Ms Arcuri**

78. The review emailed Ms Arcuri on 18 November 2019 asking if she would provide evidence to the scoping exercise. In response the IOPC received an email dated 19 November 2019 signed [Mr M] stating he was Ms Arcuri's attorney and asking that all requests were directed to him. He said, "*... Ms Arcuri will not sit for any interview with you or anyone else affiliated with your office and will accept written questions from you/your office only, made through me at this E Mail address.*" The IOPC asked to be provided with written confirmation that Mr M was instructed by Ms Arcuri before considering providing written questions. In his email dated 21 November 2019 4.51pm he stated, "*I will get you a letter from her stating that I am her attorney for this matter shortly.*". However, no letter was received. Following further email correspondence chasing this up, he replied in an email dated 3 December 2018 5.36pm: "*... There will be no response of any kind from Ms Arcuri.*" Since he had provided no evidence that he was in fact instructed by Ms Arcuri, the IOPC sent an email to Ms Arcuri again on 18 December 2019, following which she agreed to provide written answers to questions and did so on 17 January 2020.
79. In those answers she said that she had deleted her emails with Mr Johnson and did "*not really*" have copies of communications with L&P and/or the GLA as she no longer had her Innotech account. Due to the ambiguous nature of this reply she was asked in an email of 24 January 2020 to check if she did in fact have copies and, if so, to provide them. In her reply dated 30 January 2020 she said, "*Unfortunately I don't have these emails anymore.*"

### **Volume of material obtained**

80. The review has, through its inquiries with GLA, L&P and others, obtained a large volume of evidence amounting to nearly 900 documents, statements and reports, some of which contained hundreds of pages, and all of which have been reviewed for this analysis.

### **Summary**

81. The Monitoring Officer did not assess the allegations against the relevant information and evidence before making the referral, nor did she include it with

the referral. The IOPC has therefore had to carry out a review to be able to determine whether it is necessary to investigate and whether there are reasonable grounds to suspect Mr Johnson of the offence. The delay in completing the review is due to delays in obtaining all relevant evidence and information from the GLA.

82. The review has now been completed. Unfortunately, evidence and information that the IOPC believes would have been relevant to the review has either never existed or has been deleted, in particular:

- No record of the rationale for accepting or rejecting applicants for the trade missions appears to have been made in hard copy files.
- No formal application for the sponsorship of Innotech by L&P appears to have been made or required. Similarly, no formal record of the decision to pay appears to have been made or required.
- The material stored in digital devices, email accounts and computer drives belonging to the Mayor and his appointees was deleted when he left office in 2016. The requirement in the GLA Records Management Guidance for any material concerning GLA business (which includes sponsorship and trade missions) to be transferred to executive officers prior to deletion appears not to have been followed.
- Mr Johnson's solicitors have said he has no relevant documents in his custody or control, and Ms Arcuri has said that she deleted any relevant email correspondence.

83. Several learning recommendations have been suggested to address the review's concerns about the absence and/or destruction of records. Despite the challenges outlined above, a large volume of material has been obtained by the review and is analysed below.

## The relationship between Ms Arcuri and Mr Johnson

### Email evidence

84. Email searches were carried out at L&P and the GLA using search terms with a large number of 'hits', the following of which appear relevant.

- 30 May 2012 – Email from Ms Arcuri to Ms E referencing conversations with (B) [presumed to be Mr Johnson] about Tech City, which Ms E was responsible for at L&P.
- 21 June 2012 – Ms Arcuri invites Ms E to go to her 'Let's talk London' event with Mr Johnson.
- 3 October 2012 - Email from Ms E to Ms Arcuri inferring that Mr Johnson knew Ms E as being *"one of the TechBikers"*.<sup>11</sup> Ms Arcuri responded: *"he text me right after that saying he saw you...and then asking when he can show me his tech biking moves ... LMAO"*.
- 4 November 2012 - Email from Mr [REDACTED] (introduced to Ms Arcuri by Ms E) *".... BTW Boris said yesterday say hello to Jennifer."*
- 24 January 2013 – Email from a Google employee stating, *"I've been approached by the InnoTech Summit to arrange some Google + Hangouts on behalf of the Mayor. They say that they are 'in charge' of the Mayor's digital communications but I just wanted to check that with whomever does PR within the GLA. I don't want to be mislead [sic]!"*
- 19 February 2013 – Mr B describes Ms Arcuri as *"a great person, close to Boris, and very supportive of L&P"* and *"we need a friend like Jennifer. She's trying to get Boris to come out [sic] way."*
- 21 February 2013 – Email from Mr C to Mr I: *"I should like to introduce you to Jennifer Arcuri, the founder and driving force behind the Innotech Summit and who was also part of Boris's election campaign team."*
- 26 February 2013 – Ms Arcuri emailed Mr I about confirming Mr Johnson's attendance at Innotech Summit: *"If you could follow up with me at your earliest convenience so we can have a quick chat, I would greatly*

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<sup>11</sup> 'Techbikers' is described on their website as a collaboration of the London tech start-up community to help children in need by supporting literacy charity Room to Read.

*appreciate it. Any question about the validity of this event please talk to Boris himself as he has been my point of contact."*

- 24 May 2013 – Email from Mr C to Mr N (L&P): *"We were not involved in the organisation of Innotech. Jennifer Arcuri trades off her association with the Mayor to some extent, but at the end of the day he attended the event as a favour to her. His officials were not happy about him doing so, but he had apparently promised her some time ago. She volunteered as part of his campaign team."*
- 17 July 2013 – Mr C says he would like to introduce Ms H *"to meet one of Boris' friends Jennifer Arcuri, who runs Innotech"*.
- 1 July 2014 – Ms O ( [REDACTED] at L&P) says Ms Arcuri is *"...very good at name dropping and has Boris eating out of her hand... so we need to help where we can; as she's prone to a whinge (she called [Ms E] and yelled at her that she hadn't been invited to the Bloomberg/ Boris launch of LTW [London Tech Week]. Apparently, Boris had texted asking where she was)." This email was sent to Mr L, and [REDACTED] [both at L&P].*
- 28 August 2014 – Mr L, emailed: *"We have to be careful with Jennifer because she can be a strong ally and she has the ear of Boris. We certainly won't sponsor her event but I may be willing to say something - see next email."*
- 30 September 2014 – Mr C emailed Ms Arcuri: *"you are so funny – and we still love you! Have you figured out what Boris wants yet?"*
- 21 November 2014 – Ms H emailed Mr C stating, *"Surprised to see Jennifer Arcuri's new company (pre revenue!) is going on Mayor's trip to Singapore. Would love to chat about taking companies with him to New York in February but being more targeted on companies that have revenue and are growing! :)". Mr C responded, "It is a mystery to me as to how Jennifer was selected by UKTI to go on the mission. Because she is one of their REAP fraternity I think they like to push them forward. But of course it is Innotech that is on REAP not the other company. My disappointment with the Mayor's Programme for Export and many of the UKTI trade missions is that its [sic] all a bit random – a numbers game."*
- 30 October 2015 – Ms Arcuri emailed Ms G about bringing a contact on the Tel Aviv mission. Ms Arcuri said that [Mr I] *"seemed really keen when I*

said "let me come fix you and Alex the Greats phone next week. I have to secure all of you before we go to Israel'." Witness A has said that Ms Arcuri referred to Mr Johnson as Alexander the Great, [REDACTED].

- 6 April 2016 – Email from Mr C: "Originally Jen wanted us to take a sponsor's table - cost £10,000. I just don't think the audience likely to attend justifies sponsorship and attendance on either the trade or investment side. Anyone got a better sense of this? International travellers will no doubt pass through London on the way to L'pool? The only rationale therefore for involvement is political - being seen to be supportive of IFB, HMG, UKTI etc. Boris had a go at [REDACTED] two years ago because London was not prominent at IFB. I don't know if GLA now care that much."

### Ms Arcuri

85. In Ms Arcuri's replies to the review's questions concerning her relationship with Mr Johnson she said that:

- She first met Mr Johnson in October 2013 at a British Venture Capital Summit. However, in a Bloomberg News article (see below) she had given the date of this event as October 2011 and this earlier date is more consistent with the email evidence (above).
- Her relationship with Mr Johnson developed because she wanted him to endorse the work she was doing "building the tech eco system in London".
- In reply to a question about whether their relationship became sexual she stated that her private life is irrelevant and personal. When asked who from L & P, the GLA and the Mayor's Office was aware of her relationship with Mr Johnson, she stated there were "always whispers about me from day one".

### Ms Arcuri's television interviews

86. In the BBC Victoria Derbyshire programme broadcast on 18 November 2019:

- Ms Arcuri refused to confirm whether she had an affair with Mr Johnson but suggested he was sexually attracted to her. She said, "I couldn't believe, the, the fervent, linear focus in which he had on me. And it, I assure you, it was not just a sexual intention. He actually was very

*intrigued by my energy, my ability to get things done. He loved my events and he saw the way I could work a room."*

- But asked whether Mr Johnson declaring an interest would have been the *"transparent and open thing to do"*, Ms Arcuri then said, *"Yes. If that's what it would take to save me this humiliation."* She also confirmed that she had urged Johnson to *"validate"* her by publicly acknowledging her merits.
- She insisted she had not asked Johnson to give her a place on trade missions to New York and Tel Aviv, but acknowledged that L&P, which awarded her places on the trips, *"knew I knew Boris"*.
- In relation to the New York trip she stated, *"I did not call him to ask him to go on the trip in New York, I was already going."* She later stated, *"Did I call him and let him know I was going? Absolutely."*
- In relation to the Tel Aviv Trip she stated, *"Did I call the Mayor's Office? Absolutely not. Never. I was planning to do a trip to Tel Aviv."*
- She stated, *"He's moved on. I've moved on... That shouldn't stop him from having the kind courtesy of being able to acknowledge the fact that, for a long time, I was a part of his life."*

87. In the ITV Exposure programme broadcast on 17 November 2019:

- When asked if she got any help from Mr Johnson getting on the trade mission to Singapore and Malaysia, Ms Arcuri replied, *"No... I never asked him for anything. I was far too proud."*
- When discussing the fact that, shortly before the Singapore trip, there was a rumour that a story about their relationship was about to break, and fearing for her place on the trade delegation, she says she called Mr Johnson to urge him to tell everyone she had secured it in her own right. She stated, *"and that was my fight with Boris... always validate me. Tell them. Validate me. No no now I have to declare an interest. He didn't want to have to deal with all the questions around me because they [sic] were always questions from day one."*
- When asked what she would say to Mr Johnson if he were sitting there, she stated, *"I've kept your secrets, and I've been your friend and I don't understand why you've blocked me and ignored me as if I was some"*

*fleeting one-night stand or some girl that you picked up at a bar because I wasn't - and you know that. ..."*

Witness A

88. The witness confirmed that Ms Arcuri disclosed to them that she and Mr Johnson were in a sexual relationship. [REDACTED]

[REDACTED]

89.

