Martin Lee & Co
Solicitors

Martin Lee LLM
Sole Principal

Paula Ford BA (Hons)
Solicitor

Nicola Robertson LLB (Hons)
Solicitor

Our ref: MKL/SW
Your ref:

Iain McNicol – General Secretary
The Labour Party
Southside
105 Victoria Street
London
SW1E 6QT

12/03/2018

Dear Sir

Re: Dr Peter Gates

Letter of Claim

Pre-action Protocol Letter following the principles of Pre-Action Protocol for Court Proceedings

Claimants full name: Dr. Peter Gates

Claimant's address: 10 Belfry Way, Edwalton, Nottingham NG12 4FA

Defendant: The Labour Party

Defendant's address: as above

I am instructed by my above-named client to advise that he intends to institute proceedings against the Labour Party to claim damages and to seek an order that the decision to administratively suspend our client, notified in a letter to him dated 11 March 2016 from John Stolliday, Head of Constitutional Unit, be quashed and his full membership rights restored. This claim is founded on the ground that a contract exists between my client and the Labour Party as is the case with all members. In his over 25 years of membership of the Party he has paid his annual membership subscription and even after his administrative suspension he has continued to do so.

This letter is being sent to you as a Pre-Action Protocol Letter of Claim. I recognise that no specific protocol exists for this type of claim. However, I consider it an

appropriate course of action in order to promote good pre-action practice as recognised within the Civil Procedure Rules governing civil claims.

Background

My client has resided within the Rushcliffe constituency since 1996. He has been a member of the Party since October 1994. He would accept that prior to the 2015 general election he was not a particularly active member of the Party although since then, and up to his administrative suspension, he had become very active attending meetings of West Bridgford branch of the Rushcliffe Constituency Labour Party, regularly campaigning for the Party during elections and the EU referendum and also at other times throughout the year. For ease of reference I will refer to the West Bridgford branch as 'the BLP' and Rushcliffe Constituency Labour Party as 'CLP'.

At a meeting of the CLP on 19 October 2015 my client was elected, unopposed, to the position of CLP Secretary. It was agreed at the same meeting, however, that in order to fulfil his new role the CLP would have to appoint a minutes secretary as my client suffers from a disability which makes handwriting notes difficult and the taking of minutes impossible.

As soon as my client took up his new role he was faced with considerable hostility from the chair of the CLP, Sandra Coker, and a small number of other members. The root of this discord was differing attitudes from members of the CLP concerning the organisation of skills workshops (also referred to as political education workshops), a plan formulated prior to my client becoming the CLP secretary and involving other members of the general committee ('GC') of the CLP. Although supportive of this project, my client was not one of the main organisers. During the course of the organisers' efforts my client engaged in a series of e-mails with the chair of the CLP, who betrayed her obvious opposition to this project and expressed herself in a way that suggested she considered my client to be responsible for what she considered a clearly inappropriate initiative. My client did seek advice from the East Midlands Regional Office of the Party at the stage where one of the planned workshops had been cancelled and consideration was being given to whether the second planned event should take place. Finbar Bowie, Regional Organiser, advised my client that whether or not the workshop should go ahead should be the subject of a democratic decision by the GC.

Prior to the next GC meeting that was due to take place on 16 November 2015 my client made the decision to resign his position as secretary of the CLP due to the hostility that he had faced, particularly from Sandra Coker. My client felt bullied and intimidated and believed he had been treated in a way that was entirely inappropriate at a time when he was attempting to facilitate what should have been seen as a very positive initiative of organising skills workshops for Party members.

At the meeting of the GC on 16 November 2015 included on the agenda was both a discussion about the skills workshops, described on the agenda as political education workshops, and the resignation of my client from his position as CLP Secretary.

On the agenda sent out to delegates to the GC the election of a new CLP secretary appeared before the item concerning the political education workshops. At the insistence of Sandra Coker as Chair, however, those items were swapped around so that the issue of the political education workshops would be discussed first.

