



Independent Adviser on Ministers' Interests
The Rt Hon Lord Geidt

The Prime Minister
10 Downing Street

17 December 2021

Dear Prime Minister,

REFURBISHMENT WORKS AT 11 DOWNING STREET

The publication on Thursday 9 December of the Electoral Commission's report referred to WhatsApp messages between yourself and Lord Brownlow of Shurlock Row on 29 November 2020, henceforth the *Missing Exchange*. This had not previously been disclosed to me. (You will recall that my own inquiry was to have drawn on the work then being undertaken by the Cabinet Office. The Cabinet Office's work specifically included any relevant electronic communications, such as those that have now come to light.) You will understand that this new information and its omission from the original exercise has caused me to test my confidence in my earlier conclusions.

The *Missing Exchange* having now been disclosed to me (included for clarity in the Annex), I have considered its impact upon my advice, published in May. With reference to the Ministerial Code, I do not consider that it alters the fundamental assessment that no conflict (or reasonably perceived conflict) arose as a result of the interests created by the payment (and the *Missing Exchange* does not alter the facts on which this assessment is based). I also recognise your contention that the *Missing Exchange* is capable of being reconciled to your earlier statement to me, namely that at no point in the eight months until late February 2021 were you aware that the costs were being met by Lord Brownlow personally. You have since reiterated to me the veracity of those remarks.

That said, and by way of advice, I now offer (at the Annex) an analysis of the extent to which this new information would have affected my earlier report. A number of my original conclusions may have required further examination or qualification had the *Missing Exchange* been known to me: I wrote in my report that '*at no point in the eight months until late February 2021, as media reports were emerging, was the prime minister made aware of either the fact or the method of the costs of refurbishing the apartment having been paid*'. Had I been aware of the *Missing Exchange*, I would have had further questions and drawn attention to it in my report. More crucially, I doubt whether I would have concluded, without qualification, what is set out in paragraph 33 of my report, that '*at the point when the Prime Minister became aware, he took steps to make the relevant declaration and to seek advice*'.

Disclosure of information to the Independent Adviser

It is plainly unsatisfactory that my earlier advice was unable to rely on the fullest possible disclosure of relevant information. Clearly, a very serious degree of risk attends a Prime Minister's commission of an investigation by the Independent Adviser into activity touching directly on the Prime Minister's interests, when that investigation is subsequently shown to have proceeded without reference to material requiring disclosure.

Your office has described the circumstances by which the *Missing Exchange* was not available when all relevant information was being collected. They have told me that in April 2021, in light of a well-publicised security breach, you implemented security advice relating to a mobile device. The effect was that historic messages, potentially including the *Missing Exchange*, were no longer available to search. Later, in June, after my report had been published, the device was again accessed for another purpose. It is of grave concern to me that, neither at the time when the Cabinet Office was collecting information ahead of my report, nor subsequently when the device had been activated again, was any attempt made to check for information relevant to my enquiries, such as the *Missing Exchange*. I consider that the greatest possible care should have been taken to assemble all relevant material and this standard has not been met.

You had also stated that you could not recall any messages not hitherto disclosed having passed between you and Lord Brownlow. Even if you had no such recollection, I am told that Downing Street maintained close contact with him. Lord Brownlow had evidently given assurance that he had records of conversations and contacts with you. Accordingly, at a time when these contacts were not only under public scrutiny but also the subject of my own inquiry, it is unsatisfactory that this was not checked with him more thoroughly, including as part of the Cabinet Office's work. In particular, I note that Lord Brownlow offered to furnish the Cabinet Office with all the material (which would include the *Missing Exchange*) that he would be providing to the Electoral Commission. The offer was not accepted by the Cabinet Office, thus having the effect of excluding the *Missing Exchange* from the documentary record that was provided to me. It seems extraordinary that the offer was not accepted by the Cabinet Office. Moreover, at no stage was I made aware that the offer by Lord Brownlow to share this information had earlier been made and had not been taken up.

In circumstances where communications between the Prime Minister and Lord Brownlow were *highly material* to my enquiries (operating independently from the Cabinet Office), it is very unfortunate that the *Missing Exchange* was not obtained or made available to me.

Notification of further information to the Independent Adviser

I have been told that as early as 17 November a number of individuals who work on your behalf became aware of the *Missing Exchange*. This was as a result of the Electoral Commission's processes prior to publication of their report. Aspects of the *Missing Exchange* were actively discussed by these individuals alongside my original report. Without any reference to the Independent Adviser, I understand that those individuals concluded that the *Missing Exchange* 'was in line with the conclusions of [my] report'.