[REDACTED]

90.

[REDACTED]

Mr Johnson

91. Mr Johnson has not publicly accepted there was a sexual relationship with Ms Arcuri, nor has he expressly denied that there was one.

92. Mr Johnson's solicitors have said in their letter of 4 November 2019 that Mr Johnson *"had no personal role in relation to the attendance of Ms Arcuri at the trade missions. If and when Ms Arcuri did attend any such events, our client was not previously expecting her to attend."*

Ms G, Mr C and Mr I

93. Both Ms G and Mr I have denied knowing of any sexual relationship between Mr Johnson and Ms Arcuri. Mr C acknowledged he knew that they knew each other, he was aware Ms Arcuri had canvassed for the Mayor in 2012 and that he would think to himself, *"I'm gonna make a decision objectively based on what I think's right but I might need to cover my arse."*
94. Ms G has said that she first met Ms Arcuri in October 2014 and subsequently saw her at the trade mission in Mr Johnson's company, but she was unaware of any sexual relationship between them.
95. Mr I was asked what his understanding of Mr Johnson's and Ms Arcuri's relationship was and said:

*"...she was introduced to me by [Mr C], and I think she tried to push me erm because I know this because the GLA released a document under FOI in which she wrote to me and presumably I didn't write back because there's no record of me writing back to her... So, I think the first time I met her properly was er in Singapore or Malaysia and she kind of just appeared and introduced herself erm and she was very friendly and very forward and very kind of you know the Mayor's my friend sort of thing.*

*"Let's just be really clear. You don't ask your boss if they're having an affair with somebody. I mean I don't think you guys will ever ask your boss if they were. I certainly wouldn't. Erm I have no idea whether any of the rumours are true. I would never have asked him and he certainly never proffered any information on it..."*

*"...I never discussed Jennifer Arcuri with him except for erm when I think when we did a briefing meeting for the trip to the US erm the guest list was the final guest list was kind of read and she was mentioned and yeah I'll be honest with you he rolled his eyes because there was a kind of like oh good old Jennifer sort of thing and that was this. That was the only time that I ever remember any sort of recall about him commenting on her or speaking of her..."*

*".... Was there kind of banter around the whole of City Hall about [Ms Arcuri]? Yes but very much on the it was very much I have to say on the lines of you know it's pushy Jennifer and some people kind of quite admired her for that and some people just thought she was a pain in the neck. As far as whether he was having an affair or not it simply was not raised and it simply was not an issue for discussion..."*

## Press articles

96. A source cited by the Mail on Sunday, who was a friend of Ms Arcuri and a fashion designer, referenced being invited by Ms Arcuri to a conference at which Mr Johnson was speaking and being taken to meet Mr Johnson in a room behind the stage. They stated, *“they were very tactile with each other, flirty, and it made me feel a bit uncomfortable so I left.”*
97. The Sunday Times referenced four of Ms Arcuri’s friends who knew about the sexual relationship as early as February 2013, including Mr P, ██████████ of the *New York Times*, who stated he has kept notes of conversations with Ms Arcuri. The IOPC wrote to Mr P to ask if he was willing to provide evidence to its scoping inquiry but an email response from the New York Times Company’s Senior Vice President and Deputy General Counsel stated, *“we do not permit our journalists to participate voluntarily in investigations or litigation of other parties”*. Sunday Times journalists gave IOPC investigators briefing about the information they had but without disclosing the identity of sources. Their information was that the relationship may have carried on until as late as 2015/16.
98. An un-named Mail on Sunday source stated *“Jen presented herself as a kind of gateway to Boris... If you were a tech start up founder and wanted access to the Mayor’s office, everybody knew that you would ask her. New tech companies craved proximity to government at this time. I understand that she did make plenty of introductions to Boris’s staff. And it worked both ways. The Mayor’s office used her for introductions to the technology world.”*
99. In a Bloomberg article on 30 October 2019, Ms Arcuri stated that she met Mr Johnson at a British Venture Capital Association event on 13 October 2011<sup>12</sup> at the Landmark Hotel. She then followed up with flowers and postcards to his office, with no response. However, a few months later she was emailed by Mr Johnson’s re-election campaign asking her to get involved on the campaign trail on a double decker bus. On the bus she asked Mr Johnson to speak at an event, but he shrugged off her questions. After talking for a while, he asked her to explain Tech City, which was her opening, and she was then able to secure him to speak at her first Innotech Summit on 13 April 2012. He did not have a technical advisor and she cast herself in this role. She detailed that they regularly texted and met socially, for meals. Due to his fame it became difficult to meet in public and he began dropping into her *“live/ work”* space in the

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<sup>12</sup> In her replies to questions by the IOPC she gave the date as October 2013, which appears to be an error.

afternoons or evenings, when he could find time. If her roommates or friends were there, they would leave, but it was *“not some romantic thing”*.

Mr Johnson’s attendance at events arranged by Ms Arcuri and on trade missions on which she travelled

100. The emails between Mr C, Mr I and Ms Arcuri in February 2013 (see above) suggest that Ms Arcuri had arranged for Mr Johnson’s attendance at the Innotech Summit directly with him and then sought Mr I’s support for it.
101. In May 2013 Mr C said in an email to Mr N (L&P) concerning the Innotech Summit: *“We were not involved in the organisation of Innotech. Jennifer Arcuri trades off her association with the Mayor to some extent, but at the end of the day he attended the event as a favour to her. His officials were not happy about him doing so, but he had apparently promised her some time ago. She volunteered as part of his campaign team...”* Email correspondence during October 2013 concerning Mr Johnson’s attending Ms Arcuri’s Google Hangout at WIEF also suggests that Ms Arcuri may have been making arrangements directly with Mr Johnson, about which his staff were unhappy.
102. On 6 October 2014 Mr K from the Mayor’s Office emailed Ms Q [REDACTED] at the GLA to say, *“Jennifer Acuri [sic] of Innotech is advertising that the Mayor is attending her summit, which I am pretty sure he is not. She did this last year too. Is there someone in the GLA whose job it is to stop false advertising in the Mayor’s name, such as this?”* Ms Q replied, *“My understanding is that the Mayor will be attending for 15 mins.”* to which Mr K said, *“Oh I see I just assumed it would be an enormous waste of his time.”*
103. The Evaluation of the Mayor’s Export Programme (MEP) recorded that Mr Johnson attended three of the trade missions: the Singapore Malaysia Mission in 2014 and the US Trade and Tech mission in 2015 (shown as two separate missions). Mr Johnson is not recorded as having attended any of the other 12 missions. Neither the Tel Aviv mission nor the South Africa mission are listed, as they were not specifically part of the MEP. However other evidence (see below) confirms that Mr Johnson attended the Tel Aviv mission. As set out below, Ms Arcuri attended the Singapore Malaysia mission, events in New York on the US mission and the Tel Aviv mission.

## Summary

104. There is evidence from Ms Arcuri's media interviews that she and Mr Johnson knew each other, including that *"for a long time" she "was a part of his life"*. She has said they first met in 2011 and became friends after he attended her first Innotech Summit in April 2012, following which she *"cast herself as his technical adviser and they regularly texted and met socially, for meals"*. Mr Johnson has not confirmed or denied he was in a relationship with her. Taking account of the other evidence, including Witness A's, questioning of Mr Johnson on this topic as part of the review would have been inappropriate; that should be included in an interview under criminal caution if it is determined that an investigation is necessary.
105. As early as 19 February 2013 Mr B [L&P] referred to Ms Arcuri being *"close to Boris"* in an email he sent to colleagues. There are a number of subsequent emails which support that staff, at L&P, up to the Chief Executive, believed Ms Arcuri had a close relationship with Mr Johnson and it affected how she was regarded by them. Whether – and if so how – this influenced the decision-making referenced in the detailed allegations made is examined below.
106. The evidence supports that Mr Johnson arranged directly with Ms Arcuri to attend Innotech events as a favour to her, and not at the recommendation of his staff, who were surprised and/or unhappy about him doing so. Mr Johnson must have known Ms Arcuri had a pecuniary interest in Innotech, as he had attended its events and it is reasonable to infer he knew she received sponsorship from L&P (since it was advertised at those events). It is also reasonable to infer that he knew Ms Arcuri had been accepted by the GLA for the Malaysia trade mission, since he was present with her, and that he must have been aware that she attended events at the New York and Tel Aviv trade missions at which he was also present (whether he knew she would be attending or had agreed to her doing so is examined below).
107. Some media reports have mentioned evidence from sources that there was a sexual relationship between Ms Arcuri and Mr Johnson from as early as 2012. However, the IOPC has not been able to identify the source(s), nor test the veracity, of that evidence. The only evidence available to the review from an identifiable source, is from Witness A, whose evidence is that a sexual relationship started sometime before [REDACTED] 2014 and that they believed that it had ended before Ms Arcuri's relationship with her present partner [REDACTED] began, which media reports suggest was in 2016.

108. It follows that:

- Allegations 1, 2, 3 were at a time when there is evidence of a “close” relationship between Mr Arcuri and Mr Johnson.
- Allegations 4, 5 and 6 were at a time when there is evidence a sexual relationship had begun and may have been continuing.

## Ms Arcuri’s relationship with L&P

109. The email evidence set out above supports that L&P staff believed that Ms Arcuri had a close relationship with Mr Johnson and that they treated her differently on account of it.

110. Mr I said in his evidence to the review that Ms Arcuri “clearly cultivated a relationship with L&P on in terms of her business... and that seemingly got her on the first trade trip.”

## Allegation 1: sponsorship of £10,000 for the WIEF event, 29–31 October 2013

111. Mr C’s emails on 26 February 2013, 24 May 2013 and 15 July 2013 are evidence that he knew of Ms Arcuri’s close relationship with the Mayor prior to the sponsorship being given. Mr B’s email from 19 February 2013 and Mr C’s subsequent emails in connection with allegation 3 may support that Ms Arcuri was treated differently by L&P on account of her relationship with Mr Johnson.

112. The World Islamic Economic Forum (WIEF) was an event due to be hosted in London at which Innotech was putting on a “Google hangout” and this allegation concerns L&P paying £10,000 to Innotech to sponsor the hangout.