There was a somewhat acrimonious debate on this item but it proceeded to a vote when it was decided that a workshop planned for 24 November 2015 should go ahead, my client being one of 16 who voted in favour and the chair of the CLP as one of the 5 people who voted against.

The meeting then went on to discuss the election of a new CLP secretary following my client's resignation. Although he had no plans to re-stand my client was nominated and seconded by members at the meeting. As the vote in relation to the political education workshops had found overwhelming majority support, my client took the view that he could do the job of CLP Secretary as he believed the majority of members of the GC would have confidence in him. There was one further nomination. Although the chair gave the second nominee the opportunity to explain why she would want to take on the role of CLP secretary, my client was denied the opportunity to explain his position, and particularly why he had changed his mind and wished to continue to serve. A vote was then taken and the second nominee was elected by a majority of 2 of those who voted.

It is unfortunate to note that during the course of the discussions as to the election of a new CLP Secretary, certain unnecessary and hurtful comments were made about my client's disability that I refer to above.

I have covered these matters as it was the case at this time that my client believed that he had been the victim of bullying and harassment by other members of the Party, and specifically Sandra Coker. It is for that reason that my client submitted a formal complaint to Finbar Bowie, as the Regional Officer, by an e-mail dated 20 November 2015. This went into detail as to why he felt he had been bullied and harassed. He made it clear that this was a formal complaint and his expectation was that there would be an investigation in line with Labour Party rules procedures and policies.

Unfortunately, this was not the case and Regional Office's only response was one dated 7 December 2015 by Finbar Bowie whereby he advised:

"The points you raised have been read and considered and although the situation is regrettable, it is felt no further formal action on behalf of the Party is required."

Mr. Bowie also expressed the view that:

"These disputes are best resolved at a local level."

On any construction that response was entirely at odds with how the Party should treat complaints about bullying and harassment and I refer you to the Party's Bullying and Harassment Policy. With hindsight the response has led my client to

believe that in breach of his rights as a member he has been discriminated against. The basis of this complaint is that when complaints against him were made in the period January to March 2016 which will be analysed in greater detail below they resulted in his administrative suspension and a purported investigation by the Regional Director into his conduct. This has resulted in the matter being referred to the Disputes Panel of the National Constitutional Committee ('NCC') of the NEC. This process is ongoing and, as I will set out below, gives rise to a substantive part of my client's claim that the Party is in breach of its contract with him. The first part of my client's claim, however, is in relation to the formal complaint that he notified to the Party by e-mail on 20 November 2015. The Party, in the manner in which it responded to his complaint, breached the contract that exists between him and the Party for the following reasons:-

(i) It is a legitimate expectation that as an individual member, the Party will act in accordance with its rules, procedures and policies and will apply those fairly when called up to do so by a member.

(ii) The Party responded to my client's complaint in an unconstitutional and arbitrary fashion and failed to investigate that complaint adequately or at all.

(iii) The Party has discriminated against my client by pursuing disciplinary proceedings against him whilst ignoring his complaint as to the conduct of others and in particular the chair of the CLP at that time, Sandra Coker.

(iv) The Party failed to treat my client with dignity and respect in breach of its own Bullying and Harassment Policy.

<u>My client's administrative suspension</u>

As stated above, my client was informed by a letter dated 11 March 2016 from John Stolliday, Head of the Party's Constitutional Unit, that he had been suspended from holding office or representing the Party pursuant to chapter 6, clause (I).1.A. Further, my client was advised that because of the nature of the allegations received and concerns that his presence at branch meetings may be detrimental to the Party, while subject to this administrative suspension he could not attend any Party meetings including his own branch meeting and Annual Conference. This letter advised that this suspension had been put in place pending the outcome of an internal Party investigation. My client did not receive any details of the allegations and complaints that had been made against him that precipitated his suspension until he received what the Party described as "the charge sheet for Mr. Peter Gates" on 28 July 2017, some 14 months after his suspension. I stress that during the course of the purported investigation into the complaints which I understand was conducted and/or supervised by the then East Midlands Regional Director, Gordon Pattison, the allegations against him as they appear in the charges sheet were never put to my client, giving him the opportunity to respond. This is a clear and obvious breach of natural justice, it calls into question the integrity and thoroughness of that purported investigation and breaches my client's contractual right to be treated with dignity

and respect by officials of the Party.