Had these speculative judgements been briefed to others, including you, they would have provided false comfort. I am assured that no such briefing was given. Nevertheless, it was not even considered – and no advice was sought – either then or subsequently as to whether the Independent Adviser – similarly an adviser to the Prime Minister – could be alerted, in confidence, to the simple fact of the *Missing Exchange*. There may well have been obstacles to overcome to do so. The fact remains, however, that, as soon as the *Missing Exchange* came to light, Downing Street made no attempt to inform the Prime Minister's Independent Adviser. On the day of publication of the Electoral Commission's final report (Thursday 9 December), it would have been reasonable, to put it mildly, for the Independent Adviser to have been informed immediately once the single fact emerged that the *Missing Exchange* had come to light. Instead, I knew nothing of the report's publication at all on the day until privately alerted by others to media reporting. I received a first call from the Cabinet Office only that afternoon.

Despite appointment by the Prime Minister, the Independent Adviser is not, of course, a co-opted member of the Downing Street political machinery. Delaying or, for whatever reason (such as some legal obstacle), withholding relevant information from the Independent Adviser is inherently unwise. It can interfere with my capacity independently to give the Prime Minister urgent and confidential advice on the basis of, say, highly significant new information, such as in this case. That is why every effort should have been expended to secure for the Independent Adviser the earliest possible notice of the *Missing Exchange*. Even on the day itself, it might have been possible to provide some rapid advice, but only if I had been given the information without delay. I was not. As a result, I believe this episode demonstrated insufficient regard or respect for the role of Independent Adviser.

Ramifications for the office of Independent Adviser

In my evidence to the Public Administration and Constitutional Affairs Committee shortly after appointment, I alluded to the importance attaching to the maintenance of public confidence in appointments such as mine. I observed that, in my case, I would begin by working at pace within the present terms of reference to achieve that aim. Assisted by an excellent small team of officials in the Cabinet Office, I have tried to do right by that undertaking in the short period since. Thus, for example, the List of Ministers' Interests has now been restored to its mandated, twice-yearly publication, and the Independent Adviser's Annual Report and various other reports (including the Downing Street refurbishment advice) were completed within the first month.

This work also demonstrated that minor breaches of the Ministerial Code could be dealt with fairly and proportionately, without injury to the effective running of government. Alas, these incremental efforts to reclaim public confidence, made with your active support and encouragement, have again been placed at risk by the evident failure to meet the very highest standards of disclosure expected in this present case.

I wish to record that your office has, including on your behalf, provided thorough, courteous and timely responses to every question I have raised. Those responses have included honest acknowledgement of a number of the shortcomings to which I have alluded. Among those, this present episode provides evidence of insufficient care for the role of your Independent Adviser. Beyond that, however, I believe a far greater threat to public confidence attaches to the exchanges unrecalled, the messages undisclosed, the data unconsidered and the subsequent misjudgements about the impact of the messages which I have had to weigh in this initial advice.

I should welcome your reflections on my concerns above and any considerations you may have for addressing them.

The remit you agreed for my appointment gives assurance that my advice on my conclusions will be published in a timely manner. Accordingly, I should be grateful if this advice (and any ensuing exchange) also could be so published, recognising that, in these present circumstances, early publication in the coming days would, in my view, meet that guarantee.

Yours sincerely,
Andrew Gill

The Rt Hon Lord Geidt
Independent Adviser on Ministers' Interests

At the time of my appointment, I agreed with the Prime Minister that I would begin by ascertaining the facts surrounding the refurbishment of the Downing Street flat. My findings were duly recorded in my Annual Report, published on 28 May 2021. Those findings were based on the documentary evidence that was made available to me, and the conversations that I had held with the Prime Minister, and with Lord Brownlow, as well as other political and government officials. My findings included the following: (with my emphasis):

24. The first invoices for the refurbishment work already undertaken on the No 11 Downing Street residence were received and paid for by the Cabinet Office and subsequently recharged to the Conservative Party in late June 2020 in anticipation of the yet to be established Trust repaying the amount. The record shows no evidence of the Prime Minister being aware either of the existence of these invoices or how they were settled.

27. ...despite the Prime Minister and Lord Brownlow having some limited contact during the following three months, the record shows no evidence that the Prime Minister had been informed by Lord Brownlow that he had personally settled the total costs.

28. For the credibility of this inquiry, I have tested the assertions of Lord Brownlow and the relevant political and government officials that at no point in the eight months until late February 2021, as media reports were emerging, was the prime minister made aware of either the fact or the method of the costs of refurbishing the apartment having been paid. I have spoken to these individuals in person; they have confirmed to me that these assertions are correct. In particular, Lord Brownlow behaved in a confidential manner consistent with his own experience of blind trusts. I have also spoken in similar terms to the prime minister who confirms that he knew nothing about such payments until immediately prior to media reports in February 2021. At that point, the Prime Minister immediately sought the necessary advice about his interests and, as a consequence, settled the full amount himself on 8 March.

29. ...The prime minister – unwisely, in my view – allowed the refurbishment of the apartment at No 11 Downing Street to proceed without more rigorous regard for how this would be funded.