113. There is evidence that Ms Arcuri attended a meeting with Mr C, Ms E and others on 2 August 2013 to discuss the WIEF. It is noted: “JA met Boris yesterday and he was receptive” (about potential importance of WIEF to the economy). Ms Arcuri has said in her replies to questions from the IOPC that L&P were “looking to do an event within the WIEF” and she was invited in alongside others to discuss what ideas were best suited, which may refer to the same meeting.

114. Ms Arcuri emailed Ms E and Mr C on 19 August 2013 about sponsorship for Innotech at the WIEF. The email said she wanted to discuss budget, implying sponsorship may already have been agreed. Mr C responded by suggesting to Ms D, [L&P], that he would be happy to contribute £10,000, but to offer £5,000 initially and to “see what else it attracts going forward”.

115. In an email on 28 August 2013, following a meeting with Ms Arcuri, Ms D expressed enthusiasm for her ideas and asked Mr C where the £10,000 should come from. The email indicates that she had agreed to pay the money in advance. Mr C said there was no budget for WIEF and asked if it could come from her [REDACTED] budget against “agreed deliverables”. He suggested it was a priority and that Mr L was supportive. Ms D agreed that there was capacity for this in the [REDACTED] budget and that in return L&P would get “logo (brand) exposure”. There is presently no evidence about whether this expenditure was a proper use of the [REDACTED] budget or if deliverables were agreed.
116. On 20 September 2013 Ms Arcuri chased the payment. Mr C replied: “I proposed to take it in cash and bring it round to you but accounts told me to go away...” His witness evidence to the IOPC is that he cannot remember how it was paid in the end, but this suggestion had been a joke.
117. The emails of 2 October 2013 suggest Mr R [Mayor’s Office] had agreed to Mr Johnson speaking at the Innotech event but Ms S, [REDACTED], City Hall, replied that he was unable to do so and offered alternative representation. Later emails of 23 October 2013 confirm that Mr Johnson was dropping in at the start but not participating in the panel. Ms Arcuri has said that he was invited by L&P, rather than by her.
118. L&P Procurement Policy permitted Mr C as head of department to authorise a payment of £10,000 but required alternative quotes to be provided for purchases. L&P included a covering note with the material they provided to assist the IOPC’s scoping work that suggested that it may not be possible to obtain alternative quotes in relation to sponsoring an event as they are not easily comparable.
119. Mr C says he took the decision to pay the sponsorship because Innotech was a suitable company to provide the Hangout. There is no evidence of any attempt to assess if the cost was good value but, as above, Ms D’s email suggests she was genuinely enthusiastic about the proposal; she pushed back on further sponsorship in 2014 (see below).
120. An invoice totalling £12,000 (£10,000 plus VAT) was paid to Innotech Network Ltd on 20 September 2013 and the event took place on 29–31 October 2013. Therefore, payment was made in advance of the event, which is not expressly permitted by the procurement policy, unless there is a specific reason and the risk of up-front payment is addressed.

121. The circumstances of the payment may support that it was not a standard business transaction and/or did not comply with the standards to be expected when spending money, part of which at least, was public, as follows:

- the absence of any formal application for sponsorship
- the absence of any record of the reasons for providing sponsorship including any assessment of whether it provided good value
- the absence of any record of reasons for departing from the procurement policy in respect of quotes
- the agreement to pay in advance and Mr C's efforts to expedite payment
- the absence of any record that deliverables were agreed (and delivered on)

122. L&P's logo was included on the publicity flyer for the event. As Mr Johnson attended then it may be a reasonable inference that he knew of a business relationship between Innotech and L&P but there is no evidence he was aware Ms Arcuri made the application, that he directly influenced the payment or (even if it could be said to be the case) that she had used her relationship with him to obtain it. Ms Arcuri has stated that he was not involved in any way with the payment.

## Summary

123. Mr C arranged this payment to Ms Arcuri with the agreement of another employee, Ms D, [REDACTED]. There is evidence that he knew of her relationship with Mr Johnson and may have treated her differently on account of it.

124. The circumstances of the payment may support that it was not a standard transaction and/or did not comply with the standards to be expected when spending money, part of which at least, was public. However, Ms D appears to have been genuinely enthusiastic about Ms Arcuri's proposals and the amount of the sponsorship was within the limits of her own and Mr C's authority to agree.

125. There is no evidence Mr Johnson was aware Ms Arcuri made the application for the payment, that he directly influenced the payment or knew (even if it could be

said to be the case) that she had used her relationship with him to obtain it. Ms Arcuri has stated that he was not involved in any way with the payment.

## **Allegation 2: November 2013, Innotech's participation in the South Africa trade mission organised by ICE, supported with a grant from the GLA for £12,447**

126. The material concerning this payment is contradictory and confusing. It appears that a trade mission was arranged to South Africa in November 2013 by the International Conclave of Entrepreneurs (ICE). This mission was funded by UKTI, it says at Mr Johnson's request (although this has been disputed by the GLA). The GLA say that the payment of £12,447 was its contribution to "*support the mission*".
127. In recent correspondence the GLA have said that this money was in fact paid to One London Trade and Investment Ltd but it is unclear what role this entity played. There is presently no evidence that Ms Arcuri has any connection with ICE or One London Trade and Investment Ltd. Her only connection with the payment is that she appears to have applied for financial assistance from UKTI to attend the mission. No evidence has been obtained that a payment was made to her. Ms Arcuri has said, "*we had no help from GLA on this trip.*" There is presently no evidence Mr Johnson attended this event.
128. It is noted that in the application form for financial assistance, which is dated 6 November 2013, she named Ms G as her contact at UKTI, whereas Ms G has said she had no contact with Ms Arcuri until she applied to join the Malaysia/Singapore trade mission in October 2014.

### **Summary**

129. There is no evidence presently to support that money was paid to Ms Arcuri or her companies by GLA/L&P in connection with this event. The only evidence is that she made an application for funding to UKTI, to assist her to attend the mission. However, there is no evidence that Ms Arcuri was ever actually granted funding of that kind.

### Allegation 3: sponsorship of £1,500 for the Tech vs Brains event, June 2014

130. There is email evidence that Ms Arcuri contacted Mr C and Ms D on 24 June 2014, implying there was already agreement, for sponsorship of her Innotech Tech vs Brains event at the Houses of Parliament. Ms D responded to Mr C suggesting they had previously agreed this was not a good use of the budget. He replied that the event was gaining momentum and that he had agreed the £1,500 flat fee (rather than paying for individual tickets) stating, *"This smooths out her irritations over London Tech Week and keeps put stuff prominent on her material [sic]."* It is reasonable to infer, given proximity in date, that these "irritations" are a reference her shouting at Ms E about not being invited to the *"Bloomberg/ Boris launch of LTW"* mentioned in the 1 July 2014 email from Ms O, which also said Ms Arcuri was *"...very good at name dropping and has Boris eating out of her hand... so we need to help where we can..."*
131. Mr C told Ms D it could be paid from *"my central budget"* rather than Ms D's [own] budget. Payment appears to have been made in advance, on the same day as Ms Arcuri's email. A remittance advice for £1,800 (including £300 VAT) dated 24 June 2014 has been recovered from emails. However, the invoice that acknowledged payment was made after the event, on 11 July 2014.
132. No evidence has been provided to indicate what Mr C's *"central budget"* should be used for. In his meeting with the IOPC Mr C explained that, *"Now within my budget you know there was the travel budgets for the various teams. I had my own budget. I don't know it might have been twenty grand or twenty-five something like that which was mainly for my travel 'cause I travelled a lot."* On the face of it, using any budget to *"smooth out"* Ms Arcuri's irritations would be an improper use of it, part of which at least was publicly funded. On the other hand, using the budget in support of an event which was *"gaining momentum"* would not necessarily be improper.
133. There is no evidence Mr Johnson attended the event. Ms Arcuri has said that Mr Johnson had nothing to do with the event and that it was arranged with [REDACTED], a conservative MP, and that she got funding because *"[Mr C] and the team at L&P liked me, my events and what I was about as a professional within the tech community"* and that she got funding for her events because *"they made a huge impact for London."*
134. There is no evidence that Mr Johnson or his office knew of her request for the payment, influenced the payment of it or (if that was the case) knew that her relationship with him had influenced the payment.

## Summary

135. The email evidence supports that Mr C made this payment to Ms Arcuri despite Ms D believing it was a not a good use of the budget. Email correspondence indicates that the payment was made at least in part to “smooth out [Ms Arcuri’s] irritations” that she had not been invited to a London Tech Week event, which does not appear to be a proper use of L&P’s budget. However, there is no direct evidence that Mr Johnson or his office knew of her request for the payment, influenced the payment or (if that was the case) knew that her relationship with him had influenced it.

## Allegation 4: November 2014, Playbox participating in trade mission to Malaysia

136. This mission was to promote SME<sup>13</sup> technology companies. The eligibility criteria were that the company was an SME that had been trading in London for at least 12 months. The application closing date was 27 October 2014.

137. Participants were to benefit from public relations opportunities and being part of a high-profile marketing visit, with business introductions being arranged by the Embassy and High Commission. Accommodation was paid for.

138. On 7 October 2014 Ms Arcuri emailed Ms E. She stated, “I’m sitting here with [Mr C]... and made me think of you. May I apply to attend the Singapore trip with Playbox Ltd? [REDACTED] said he was going on that trip and that I should speak to you about applying with the new media startup. Is it ok that I apply?” Ms E replied on the same day stating, “You are welcome to apply for the Singapore trip – it is not funded though.”

139. On 21 October 2014 Ms E emailed Ms Arcuri the link of a contact at UKTI to email for an application form.

140. Ms G explained the selection process for delegates on this mission. She stated, “companies that wanted to join us for that mission filled in an application. They were filtered by UKTI and were narrowed down to interview placements and then I conducted, along with a [REDACTED] [Mr F] interviews with the final after-sift of companies that had got through.”