It appears that the NEC case against my client is primarily based on five e-mails sent to Regional Officer Finbar Bowie by four individuals over the period 15 January 2016 to 18 January 2016 in which damaging assertions are made about my client's alleged conduct with little or no evidence to support those assertions. My client has been accused of bullying, intimidation and acting in a hostile manner towards other members of the Party although I stress that such allegations are not supported by evidence of particular instances from the witnesses relied upon by the NEC.

What clearly prompted the suspension of my client were events surrounding what purported to be a meeting of the Executive Committee ('EC') of the GC of the CLP which took place on 7 March 2016. The main allegation against my client is that he attended a meeting arranged by the CLP EC and Regional Board to resolve historical complaints and that he arranged for a number of uninvited members to also attend who refused to leave the meeting which was subsequently abandoned.

On 19 February 2016 Finbar Bowie sent an e-mail to my client announcing that on Monday, 7 March 2016 the chair of East Midlands Regional Board had been invited to attend a meeting of "Rushcliffe CLP". Mr. Bowie invited my client to attend that meeting and explained that:

"The purpose of this meeting is to discuss recent complaints and the situation in Rushcliffe CLP generally."

In an e-mail from my client sent on 23 February 2016 to Finbar Bowie he raised certain issues as to the purpose and status of that meeting. My client pointed out that CLP meetings are on the third Monday of the month and was keen to establish how this proposed meeting fitted into the constitutional arrangements of the Rushcliffe CLP. Finbar Bowie had invited my client to raise any questions about this meeting and he did so by enquiring:

1. Just what CLP meeting is this?
2. To whom did the invitation e-mail go to?
3. Had it gone to all GC members in Rushcliffe for example, or just my client?
4. Who will be at the meeting?

My client went on to ask questions that reflected his concerns as to why this meeting had been arranged and asked Finbar Bowie for further clarification as follows:

"Is this an open discussion about the CLP, or a meeting in which individuals are to be criticised? If worryingly it is the latter, will it include the substance of the complaint I made to you in November 2015, and other complaints made about the procedures at the November GC Meeting?"

My client also enquired why this discussion about complaints was not taking place at a CLP GC meeting. He was concerned that he was not being genuinely invited to contribute to an open discussion about the situation in Rushcliffe CLP. He requested

confirmation as to the identity of the Chair of the Regional Board who would be attending. He also wanted to know what the intended outcome of the meeting was.

My client reminded Finbar Bowie of his response to my client's complaint of bullying and harassment notified to the Regional Officer on 20 November 2015 in which my client's complaint was essentially side-lined. My client made it clear that he was happy to engage in an open and frank discussion on the CLP and its development plan but that such discussions should take place at a full CLP GC meeting. My client was concerned that a proposed meeting for 7 March 2016 should be undertaken in an atmosphere that did not damage a sense of collegiality and unity in the CLP GC.

Finbar Bowie replied to my client by e-mail dated 29 February 2016. He stated that the meeting was intended to be an opportunity to move forward on some of the issues raised in the complaints, recognising that my client had made a complaint himself. Finbar Bowie explained that he felt that the number of complaints had reached a "critical mass" and for that reason he had asked the chair of the Regional Board (Andy Furlong) to attend a meeting to help the CLP in resolving some of the issues that had arisen. Finbar Bowie explained that he understood that the meeting had originally been planned as a meeting of the CLP EC. My client was not a member of the EC but had been invited as one member who had made complaints.