30. ...As early as April 2020, the Prime Minister appears to have placed reliance on advice that a Trust would be capable of meeting the costs of refurbishment works at the No 11 Downing Street residence (to any extent beyond the £30,000 per annum allowed as a charge to the public purse);...

31. Under normal circumstances, a Prime Minister might reasonably be expected to be curious about the arrangements, and especially the financial arrangements that led to the refurbishment of his apartment at Downing Street. In the middle of a pandemic, the current Prime Minister simply accepted that the Trust would be capable of satisfactorily resolving the situation without further interrogation

33. These interests have been properly declared to me by the Prime Minister. Also, in view of the circumstances I was asked to review, as described above, I have also considered the timeliness of this declaration. In doing so, I accept that at the point when the Prime Minister became aware, he took steps to make the relevant declarations and seek advice. I also accept that, up until that point, he had reasonably assumed that earlier advice about the establishment of a Trust had taken care of his interests....

On 9 December 2021, the Electoral Commission published the findings of its investigation into the matter. Based on evidence made available to the Electoral Commission, the Electoral Commission recorded that:

29 November 2020: the Prime Minister messaged Lord Brownlow via WhatsApp asking him to authorise further, at that stage unspecified, refurbishment works on the residence. Lord Brownlow agreed to do so, and also explained that the proposed trust had not yet been set up but that he knew where the funding was coming from.

This 29 November communication was not made available to me (in the circumstances outlined above). I first became aware of it when the Electoral Commission published its findings on 9 December. I have since been provided with a copy of the exchange:

29/11/2020, 12:59

The Prime Minister:

Hi David

I am afraid parts of our flat are still a bit of a tip and am keen to allow Lulu Lytle to get on with it. Can I possibly ask her to get in touch with you for approvals ?

Many thanks and all best

Boris

Ps am on the great exhibition plan Will revert.

29/11/2020, 15:44

Lord Brownlow:

Afternoon Prime Minister, I hope you're both well

Sorry for the delay I was out for a walk and didn't have my 'work' phone with me.

Of course, get Lulu to call me and we'll get it sorted ASAP !

Thanks for thinking about GE2

Best wishes

David

29/11/2020, 16:10

Lord Brownlow:

I should have said, as the Trust isn't set up yet (will be in January) approval is a doddle as it's only me and I know where the £ will come from, so as soon as Lulu calls we can crack on -

David

The key issue that I was asked to determine was the Prime Minister's adherence to the requirement under the Ministerial Code, to ensure that no conflict arises, or could reasonably be perceived to arise, between Ministers' public duties and their private or financial interests. Having considered the communication, I do not consider that it changes the substantive advice that I provided at paragraph 32 of my report (copied below at *). That advice was based on my judgement that there was no conflict (or reasonably perceived conflict) arising from the financial involvement of either the Conservative Party or of Lord Brownlow. The fact of their involvement and the financial arrangements between those parties and the Prime Minister are unaltered. I am satisfied that the financial flows were properly disclosed to me.

The fact of the *Missing Exchange*, and the information shared within it, does not undermine my finding that the Prime Minister had assumed that the Trust – to which he had appointed Lord Brownlow as Chair – was covering the costs of the refurbishment. However, had I been aware of the *Missing Exchange* I would have had further questions for the Prime Minister about what he understood to be the position in relation to whether and how the costs of refurbishment had been paid. I would also have wished to ask the Prime Minister about his understanding of what Lord Brownlow meant in saying ‘*I know where the £ will come from*’, in the context of informing him that the Trust was not yet established, but would be from January.

I wrote in my report that ‘*at no point in the eight months until late February 2021, as media reports were emerging, was the prime minister made aware of either the fact or the method of the costs of refurbishing the apartment having been paid*’. Had I been aware of the *Missing Exchange*, I would have had further questions and drawn attention to the exchange in my report. That is not to say that the communications I have now seen prove that the Prime Minister was so aware. However, I would have wished to examine further the validity of the statement (also in my report) that ‘*the Prime Minister knew nothing about such payments*’.

More crucially, I doubt whether I would have concluded, without qualification, what is set out in paragraph 33 of my report, that ‘*at the point when the Prime Minister became aware, he took steps to make the relevant declaration and to seek advice.*’

** Paragraph 32. ‘In respect of the interests arising as a result of these events, I advise that an interest did arise in his capacity as a Minister of the Crown. This is as a result of the support provided by Conservative Campaign Headquarters and by Lord Brownlow to the Prime Minister. I have considered the nature of that support and am content that no conflict (or reasonably perceived conflict) arises as a result of these interests. In respect of the Conservative Party, because of the strong connection between them and the Prime Minister, I do not believe that such support would put the Prime Minister under any different obligation to the relationship he already has as leader of the party. In respect of Lord Brownlow, as a member of the House of Lords his interests are set out publicly and there is no evidence that he acted with anything other than altruistic and philanthropic motives. I advise that both interests are published as set out in the List of Ministers’ Interests published today alongside this report.’*