141. The GLA reported to press that 60 applications were received for this trade mission. On 28 October 2014 Mr F at UKTI provided a list of 26 companies,

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<sup>13</sup> SME - Small Medium Enterprises with less than £40m turnover and fewer than 250 employees

including Innotech Summit, to Ms E at L&P. No evidence has been provided about how they were selected. Ms E was asked, "*can you check that all the people you expected to be on the list are on it...*"

142. Interviews took place in late October/ early November 2014, carried out by Ms G [Mayor's Export Programme], and Mr F. Ms G stated this was "*the first time I ever met Jennifer Arcuri*" and that she had had no prior knowledge of Ms Arcuri, Innotech, Playbox or Hacker House.
143. Ms G's evidence is that, having heard Ms Arcuri's pitch for Innotech, it was apparent that it was an events company not a technology company and so it would be inappropriate for it to be on the mission. She says Ms Arcuri then said she had another company, Playbox, which was "*like YouTube but its powered by AI*", Ms G says she accepted Playbox there and then as it fitted the criteria.
144. Playbox did not meet the published eligibility criteria for the mission as it had not been operating for 12 months. As a separate legal entity, it had also missed the application date. Ms G said in her witness account that the only essential criteria was the European Regional Development Fund (ERDF) definition of an SME and that she had discretion to wave the 12-month trading criteria. She described another occasion when she allowed someone to attend a mission without relevant trading history.
145. Evidence from Companies House suggests Playbox was incorporated but never traded. For the Pre-Market Visiting Briefing dated 10 November 2014, Ms Arcuri completed the "*SME Registration Form*", crossing out "*Innotech*" and inserting "*Playbox*" but the details of when it started trading appear still to relate to Innotech.
146. In the "*Post Market Visit Outcomes Form*" on 2 December 2014 on behalf of her company Playbox, Ms Arcuri ticked a box confirming that Playbox had made new sales. She outlined that she had generated new sales with Media Corp and Astra, with the value of the sales in the new market marked as "*TBA*". There is an entry in which Ms Arcuri states, "*This is non-applicable at the moment but we will be hiring new staff as a result of this trip. May I check back in six months?*" She then entered job titles of Head of Content and Lead Developer and wrote: "*this trip has been able to keep their jobs and connect us with further talent to hire*". Ms Arcuri signed the form agreeing the statement: "*I confirm that the Mayor's Export Programme made a significant contribution to the winning of this business and that I received 21.5 hours of assistance.*" She then entered within the comments section of the form: "*Thank you for a world change for Playbox*", also stating, "*I am a bit different as a company since Playbox is so brand new*"

so it made a world of difference to have this kind of hands on support 'on the go' in a new market." As above, Companies House information suggests Playbox never traded or had employees.

147. On 21 November 2014 Ms H [L&P] (role unknown) emailed Mr C stating, *"Surprised to see Jennifer Arcuri's new company (pre revenue!) is going on Mayor's trip to Singapore. Would love to chat about taking companies with him to New York in February but being more targeted on companies that have revenue and are growing!"* Mr C responded the same day stating, *"It is a mystery to me as to how Jennifer was selected by UKTI to go on the mission. Because she is one of their REAP fraternity I think they like to push them forward. But of course it is Innotech that is on REAP not the other company. My disappointment with the Mayor's Programme for Export and many of the UKTI trade missions is that its [sic] all a bit random – a numbers game. I wanted the Mayor's programme to be focused on quality and on winning business, not service deliveries etc."* This may not be consistent with Ms Arcuri saying she was in Mr C's company when she first enquired about attendance and Ms E's involvement in the application.
148. In response to a question from a journalist on 9 September 2019 the GLA stated: *"By this date Arcuri had established a track record running Innotech, which had created and developed high profile tech and tech policy promotional events. It was considered that this visible role as a convener within the relatively new sector was sufficient evidence. This was taken into account alongside the sectoral relevance of Playbox to this mission. The panel considered Arcuri's application to be appropriate on this basis."* No contemporaneous records have been provided which record this reasoning.
149. Mr I [Mayor's Office] has said that he first met Ms Arcuri on this trip adding, *"it's kind of like how did she get on the trip, I have no idea is the answer."*
150. The Mayor attended the trade mission. Prima facie he would therefore have been aware of Ms Arcuri's attendance and that her business was being assisted by the Mayor's Export Programme.
151. Witness A stated that Ms Arcuri said she first had an intimate relationship with the Mayor on a trade mission. However, she says Ms Arcuri told her this in [REDACTED] 2014, which was prior to the Malaysia Mission (and there is no evidence of Ms Arcuri attending any other trade mission with Mr Johnson prior to this date).

152. Ms Arcuri has said that neither Mr Johnson nor his office had any involvement in her being accepted for the mission and that she saw him no more than any other candidate on the trip.

153. There is no direct evidence that Mr Johnson or his office knew of Ms Arcuri's application to join the mission, influenced her acceptance for it or (if that was the case) knew that her relationship with him had influenced it.

## Summary

154. There is evidence that Mr C and/or Ms E of L&P encouraged and/or facilitated Ms Arcuri's application to UKTI to go on this mission. Innotech was selected to pitch for inclusion on this mission although it was ineligible because it was not a tech company. During the pitch to Mr C and Ms G (who was, at the time, seconded from UKTI to the Mayor's Export Programme), Ms Arcuri was allowed to substitute her new company, Playbox, which did not meet the eligibility requirement to have a trading history. Ms G has said she had previously allowed another company to participate in a mission without the required trading history.

155. A third party, Ms H, expressed surprise to Mr C about Playbox being included on the mission. Mr C, in his reply, appeared to distance L&P from Ms Arcuri's selection for the mission, which may be inconsistent with the evidence of his and Ms E's knowledge of the application. Ms G's account of first meeting Ms Arcuri at the interview appears to be inconsistent with Ms Arcuri previously naming her as a contact in connection with Allegation 2. There is no direct evidence Ms G knew of her relationship with Mr Johnson at the time and treated her differently on account of it.

156. Mr Johnson attended the mission and so it may be inferred that he knew Ms Arcuri had received a benefit from GLA. However, there is no evidence that Mr Johnson or his office knew of her application to join the mission, influenced her acceptance for it or (if that was the case) knew that her relationship with him had influenced it.

## **Allegation 5: New York Trade Mission, 2015**

157. This took place 9–13 February 2015. Accommodation was to be provided. The application deadline was 14 January 2015, and the benefits of attending were listed as the opportunities for introductions to potential clients. Eligibility criteria were SME in the Technology sector (FinTech and EnterpriseTech) based in London.

158. The first reference found by the review relating to Ms Arcuri attending is an email from Mr C to Mr J saying that she had told him that Ms G was trying to recruit her for this mission, and asking Mr J to check with Mr I if this would cause him/Mr Johnson any problems. Mr J was employed by the Foreign Office. His role was to make sure that, while the missions were abroad, they connected to the Foreign Office. He has been spoken to by the review to ask why he thought Mr C had raised this with him. He said, *"I think he is trying to find if there is an opportunity for her from a policy perspective, at the time she had a high profile around tech city. [Mr C is] wondering how to connect business."*
159. In reply to IOPC questions Ms Arcuri said, *"I was invited as a member of the eco system and when I was allowed to attend the breakfast event, I was also told to invite a number of NY companies trading at least \$2m or more in revenue and who had an interest in coming to London. I knew everyone in this space at the time, so who better to help rally troops than the girl with the network of events? L&P liked having me around b/c I was very good at selling London."*
160. Ms G has denied seeking to recruit Ms Arcuri for the mission. She said, *"She had asked me if she could come on that mission as a delegate. I said no because it's a fintech mission and I was only taking fintech businesses. So she didn't apply officially to come on that mission. However, she did say 'I'm going to be in New York anyway and is it okay if I come to some of your networking events'. So as part of any trade mission it's typical for us to run a big business reception, where hundreds of people from the greater good of that tech eco system would be invited to network with everybody. So as she was going to be in New York anyway she said 'you know if I speak to [Mr I] to see if it's okay with him for me to come to a couple of the tech events, not part of the delegation but as part of an entrepreneur attending along with everyone else would that be okay'. I said 'yes. If you get it if it's okay with [Mr I] then yeah that's fine'."*
161. Ms G was asked why Mr I needed to be asked (in relation to this mission and Tel Aviv) and she said that she would have no problem with companies that want to come on missions paying their own way and that L&P did that a lot for companies, but that for *"when I was over there [at GLA] they're quite risk averse so I would double check things quite a lot."*
162. In a subsequent email dated 6 February 2015 from Mr C to Mr J, he said:

*"Jennifer is not going to Boston.*

*"Please though put her on the list for our tech event in NY. I assume she will stay on and do the TLA/Innovate Finance event.*

*"She has been speaking to Boris and [Mr I] about her being in NY and they are both, apparently, happy with that. So we should treat her as simply another member of the London tech community.*

*"[Ms G] confirms that she is not part of the Fintech SME delegation but is aware that she is planning to be in NY. [Ms G], like me, advised her to clear that with [Mr I]."*

163. In his evidence to the review Mr I has said:

*"I know what's been written in the press and all that sort of stuff but what happened in America was erm my understanding was that she pushed both ends of the envelope. So she pushed L&P very hard can I come on a trip erm and then I distinctly remember about America getting a I think she called my office and she'd got through to me and she said [Ms G] at L&P has told me I can come to America, how do you feel about that and I think I remember saying to her at the time look it's not my call Jennifer but look I'm sure if she's said that whatever you know someone will get back to you blah blah blah and I then remember that and I don't remember this at the time but obviously I've seen correspondence since, clearly I think what happened is she then pushed [Mr C] and L&P and suggested that she'd had a talk with Boris and she'd had a talk with me. Now I've no idea if she talked to the Mayor about it or what he said to her if that were the case. She, I certainly remember that she called me, I certainly remember that I didn't say she could come. I just said it's nothing to do with me but look sounds okay blah blah blah.*

*"I do remember a discussion late in the day about the trip to America and it was the only time that it was ever raised with me that she didn't qualify to come, which was something that I probably should have been a bit more kind of front on and asked her sort these sort of questions but I never did. So when she appeared in Singapore I never thought anything of it. In America they said erm well her coming doesn't meet the criteria and I didn't say what that was I said okay fine erm but and then I remember distinctly being told, I think by [Mr J], erm at L&P or maybe by [Mr C], I distinctly remember being told in a planning meeting about the trip to America because from my perspective America was a big deal, he's a he was a big Mayor on a world stage and I was trying to promote what he was doing in London to the American audience and they said erm she doesn't meet the criteria something like that but she's said she's coming anyway. What do we think of that? And I and I remember saying well what does that mean and they said well she's paying for her own flights and she's going to be there and there's a couple of tech events and I remember that in the room there was a general consensus that it was probably better to know*

*where she was than where she wasn't erm and because she was coming erm was there any reason not to allow her to come to a couple of the tech events erm and so I think that there was a kind of joint planning decision. Everybody kind of went well if she's coming she's coming okay fine.*