In e-mails sent on 2 March 2016 and 6 March 2016 to Finbar Bowie my client continued to express his reservations about the purpose of the meeting that was due to take place on 7 March 2016. At no time had my client been advised of the nature of any complaints made against him. He feared that if the proposed meeting involved allegations as to his conduct then he would be unprepared to respond and therefore was at risk of being treated unfairly. He proposed, in his e-mail dated 2 March 2016 to Finbar Bowie, a pre-meeting with Andy Furlong, Chair of the Regional Board, to enable my client to give his perspective on the issues within Rushcliffe CLP. Although Finbar Bowie did indicate he would facilitate this, no meeting with Andy Furlong took place prior to the meeting.

The first point I wish to make about the meeting of 7 March 2016 is that it appears to have been planned and organised contrary to the rules of the Party and the standing orders of Rushcliffe CLP. Further the issue of complaints had never been discussed at a GC of the CLP, bypassing inappropriately the process provided for under Chapter 6, clause II of the Party's Rule Book.

As referred to above the first my client knew of this meeting was the email he received from Finbar Bowie sent on 19 February 2016 which stated:

"On Monday 7th March the Chair of the East Midlands Regional Board has been invited to attend a meeting of ***Rushcliffe CLP (my bold for emphasis).*** *I am writing to request your attendance at this meeting.*

The purpose of this meeting is to discuss recent complains and the situation in Rushcliffe CLP generally.

The details of the meeting are 8pm Monday 7th March at St. Giles Church Hall, Stratford Road, West Bridgford NG2 6BA. If you should have any further questions about this, feel free to get in touch."

It is noteworthy that there was no mention within that email of it being a meeting of the EC of the GC of the CLP.

On 1 March 2016 the Secretary of the CLP, Elizabeth Egerton, sent an e-mail to all members of the EC which read as follows:-

"To all Rushcliffe CLP General Committee Executive Members

Dear Friend

Please find attached the minutes of the last GC EC, which was held on Monday 1st February 2016, and the agenda for the coming EC, which will be held at 7pm in St. Giles Church Hall, West Bridgford.

Please note the earlier start time. This is because we need to conclude business by 8pm, as the Chair of the East Midlands Regional Board, Andy Furlong, is attending our EC to discuss recent complaints and the situation in Rushcliffe generally.

I look forward to seeing you on Monday.

Best wishes
Lizzie

Lizzie Edgerton, Rushcliffe CLP Secretary."

The agenda for that meeting which accompanied that e-mail read as follows:-

"Agenda for EC Meeting 7th March 7:00 pm - 8:00 pm

RUSHCLIFFE CONSTITUENCY LABOUR PARTY
Monday 7th March 2016, 7pm, St. Giles Church Hall – please note earlier start.

Agenda for Executive Team

E1. Introduction. Confirmation of Agenda, apologies for absence
E2. Minutes of previous meeting (1st February 2016)
E3. Matters Arising (EU referendum campaign update/Glenis Willmott event/PCC election)
E4. Finance
E5. Correspondence requiring Action
E6. AOB
E7. Date of nest meeting: Monday 4th April (if needed)"

What is clear from this notification of this meeting and the agenda is that the meeting to which my client was invited was not a properly constituted EC meeting. All those EC members and indeed my client and another non-executive member of the Party who was invited to attend, John Walsh, received no documentation as to the purpose of the meeting that was to start at 8pm.

I refer you to Chapter 15 of the Labour Party Rules – Model Procedural Rules, specifically clause 2.B(ii) which reads:

"Formal notice of all meetings should be sent out by the Secretary to all those entitled to attend at least 7 days prior to the meeting. Such notice shall as far as possible include an indication of the business to be transacted at the meeting."