*"And what I would say to you just a final thing on New York. I cannot tell you whether L&P definitely said yes to her and then she came sort of at the other end of the scale asking us or confirming it with us or she was so clever that she played both ends but I definitely remember that she told me that L&P had given permission and [Ms G] was the person that had given permission and I definitely remember a conversation with, I think, [Mr C] in which he said I'm not sure we have actually but anyway and then she ended up on the list and there was a discussion and it was kind of like she doesn't fit the criteria but she says she's coming anyway whatever and that's kind of how it worked."*

164. Mr I also said, *"I think when we did a briefing meeting for the trip to the US erm the guest list was, the final guest list was kind of read and she was mentioned and yeah I'll be honest with you [Mr Johnson] rolled his eyes because there was a kind of like 'oh good old Jennifer' sort of thing and that was this..."*

165. In Ms Arcuri's replies to IOPC questions she said:

IOPC: *"To your knowledge, was Mr Johnson involved in any way in permission being given for you to attend the USA trade mission?"*

Ms Arcuri: *"Absolutely not. I was already allowed to attend a few events in hopes of inviting more capable and scalable companies to London. I wasn't on the delegation. I was attending a few events but did not get involved beyond that. Boris had nothing to do with my attending anything in NYC."*

IOPC: *"To your knowledge, were any of Mr Johnson's mayoral aides involved in any way in permission being given for you to attend USA trade mission?"*

Ms Arcuri: *"Absolutely not. [Mr I] and I spoke before I came over – just to let him know that I too would be in NY and that I was excited to see all my favourite London people in New York City."*

166. In their letter of 4 November 2019 Mr Johnson's solicitors have said he *"had no personal role in relation to the attendance of Ms Arcuri at the trade missions. If and when Ms Arcuri did attend any such events, our client was not previously expecting her to attend."*

167. Ms G has confirmed that Ms Arcuri attended a business networking reception where 600 people were in attendance and a KPMG led networking reception. Ms Arcuri has said, *"I wasn't on the delegation. I was attending a few events but did not get involved beyond that."* She did not say in her answers to IOPC questions whether she had received any benefit by attending but that she was *"a valuable choice to attend"*.
168. Mr Johnson attended the mission. However, Ms Arcuri says she never saw Mr Johnson except when he was on stage. There is no other evidence she spent any time with Mr Johnson during the mission.
169. There is no evidence of the extent of any benefit Ms Arcuri received by attending the events. However, it is reasonable to consider that she would not have wanted to go had it not benefitted her. There is no evidence that L&P allowed anyone else ineligible to attend events on the mission.

## Summary

170. It is clear from the evidence that Ms Arcuri's company was not eligible to participate in this mission. The contemporaneous email evidence supports that she told Mr C that she was invited to attend events on the mission by Ms G. However, Ms G has denied inviting her and says that Ms Arcuri asked to be on the mission, was told she was ineligible but then said she would be there anyway and asked to attend some of the events. Ms G has said she agreed on condition Ms Arcuri checked with Mr I that it was okay with him.
171. In her replies to the review Ms Arcuri stated that neither Mr Johnson nor any of his aides had any involvement in her attending the events. However, this appears to be contradicted by Ms G's evidence that she said she had spoken to Mr I to secure his agreement to her attending and Mr C's email stating she had spoken to *"Boris and [Mr I]"*.
172. Mr I has confirmed Ms Arcuri did speak to him: *"I just said it's nothing to do with me but look sounds okay blah blah blah."* He has also said that he remembered what appears to have been a subsequent conversation *"late in the day about the trip to America when it was raised with me that she didn't qualify to come, which was something that I probably should have been a bit more kind of front on and asked her sort these sort of questions but I never did."*
173. The only evidence that Mr Johnson was asked if she could attend is in Mr C's email, which relies on what Ms Arcuri had told him. Ms Arcuri's credibility is undermined by the contradictions between her accounts and the other

evidence. However, the account given in Mr Johnson's solicitor's letter that "*if and when Ms Arcuri did attend any such events, our client was not previously expecting her to attend*" is also undermined by Mr I's evidence that he remembers Mr Johnson being told she would be attending and that he had "*rolled his eyes*".

## **Allegation 6: Tel Aviv Trade Mission, November 2015**

174. L&P organised a trade mission to Tel Aviv for 8–11 November 2015. This was targeted at 'Ed Tech' and 'Smart City' companies. No travel or accommodation costs were offered (but access to a competitive package was). Benefits were again described as access to potential clients supported by the mission.

175. On 13 July 2015, Ms Arcuri emailed Ms G to ask to go on the mission because she needed to "*go visit this Hacker House*". Ms G forwarded her email to Mr K [Mayor's Office]. Mr K when interviewed by the review said he had no recollection of receiving the email and said he was surprised when she arrived at the hotel (see below).

176. In her account Ms G says:

*"She asked me if she could come and I said look I haven't got an issue with her coming per se you know so that she could take part in some of the business networking events. She made a you know because she was now working on this new business which was called Hacker House and Tel Aviv's at the epicentre of cyber security you know she really thought that it would benefit her in building this new business; to get in front of some of the people that could you know potentially help her who she could sort of take some learnings from etc. etc. She asked me if she could I said not really because it's ed tech and smart cities erm she said look if I pay for myself can I just come and take part in some of the networking opportunities. I said look mm not really you know I have no real issue with you coming however like I just need you to double check it with [Mr I]. If [Mr I] says you can go then fine."*

177. In emails on 30 October 2015 between Ms Arcuri and Ms G about arrangements Ms Arcuri said "*spoke to [Mr I]-all good*". Ms G replied: "*...glad you spoke to [Mr I]*". It may be inferred, from the timing of the emails and Ms G's account, that these emails relate to the Tel Aviv Trade Mission. Ms Arcuri said "*[Mr I] seemed really keen when I said 'let me come fix you and Alex the greats phone next week. I have to secure all of you before we go to Israel'*". Witness A has said that Ms Arcuri referred to Mr Johnson as Alexander the Great.

178. Mr K has said that he had liaised with Ms G prior to the trip and had gone through the list of who was coming on it, which did not include Ms Arcuri and that:

*"I first became aware Ms Arcuri was attending the Tel Aviv trip when she walked into the hotel lobby in Tel Aviv, I had not heard her name mentioned with regards to this trip before this. I asked [Ms G], 'what's she doing here?' [Ms G] said something like, 'a decision was made above our pay grade'. I can't remember [Ms G's] exact words, but I intimated it was not her call to make."*

179. Mr K went on to say:

*"I don't know if Mr Johnson had any involvement in Ms Arcuri's attendance at the mission, just the comment from [Ms G] that it had been someone more senior's decision. I had a few ideas about why she could be included, I did wonder whether there was some kind of relationship with the Mayor or somebody else senior, this was just my speculation. Part of me just thought maybe she was very pushy. She was quite a formidable character."*

180. Mr I said to the review that he had no recollection of Ms Arcuri being on the trip and that:

*".. the first time that I had any recollection or knowledge that she was on the Israel trip was actually when the Sunday Times rang me, when they broke this story, and I had a quick chat with [REDACTED] and he said do you realise she was in Israel and I said I don't think that's true and I don't think she was and he said no no she definitely was..."*

181. Mr I was asked by the review about the reference to Ms Arcuri fixing her phone:

*"Yeah I wouldn't let her near it... I honestly can't remember other than I think it might have been 'cause Tel Aviv was very late in 2015, I seem to remember. I think it was the last major trip we did erm and well it was Tel Aviv, Jerusalem and Occupied Palestinian Territories. I think that might have been one of the occasions I met her outside City Hall and she talked about Hacker House ... She definitely said, I'm pretty sure it was when we met outside but she might have rung me in the office or something, she said oh I that's right I remember she said 'oh Israel they're the worst at kind of you know hacking your phone. You should let me sort the phone out' and I think I said 'oh that's great Jen, okay when we see each other magic, no problem' and I thought 'what the fuck yeah as if'. Erm I had no idea about her qualifications for this sort of thing erm and er no is the answer."*

182. In her replies to IOPC questions Ms Arcuri has said Mr Johnson and his mayoral aides had no involvement in her attending the Israel trade mission: "*I was allowed to come along as a member of the community who was there for my own business pursuits. I also think that L&P liked having me on the trips because I am extremely outgoing, I will talk to everyone, and make everyone on the trip feel excited and special.*" She said she did not see Mr Johnson while he was there and that he was "*absolutely not*" involved in her attendance and nor were his mayoral aides.

183. As above, Mr Johnson has, through his solicitors, denied knowing that Ms Arcuri would be attending. The email evidence does not make any direct reference to Mr Johnson being involved in agreeing to her attendance.

184. Ms Arcuri described her attendance at events on the mission as "*an insane success*" for Hacker House.

## Summary

185. The email evidence supports that Ms G permitted Ms Arcuri to attend functions on the Israel trade mission if Mr I agreed and because Ms Arcuri told her that he had done so. This is in contradiction to Ms Arcuri's answers to this review in which she said that Mr Johnson's aides had no role in her being permitted to attend. Ms G's statement to Mr K that Ms Arcuri's presence had been agreed "*above our pay grade*" would be consistent with her belief, based on Ms Arcuri's emails, that Mr I had – although Mr I only remembers referencing it in passing.

186. There is no evidence from Ms Arcuri, Mr I or any other source that Mr Johnson was asked to agree to her attendance or knew Ms G had asked her to clear it with Mr I.

## The Code of Conduct and Mr Johnson's duties as a public officer

187. For Mr Johnson to have committed an offence of misconduct in public office, there must be evidence either that he wilfully misconducted himself or that he wilfully neglected his public duties. This requires consideration of the Code of Conduct which applied to the Mayor at the relevant time and any other identifiable public duties.

## GLA Code of Ethics

188. The Code of Ethics revised 2011 states:

“2.5 Declaration of Interests

*Staff who have an interest whether financial or otherwise, or if any person related to them or with whom they have a close personal relationship, has any interest in any organisation which has any business dealings with the Authority, are required to disclose such interests immediately and ensure that the details are recorded in the Authority’s Register of Interests.”*

189. However, the code does not state that it applies to the Mayor and is worded only to apply to staff working for and advising him. The Monitoring Officer of the GLA has confirmed in her witness statement that the Code of Ethics does not apply to the elected members of the authority, including the Mayor.

Requirements on Mr Johnson to declare and register interests of a close associate/person with whom they have a close relationship

190. As explained above the referral did not include all the relevant information and material concerning the Code of Conduct applicable to the Mayor at the time of the allegations, and it was not until 13 January 2020 that the last of the relevant information was received, from Mr Williams.

191. It has now been established that the relevant Code of Conduct was introduced on 1 July 2012 to comply with the Localism Act 2011. It was brought into force by a resolution of the London Assembly on 11 May 2012 and by Mr Johnson approving it in a Mayoral Decision dated 23 May 2012. It applies expressly to the Mayor and remained in force unaltered for all the relevant period.