It is beyond dispute that the meeting that my client attended which was due to commence at 8pm on 7 March 2016 was not a formal, properly constituted, Labour Party meeting. It is not, therefore, open to the Party to allege that my client did anything in breach of Party rules by arranging for a number of uninvited members to also attend. For the avoidance of doubt the suggestion that my client "arranged" for uninvited members to attend with the inference that there was a plan to disrupt this meeting is denied. Ten members, including my client and John Walsh, all members of the GC of Rushcliffe CLP attended of their own volition as they were very interested in observing a planned discussion about recent complaints and the situation in Rushcliffe CLP generally. It has long been a custom and practice of all Party meetings under the auspices of Rushcliffe CLP to be open meetings and their attendance at this meeting cannot be any justification for administrative suspensions. You should note that following this meeting those ten members that did attend were subsequently suspended, albeit eight subsequently had their suspensions lifted with only my client and John Walsh continuing to be the subject of suspensions.

It is noteworthy that another Labour Party member, Gary Edgerton, the husband of the Secretary of Rushcliffe CLP at the time, and a complainant upon whose evidence the NEC are relying to justify my client's suspension, also attended the meeting, uninvited, and yet he faced no disciplinary action at all. This justifiably leads my client to the conclusion that he is being discriminated against and is not being treated with dignity and respect by the Party in breach of his contract with the Party.

The allegation against my client as regards this meeting is set out in the charges sheet as charge 2 as follows:-

"On or around 7th March 2016, you are alleged to have attended a meeting arranged by the CLP EC and Regional Board to resolve historical complaints and arranged for a number of uninvited members to also attend who refused to leave the meeting which was subsequently abandoned."

The clear inference here is that my client's conduct and that of the other nine members who were subsequently suspended was of a disruptive nature constituting uncomradely behaviour. As a majority of people who attended the meeting have testified, including eight of the ten who were present and also members of the EC,

my client remained respectful and polite throughout. At approximately 8.10pm he and seven of the non-EC members entered the meeting room believing that they were entitled to be there as there had never been any indication that this was a closed meeting. Two of the members remained outside the room, although they were subsequently suspended. As stated, the husband of the CLP Secretary did enter the room at 8.10pm though, as referred to above, he was not suspended. He clearly thought that the meeting was an open meeting.

Prior to the entry into the room of my client and others, members of the EC had attempted to clarify with Andy Furlong what the purpose of the meeting was. As referred to above, no agenda had been issued in regard to the items for discussion. Andy Furlong said that it was not a disciplinary hearing but there would be an airing of grievances and he hoped to conciliate between parties.

On entering the meeting room the Chair of the meeting, Jill Aldridge, then Chair of Rushcliffe CLP, stated that those who had attended as observers would have to leave or the meeting would have to be abandoned. My client raised his hand and was allowed to speak by the Chair. Although there is an issue about the minutes of the meeting which I explain in some detail below I think it is instructive in regard to the conduct of my client what the version of the minutes that appear in the charges pack, that has been served on my client by the NEC for consideration by the NCC Panel hearing my client's case, state. These minutes were taken by the CLP Secretary, Elizabeth Edgerton, one of the people who has made complaints about my client that has led to his suspension. My client accepts this version of the minutes as an accurate account. They record:

"Peter Gates said he had had some communication with Finbar Bowie about the meeting, but that Finbar was the only person who had communicated with him about it. He said he had made clear to Finbar Bowie, as well as to other people in the room that he had communicated with, is that what is crucial for our CLP is that we move together, move forward, unite and work together. He said we have got a group of people here who want to do that, that they are new members to the party and returning members to the Party. He said we have an opportunity to say this is the way we want to move forward.
He said he did not know whether there have been any complaints made against him. He said no one has had the decency to tell him that. He said the way this constituency seems to work is 'let's fire off a load of emails, let's fire off something to Regional Office', rather than just picking up a phone and saying 'what's going on?', rather than going to people and talking reasonably to people. He said he didn't know anything about complaints, he said he had not seen any, and therefore he was not able to talk about those complaints, nor did he want to. He said he had made a complaint to Finbar Bowie in November about the organisation of a particular meeting and that he had had a response from Finbar Bowie on December 7th that said it was to be sorted out in the CLP. Peter Gates said that for him, that was the end of it. He said he had tried to work hard to create a party in the Branch and to support the Constituency to try to move the Party forward. He said there was a choice to do with the group of observers, who he said are so concerned it reminded him of people breaking in to meetings that Jeremy Corbyn was having, and that those who had come to observe had done so because they are concerned about the Party. He said the choice was whether to throw people out or do you try to be more united and he said if those people didn't stay, he would not stay."