192. Prior to the code coming into force, Mr Williams wrote to Mr Johnson in a letter dated 26 June 2012 bringing it to his attention and asking him to:

*“Please read [the letter] carefully. In particular, please ensure that you complete, sign and return the form enclosed for notifying the GLA’s Monitoring Officer of your Disclosable Pecuniary Interests as soon as possible and by no later than 28 July 2012.”*

193. Mr Johnson replied on 26 July 2012 enclosing a signed declaration of his Disclosable Pecuniary Interests.

194. The letter of 26 June 2012 said that the Mayor would also receive a personal briefing from Mr Williams about the new code, but Mr Williams does not believe this was in fact done. He does say that the Mayor and his Deputy had attended meetings of the Standards Committee to discuss the new arrangements and, “If

*you're gonna ask me was Boris Johnson himself aware of what the rules were then I'll give an emphatic yes."*

195. Paragraph 8 of the code required that:

*"Pecuniary Interests*

*8. —(1) You have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State<sup>14</sup> and either: (a) it is an interest of yours, or*

*(b) it is an interest of:*

*(i) your spouse or civil partner;*

*(ii) a person with whom you are living as husband and wife, or*

*(iii) a person with whom you are living as if you were civil partners and you are aware that that other person has the interest."*

196. Between 26 July 2012 and 7 April 2016 Mr Johnson provided a number of declarations of his Disclosable Pecuniary Interests to the monitoring officer. None of them referred to Ms Arcuri's pecuniary interests; the questions asked on the form reflect the requirements at paragraph 8 of the Code of Conduct, set out above, and asked only about the disclosable pecuniary interests of a spouse or partner. A dip sample of the Register of Interests for other GLA members did not reveal that any had made declarations of interests for persons who were not a spouse or partner but with whom they were in an intimate relationship.<sup>15</sup> This may suggest that it is a common understanding amongst GLA members that only declarations concerning spouses and partners are required.

197. Press reports have referenced that in 2010 there was a complaint that Mr Johnson had breached the requirement in the then Code of Conduct to declare the business interests of a "close associate". The requirement to do so was in paragraphs 8(1)(b) and 8(2)(a) of the then Code of Conduct, which was not repeated in paragraph 8 of the 2012 Code of Conduct. Mr Williams has

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<sup>14</sup> See the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

<sup>15</sup> Of the current GLA members, the vast majority only make reference to spouses or partners or no third parties at all. Two members make reference to other family members.

explained that the new code reflected the legislative intent of the Localism Act 2011, to introduce a 'lighter touch' standards regime.

198. Ms Strain also, in her statement, expressed the view that Mr Johnson was not required by the code of conduct to declare the pecuniary interests of a close associate following the introduction of the new Code on 1 July 2012.

199. Whatever the extent of Mr Johnson's relationship with Ms Arcuri, there is no basis on which it would be reasonable to consider they were living as if they were civil partners. So it follows from the above that he was not required by the code of conduct to include her business interests in his own declaration of pecuniary interests at the relevant time. Had the requirement remained as it was prior to July 2012 then then there may be a strong case for arguing they were "close associates" and that Mr Johnson was required to declare her pecuniary interests as in the 2010 case.

#### Other provisions of the 2012 Code and the Mayor's public duties

200. Paragraph 1(3) of the 2012 Code of Conduct advises that it should be read together with the principles of public life,<sup>16</sup> which are then set out including:

**"Selflessness**

*Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.*

**"Integrity**

*Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.*

**"Objectivity**

*In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.*

**"Honesty**

*Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest."*

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<sup>16</sup> Sometimes referred to as the Nolan principles.

201. Mr Williams has explained that the interpretation of the code was that the principles of public life were not themselves requirements of it; they were *“simply a factual statement of... the principles... and then how the GLA makes those actionable is then set out in the following sections”* and that the principles were *“applicable but they’re not actionable.”*

202. Ultimately it is for a court, rather than Mr Williams, to interpret the Code of Conduct and to say if the Nolan Principles are a part of it. However, even if he is right, a breach of them may amount to a neglect of his public duties.

203. Other requirements of the code are as follows:

- Paragraph 3(d) of the Code of Conduct prohibits the Mayor from doing anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
- Paragraph 5 states that the Mayor must not conduct himself in a manner which could reasonably be regarded as bringing their office or authority into disrepute.
- Paragraph 6 (a) prohibits the Mayor from attempting to use their position as a member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.
- Paragraph 7(1) requires that in reaching decisions on any matter the Mayor must have regard to any relevant advice of the monitoring officer.
- Paragraph 10(4) *“single member action”* provides that, if the Mayor is empowered to discharge functions of the Authority acting alone, and is aware that they have a disclosable pecuniary interest in any matter dealt with, or being dealt with, by them in the course of discharging that function, they must not take any steps, or any further steps, in relation to the matter (except for the purposes of enabling the matter to be dealt with otherwise than by them).

204. In his letter of 26 June 2012 to Mr Johnson, introducing the new regime, Mr Williams said, *“My view, as Monitoring Officer... is that the new interests regime may prove to be too narrow in practice, given the duty upon all members to observe the highest standards of ethical conduct. Accordingly, I am advising Members to continue to apply the prejudicial interests test (namely, that Members rely on a reasonable estimation of whether a member of the public, with knowledge of the relevant facts, would reasonably regard it as so*

*significant that it was likely to prejudice the Member's judgement of the public interest) – which is based on the law of bias – and to exercise their judgement as to whether or not, in view of their outside interests and the interests of others close to them, they should participate in discussions and/or decisions within and by the GLA.”* In his evidence to the review, Mr Williams said that a paper went in his name to every London Assembly meeting with a footnote “*basically repeating this advice*” but that he did not consider that members of the Authority were bound by it “*to disclose personal relationships that were outside of the ambit of that Code... the requirement is and that was my advice to avoid the actuality and appearance of conflict of interests.*”

205. Mr Williams’ evidence is that the advice he would have given to members was that there was no requirement to disclose pecuniary interests of friends, even intimate ones “*as long as they’ve got nothing to do with the GLA*” but that “*once they start coming into that world then my advice would be... there absolutely the a conflict situation is starting to arise and that means a disclosure needs to be made [sic].*” Also that if the Mayor knew a friend was relying on their relationship to secure a favourable decision, “*somebody’s gaming the system and letting people know one way or another you know explicitly or implicitly that they’re a special friend of the Mayor then I think yeah then I think there’s a big problem*” and that it could “*create a very big reputational problem*” and make the GLA look “*pretty bad*”.

206. Regarding L&P, Mr Williams’ view was that if the Mayor was aware of a personal association making a bid for funding he did not “*think as the rules stand it actually breaches the rules but if you look at the principles you could make certainly construct an argument that that would be a time for him... to say that they’re aware of a personal association making a bid for funding yeah.*” Further that, “*for me if he if he didn’t know what she was doing that’s one thing. I think if he knew and if she was gaming L&P you know or heavily indicating to them what was going on then yeah I think that that would be a problem.*”

207. Taking into account the Code of Conduct, the Nolan Principles and Mr Williams’ evidence, it may be reasonable to believe it would amount to misconduct or a neglect of duties for the Mayor, while having a close personal relationship with Ms Arcuri:

- To use his position to influence staff at the GLA and/or L&P to provide sponsorship to Ms Arcuri and/or her companies.
- To fail to declare a conflict of interest/pecuniary interest if asked to make decisions in connection with those business dealings.

- If, knowing she was using their relationship to obtain benefits from GLA and/or L&P, he failed to take steps to prevent it.

208. Such misconduct/neglect of public duty may be characterised as a breach of one or more of the Nolan Principles of Selflessness, Integrity Objectivity and Honesty and/or paragraphs 3(d), 5, 6(a) 7(1) or 10(4) of the Code. For brevity, for the purposes of this review, it will be considered to be breach of paragraph 5 of the code of conduct: “*the Mayor must not conduct himself in a manner which could reasonably be regarded as bringing their office or authority into disrepute.*”

## Summary

209. There is no evidence that Ms Arcuri was Mr Johnson’s “*partner*” within the meaning of the GLA’s 2012 Code of Conduct. It follows that there was no requirement in his Code of Conduct for him to declare Ms Arcuri’s pecuniary interests on his register of interests even though she may have been a “*close associate*”.

210. Although there was no requirement on Mr Johnson to register the pecuniary interests of Ms Arcuri, he may nonetheless have breached the Code of Conduct, by bringing the GLA into disrepute, if he used his influence to benefit her, made decisions in her favour having failed to declare a conflict of interest and/or he knew she was using their relationship to obtain benefits but failed to take steps to prevent it.

211. The obligation on the Mayor to register the pecuniary interests of a close associate was removed from the Mayor’s Code of Conduct in July 2012. This is in contrast to the staff at the GLA whose code of ethics requires that they declare the pecuniary interests of anyone with whom they have a close personal relationship and who has any business dealings with the GLA. The review has drafted a recommendation suggesting that the GLA should review this apparently anomalous position.<sup>17</sup>

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<sup>17</sup> See learning recommendation 5.

## Analysis of whether there are reasonable grounds to suspect MIPO

212. Considering all the evidence analysed above:

- There is no evidence to support that Mr Johnson misconducted himself or neglected his public duties in relation to allegation 2.
- In relation to allegations 1, 3 and 4 (3 particularly) there is evidence to support that Ms Arcuri may have received beneficial treatment from staff at L&P (including in connection with GLA trade missions) because they believed she had a close relationship with Mr Johnson. However, there is no evidence Mr Johnson influenced the decision-making concerned in allegations 1–4 or that he had knowledge of it.
- In respect of allegation 5, there is evidence suggesting that Ms Arcuri may have been in an intimate relationship with Mr Johnson by that time and there is also evidence that she was allowed to attend events at the New York Trade mission because she told Mr C that she had spoken to Mr Johnson and Mr I and that they were both happy with it.
- In respect of allegation 6 there is evidence that Ms Arcuri may still have been in an intimate relationship with Mr Johnson and was allowed to attend events on the Tel Aviv trade mission because she told Ms G it was “*all good*” with Mr I. Even if true (Mr I has denied it), Ms Arcuri did not maintain that Mr Johnson knew of her attendance or had agreed to it; there is no other evidence to suggest that he did.

213. It follows from the above that only in relation to allegation 5 is there any evidence to support that, while in an intimate relationship with Ms Arcuri, Mr Johnson influenced L&P/GLA staff to make a decision which benefitted her or knew she was using their relationship to obtain benefits but failed to take steps to prevent it.

214. Mr I agrees Ms Arcuri told him she was going, but says that he told her it was nothing to do with him whether she was permitted to or not (and that he had not known she was ineligible at that time); there is no evidence from him that he discussed it with Mr Johnson. Therefore, the evidence of influence or knowledge by Mr Johnson comes only from Mr C’s email, apparently repeating what Ms Arcuri had told him, that Mr Johnson was happy for her to attend.

Whether that evidence is sufficient for there to be reasonable suspicion depends on an assessment of her credibility.

215. Ms Arcuri's credibility is undermined by:

- her claims in the Post Market Mission Outcomes Form following the Singapore/Malaysia trade, which appear to be contradicted by the evidence from Companies House that Playbox never traded
- the email from [REDACTED] (Google) in January 2013 to the Mayor's office stating that Innotech had said they are "*in charge*" of the Mayor's digital communications
- her claims that Ms G was trying to recruit her to the New York mission, as opposed to her seeking to go on it are contradicted by the email evidence
- her answers to the review's questions, denying any involvement of Mr Johnson or his aides in the decision to allow her to attend trade missions, which is contradicted by Mr C's account of what she had told him in connection with the New York trade mission and the account in her own emails to Ms G concerning Tel Aviv
- Mr I's evidence which may be supported by an overall examination of the evidence that Ms Arcuri was "*so clever that she played both end [sic]*".

216. Conversely, the denial in Mr Johnson's solicitor's letter that he was aware Ms Arcuri would be attending any of the trade missions is contradicted by Mr I's account that he was told in a briefing that she would be attending the New York mission. If the Director General considers that to be a deliberate lie, then it may support an inference that Mr Johnson influenced L&P/GLA staff to make a decision which benefitted Ms Arcuri, or knew she was using their relationship to obtain benefits but failed to take steps to prevent it.

217. It will be for the Director General to decide if, on the evidence above, it is reasonable to suspect that Mr Johnson misconducted himself in public office by:

Bringing the GLA into disrepute by:

- permitting Ms Arcuri to attend events at the New York Trade mission when he should have refused to make the decision and declared his relationship with her or;

- knowing that she had used her relationship with him to obtain that benefit he failed to take steps to prevent it.

218. If so, he will additionally have to determine whether the misconduct is to such a degree as to amount to an abuse of the public's trust in the office holder; whether it is sufficiently serious to meet the high threshold of seriousness required for an offence of MIPO. This is a matter on which the Director General will have the benefit of legal advice.

## Summary

219. Only for allegation 5 is there any evidence which could support a reasonable suspicion that Mr Johnson misconducted himself in public office, by bringing the GLA into disrepute by:

- permitting Ms Arcuri to attend events at the New York Trade mission when he should have refused to make the decision and declared his relationship with her or;
- knowing that she had used her relationship with him to obtain that benefit, he failed to take steps to prevent it.

220. Evidentially that suspicion would have to rely on Ms Arcuri's account to Mr C that she has *"been speaking to Boris and [Mr I] about [her] being in NY and they are both, apparently, happy with that."* There is evidence which undermines the credibility of Ms Arcuri, but also some which undermines Mr Johnson's denial that he knew she would be attending events at the New York trade mission. The Director General will need to consider the issues of credibility when deciding if there are reasonable grounds to suspect Mr Johnson did misconduct himself.

221. If the Director General does have reasonable grounds for suspecting that he so misconducted himself, he must go on to consider if that misconduct could be sufficiently serious to meet the threshold required for the offence of MIPO.

## Necessity for an investigation

222. If the Director General does have grounds to reasonably suspect Mr Johnson committed the offence of MIPO then he must still consider whether it is necessary to conduct an investigation. This includes consideration of whether an investigation is reasonable and proportionate.

223. The evidential test for suspicion is low but, to meet the evidential test for a prosecution, the Crown Prosecution Service Code for Prosecutors requires that

they must be satisfied there is sufficient evidence to provide a realistic prospect of conviction. A case which does not pass the evidential stage cannot proceed, no matter how serious or sensitive it may be.<sup>18</sup> Where suspicion exists, but there are no reasonable lines of enquiry which could be expected to yield evidence sufficient to meet the evidential test for a prosecution, then it may be unreasonable and disproportionate to conduct an investigation.

224. The scoping review believes it has exhausted opportunities to recover hard copy and electronic material that is relevant to the charges from the GLA and L&P. It may not be realistic to expect, given the publicity at the time of the referral, that any incriminating material which may have existed in the hands of witnesses, Ms Arcuri or Mr Johnson still exists or is recoverable from them. The age of any electronic communications means that they are no longer recoverable from service providers, even using criminal powers. A number of key witnesses have been interviewed by the review and accounts obtained from Ms Arcuri and Mr Johnson. Although in Mr Johnson's case the account given amounts to no more than a bare denial, there are no grounds to believe that interviews under criminal caution or further witness interviews or wider enquiries would provide evidence to support a prosecution. Sources for newspaper accounts would by now be aware of the scoping exercise and it is not realistic to expect any more will come forward to give evidential accounts. It may not be realistic to believe that any further reasonable and proportionate lines of enquiry could result in sufficient evidence to meet the evidential test for a prosecution.

## Summary

225. The scoping review believes it has exhausted opportunities to recover relevant hard copy and electronic material from GLA and L&P and that it is unrealistic to expect that incriminating material still exists in the hands of witnesses, Ms Arcuri or Mr Johnson or remains recoverable from them. Given their age, relevant electronic communications are no longer recoverable from service providers even using criminal powers. A number of key witnesses have been interviewed by the review and accounts obtained from Ms Arcuri and Mr Johnson. Although Mr Johnson's account is no more than a bare denial, there is no reason to believe that interviews under criminal caution would provide additional evidence to support a prosecution. Sources for newspaper accounts have had the opportunity to come forward during the review and there are no grounds on which to believe they would so if an investigation were announced. It may not therefore be realistic to believe that there are any reasonable and proportionate lines of enquiry that could be carried out as part of an investigation which could

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<sup>18</sup> <https://www.cps.gov.uk/publication/code-crown-prosecutors>

result in sufficient evidence being obtained to meet the evidential test for a prosecution.

## Issues raised by the review

226. Mr Williams has explained that, at the time the new Code of Conduct was introduced in 2012, most local authorities kept their standards committees but the GLA abolished it and that this was to the amazement of monitoring officers from other authorities that he and Ms Strain met. In his view, *“there’s a lot of risk that comes with just being the one and only person. So, there’s no advisory committee, there’s nothing, nothing else”*. As set out above the referral did not comply with the IOPC’s guidance. A learning recommendation has been made to address training and support for the monitoring officer.<sup>19</sup>

227. The evidence supports strongly that Ms Arcuri was being treated differently by L&P staff because of their belief she was close to the Mayor, and that this resulted in payments to her that she would otherwise not have received, at least in respect of allegation 3. While there is no evidence of Mr Johnson’s involvement or knowledge, it raises concerns about the governance and management at L&P, which are outside of the jurisdiction of the IOPC but require investigation.<sup>20</sup>

**Analysis prepared by:**  
**Sal Naseem, IOPC Regional Director for London**  
**Danny Simpson, IOPC Senior Lawyer**

**1 May 2020**

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<sup>19</sup> See learning recommendation 5.

<sup>20</sup> See learning recommendation 4.

# Appendix D – Learning report

## Introduction

On 27 September 2019, we received a referral from the Greater London Authority (GLA) regarding potential misconduct in public office by Boris Johnson during his tenure as Mayor of London. The Mayor of London acts in a capacity equivalent to a Police and Crime Commissioner (PCC). Six allegations were made. The matters to which they relate occurred between 2013 and 2015.

Following receipt of the referral, we commenced a scoping exercise to determine whether the allegations met the necessary thresholds for investigation. We gathered a significant amount of information and evidence and, based on our work, we believe there are a number of areas that the GLA and London and Partners (L&P) may wish to further consider. These are detailed below.

### 1. GLA information management and retention<sup>1</sup>

When requesting relevant material from the GLA to assess the allegations, we found that information was not readily available in the way we would have expected. This caused unnecessary delay and meant that multiple enquiries were needed to gather sufficient evidence to consider the referral. The issues identified were threefold:

- (i) GLA retention policies place the onus on individuals to ensure they take positive action to file materials that need to be retained. While electronic material is automatically backed-up, it is deleted after 90 days and lost (unless positive action has been taken to file it). Where the onus is on individuals to ensure that any necessary material is filed and stored, there is a risk that the requirement will not always be complied with. We believe there is a particular risk with failures to file emails. For example, it is now common for decisions to be taken in emails, and for the rationale for decisions to be contained in emails (rather than formal ‘decision-making’ documents). Organisational policies should make clear that emails containing decisions, rationales for decisions and other relevant business must be stored and filed appropriately.
- (ii) The GLA’s practice is to promptly delete all electronic accounts (including email, phone and the computer drives) of all departing staff, including the Mayor and their staff, when the Mayor leaves office. GLA policy requires departing staff to ensure that records relating to GLA business are transferred to Executive Officers (if not already held by those Officers)

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<sup>1</sup> See Appendix C – Analysis of evidence, paras. 3–4 and 62–67.

before leaving the GLA. This ensures relevant material is filed and retained despite the deletion of electronic accounts. Such 'business' material would include records relating to sponsorship payments by L&P and arrangements for trade missions. However, there is no evidence that Mr Johnson and his outgoing appointees transferred any records to Executive Officers at the end of his Mayoral term in 2016, or that they were reminded of their obligation to do so before they left.

- (iii) Material does not appear to be filed and stored in a manner that is sufficiently organised and easily accessible. This is demonstrated by the process undertaken by the GLA when attempting to gather relevant material, whereby staff were asked to conduct searches of their email accounts to identify any such material. Such an approach is clearly unlikely to locate all relevant evidence.

As well as causing delay, these issues may have restricted the range of evidence that would otherwise have been available for us to consider. Good practice dictates that information management and retention policies, processes, tools and systems should allow for the effective location and retrieval of information that may be required by an investigative body to consider any allegations put forward. This is particularly important for public bodies.

**Recommendation:** The GLA conducts a full audit of its policies, processes, tools and systems relating to the management and retention of information. In particular, it should review its practice of promptly deleting email accounts and electronic material held on the devices of outgoing officials and employees, and put in place procedures to ensure that material concerning the conduct of GLA business is retained when staff leave, particularly following a Mayoral transition. The GLA may wish to consider the benefits of automatic backup of electronic material and retaining it for periods reflective of its legislative, accountability, business and regulatory obligations. It should ensure adequate and robust arrangements, in line with legislative and best industry practice requirements, to ensure information is properly stored, managed and is easily retrievable. In doing so, the GLA may wish to seek advice from the Information Commissioner's Office (ICO).

## 2. Governance and decision-making on trade mission attendance, including the role and responsibilities of respective bodies involved<sup>2</sup>

Three allegations<sup>3</sup> related to Ms Arcuri's involvement in trade missions. We identified a number of concerns about decision-making and record-keeping with regards to

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<sup>2</sup> See Appendix C – Analysis of evidence, paras. 136–186.

<sup>3</sup> See para.47 of the Decision Document, allegations 4–6.

these missions. Ms Arcuri attended the first mission<sup>4</sup> as an official delegate, despite her company not meeting all the criteria. The reason for waiving the criteria was not recorded at the time, although we have since been advised that the criteria that was waived was discretionary. There was no recorded rationale for any decisions about the applicants' selection for this mission. We also found evidence of anomalies in information provided by Ms Arcuri in relation to her company. With regards to the later two missions,<sup>5</sup> Ms Arcuri attended in a non-delegate capacity because her companies did not meet the criteria for attendance as a delegate. Again, there was no record made at the time of the rationale for permitting her attendance. Without such record-keeping, there is a lack of transparency and it may not always be possible to determine whether decisions are taken consistently or fairly.

We also identified a lack of clarity around the respective roles and responsibilities for decision-making, including differing arrangements applying to each mission. Two of the missions were managed by the GLA and the department for UK Trade and Investment (UKTI). L&P (a limited company and the Mayor's Promotional Agency) was contracted by the GLA to provide events at one of these. The third mission was managed by L&P. The divergence and complexity in arrangements, and lack of clarity around respective roles and responsibilities, created difficulties in determining accountability. L&P has, as a matter of practice, delivered trade missions since 2016.

**Recommendation:** L&P, with input from the GLA, reviews its policies and processes around the selection of companies to attend trade missions so as to ensure transparency and consistency in decision-making. Policies should include clear, standard criteria, and require a record of rationale for decisions taken. Roles and responsibilities should be clearly defined. L&P should also ensure that it carries out necessary due diligence around the information that applicants provide. This recommendation reinforces some of the conclusions drawn in the recent independent review of L&P's process of selection of trade mission delegates and decisions about sponsorship.<sup>6</sup>

### 3. Decision-making on the payment of sponsorship monies<sup>7</sup>

Three allegations<sup>8</sup> involved sponsorship payments to Ms Arcuri. There was no evidence that Ms Arcuri received any payment with regards to one of these

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<sup>4</sup> To Malaysia/Singapore, allegation 4.

<sup>5</sup> To New York and Tel Aviv, allegations 5 and 6 respectively.

<sup>6</sup> Kathryn Robinson (December 2020) *"A Review of the London and Partners Process of Selection of Trade Mission Delegates and decisions about Sponsorship"*

<sup>7</sup> See Appendix C – Analysis of evidence, paras. 111–125 and 130–135.

<sup>8</sup> See para.47 of the Decision document, allegations 1–3

allegations.<sup>9</sup> With respect to the other two payments,<sup>10</sup> we identified a number of concerns:

- We found no evidence of policies or guidance relating to sponsorship payments. A 'Procurement Policy' was in place at the time, but we were advised that it did not cover sponsorship payments.
- It does not appear that applicants were required to make formal applications for sponsorship, and no such applications were made. The payments to Ms Arcuri appear to have been agreed in conversations and via emails,
- There was no rationale recorded for decisions to pay sponsorship money and there was no assessment of whether such payments provided good value for money or furthered organisational objectives (which we would have expected),
- An agreement to pay Ms Arcuri in advance was contrary to policy. No rationale for this was recorded,
- A payment was made to Ms Arcuri to "*smooth out*" her irritations over not having been invited to events. While this does not appear to be a proper use of the budget (and emails between L&P staff at the time support this), we were unable to confirm this because there did not appear to be any policy or guidance setting out the purpose for which the budget could be used.
- While there is no evidence Mr Johnson had any involvement in or knowledge of these payments, there is evidence that L&P employees involved in these payments knew Ms Arcuri and were aware of a relationship between Ms Arcuri and Mr Johnson. The evidence suggests that Ms Arcuri may have received beneficial treatment because those involved in these payments believed she had a close relationship with Mr Johnson.
- These decisions involved senior staff and there was no challenge about the appropriateness of the payments. This raises questions about the culture within L&P at the time.
- Evidence suggests that these may not have been 'standard' commercial transactions and/or did not comply with the standards expected when spending public money.

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<sup>9</sup> Allegation 2.

<sup>10</sup> Allegations 1 and 3.

As the above demonstrates, a lack of clear policies and recorded rationale for decisions taken can lead to perceptions of preferential treatment and/or improper motives. While L&P is a limited company, it nevertheless receives and spends large sums of public funds. The public expects accountability for the spending of public funds. Sponsorship payments were and are an operational matter for L&P. We recognise that efforts to improve transparency have been made by L&P in recent years, and its current Procurement Policy sets out a process to follow when providing 'direct awards' (i.e. sponsorship). However, we consider that requirements may be further strengthened, particularly in light of the nature, number and range of concerns identified above.

**Recommendation:** The GLA considers using its inspection, scrutiny and audit powers to conduct a review of L&P policies and processes around the payment of sponsorship money. L&P may also wish to commission its own audit to review sponsorship payments, the reasons for them, and whether they have been appropriately authorised and provided value for money. L&P's Procurement Policy must ensure that sponsorship payments comply with the principles and standards to be expected when spending public funds. To ensure transparency and accountability, it should consider implementing a process for sponsorship applications to be considered against agreed criteria, and require recorded rationale for payments, including when decisions are taken that diverge from policy. L&P should also ensure that any interests of relevance are declared. L&P may wish to refer to The Chartered Institute of Public Finance and Accountancy (CIPFA) for guidance.

#### 4. GLA Code of Conduct<sup>11</sup>

Our scoping exercise found evidence of confused and conflicting requirements under the GLA's Code of Conduct. The Code was revised in 2012 and the requirements to disclose pecuniary interests were amended. Whereas under the previous Code the disclosure requirements had been wider, now the Code required disclosure only in relation to a spouse, civil partner, or person with whom they lived with as a spouse or civil partner. These new requirements appeared to conflict with a reading of the principles of public life (specifically those of selflessness, integrity, objectivity and honesty), which are set out in the Code, and which would suggest that disclosure of pecuniary interests should apply more widely. Following the revisions to the Code, the GLA's Monitoring Officer (MO) wrote to the Mayor expressing their view that the requirements "*may prove to be too narrow in practice*", and advised Members to continue to declare interests if they reasonably estimated that "*a member of the public, with knowledge of the relevant facts, would reasonably regard it as so significant that it was likely to prejudice the Member's judgement of the public*

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<sup>11</sup> See Appendix C – Analysis of evidence, paras. 27, 188, 200–206 and 226.

*interest*". The MO suggested that the Mayor and Assembly further consider this advice, which clearly differed with the requirements in the Code. This confusion was further compounded by Paragraph 7(1) of the Code, which requires the Mayor to have regard to "*any relevant advice*" of the MO in reaching decisions on "*any matter*". No action seems to have been taken and the requirements remain the same under the current Code.

There is a further contradiction between the requirements in the Code of Conduct and the Code of Ethics. Although the Code of Ethics does not apply to elected members (including the Mayor), it requires declarations of interest with regards to "*any person related to them or with whom they have a close personal relationship*". This means that staff are bound by the Code of Ethics, but the Mayor is not. The ways in which these various requirements seem to contradict one another is likely to lead to confusion over the declaration of any interests within the GLA. We understand that the Code of Conduct is currently under review and welcome this.

**Recommendation:** In any revised Code of Conduct, the GLA ensures that requirements to disclose interests are consistent and do not conflict with one another or with other applicable policies and/or procedures. The GLA may wish to consider how public expectations of the obligations of public officials and the standard to which they should be held, including 'The 7 Principles of Public Life', may be appropriately reflected in requirements to disclose any interests. It may also wish to consider the applicability of the Code of Ethics to elected members to avoid circumstances in which (more junior) Mayoral staff are, or are perceived to be, held to a higher standard than the Mayor themselves.

#### 5. GLA training and support for Monitoring Officer on referral process<sup>12</sup>

The GLA is required to appoint a MO, who has a statutory duty to record any conduct matters relating to the Mayor of London in their capacity as the equivalent to a PCC for Greater London. The MO's responsibilities in this respect are set out in the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and in our 'Operational Advice Note to Police and Crime Panels'. The MO must:

- take appropriate steps to obtain and preserve evidence
- undertake an initial assessment (prior to referral) to determine whether relevant criteria are met, including consideration of available information and evidence

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<sup>12</sup> See Appendix C – Analysis of evidence, paras.53, 60, 61, 68 and 81.

- include the assessment – together with all relevant information, evidence and supporting documents – in the referral to allow us to make a reasonable assessment of the level of investigation required
- where further information is not available at the time of referral, reference this information in the referral form with timescales as to when it will be available

It does not appear that the GLA provides its MOs with any training on the referral process or their obligations when making a referral, including to provide material to facilitate the consideration of a referral. This may explain some of the issues we encountered. Namely, that:

- the referral was made without prior consideration of the allegations against available evidence
- the referral relied solely on information in the public domain and did not include any material to assist us in establishing whether there were reasonable grounds to suspect the alleged offences had been committed
- when we requested supporting documentation, there was uncertainty about how to locate such material and delays in ensuring that sufficient resources were allocated to secure and provide evidence

This caused delays and meant that we had to make multiple enquiries to gather sufficient evidence to consider the referral.

It is also worth noting that the GLA's MO lacks the support available to MOs in many other local authorities, since the GLA abolished its Standards Committee in 2012. Standards Committees can provide advice and guidance to MOs – many of whom are delegated responsibility for the initial handling of complaints and conduct matters by local PCCs – on ethical and conduct matters.

Had the GLA provided training for the MO, and had they been able to access support from such a body as a Standards Committee, it is possible that the issues outlined above would not have materialised.

**Recommendation:** The GLA develops and provides training and guidance for MOs that clearly explains the referral process, their obligations and the expectations related to the provision of relevant material. We would welcome the opportunity to work with the GLA to develop and/or deliver any necessary material. The GLA may also wish to assess the need for a Standards Committee to provide additional advice and support to the MO.