This is not the contribution of someone wishing to be disruptive or acting in an uncomradely manner.

Four EC members indicated their wish to speak but they were ignored by the Chair and by Andy Furlong who stressed that everybody had to leave except my client and John Walsh, although the reason for that was never clarified.

As stated my client explained that he was not comfortable staying if other members were to be excluded. At that point Andy Furlong instructed the Chair to close the meeting after approximately 10 minutes with EC members having had no opportunity to speak or vote on the closure of the meeting, although these EC members wished to propose that the observers should stay in accordance with well-established custom and practice in Rushcliffe CLP. There was no vote on whether the meeting should be abandoned, once again a fundamental breach of Party rules.

The abandonment of the meeting was quite clearly at the instigation of Andy Furlong, the Chair of the Regional Board, who acted in an arbitrary and high handed manner overruling the obvious misgivings of elected members of the EC. This was once again a breach of the contractual rights of my client and the other Party members who attended that meeting, who were entitled to be treated with dignity and respect.

<u>The Party's failure to conduct an impartial and proper investigation</u>

As referred to above my client was informed of his administrative suspension by John Stolliday, Head of Constitutional Unit, by a letter dated 11 March 2016. This advised that you, as General Secretary, had appointed Emma Foody, Deputy Regional Director, to conduct the Party's investigation into allegations which:- *"....relate to your conduct toward another Party member."* The letter did not mention any particulars of the allegations against my client nor did it refer to the meeting on 7 March 2016. By letter dated 20 April 2016 Emma Foody, describing herself as "Secretary to the Enquiry" wrote to my client referring to his, and others', administrative suspension *"... following complaints about their behaviour at an Executive Committee Meeting held on 7th March 2016."* There was no mention in that letter of allegations relating to my client's conduct towards another Party member. Even at this stage it appears that the Party was unable to set out precisely the basis for my client's suspension.

Emma Foody invited my client to submit his evidence to the enquiry which he did by way of a letter to her dated 25 May 2016. This set out in full my client's observations as to the lead-up to and conduct of the meeting on 7 March 2016.

The next significant event was a meeting that my client had with the then East Midlands Regional Director Gordon Pattison on 28 June 2016. Also in attendance was the Regional Organiser George Carr-Williamson who was present to take notes of the meeting. My client was accompanied by Adele Williams, then Secretary of Nottingham East CLP and now an elected councillor on Nottingham City Council. Ms Williams was present to support my client and also take notes. The meeting

lasted 90 minutes. This gave my client an opportunity to give a full account of events leading up to the meeting on 7 March 2016.

Despite the length of the meeting, at no point did Mr. Pattison set out in any detail the allegations that had been made against my client which subsequently formed the basis of the charge sheet that my client received on 28 July 2017. This was an opportunity for the NEC's representative to put the allegations to my client and for him to respond accordingly. Such an approach by the Regional Director was fundamentally flawed and a denial of natural justice. It is this failure by the Party to put allegations to my client and give him the opportunity to respond that renders the investigation process and subsequent prosecution of my client authorised by the Disputes Panel of the NEC completely flawed and a breach of the contract that exists between my client and the Party. Mr. Pattison could have put the allegations to my client and invited his response, and then, as the responsible officer acting on behalf of the Party, come to an informed decision as to whether the suspension of my client should continue or not. He chose not to.

Mr. Pattison's only contribution was to suggest that the activities of Rushcliffe CLP needed to be looked into. There was a discussion about the legitimacy of the meeting that took place on 7 March 2016. Mr. Pattison did say that if only my client and John Walsh had attended the meeting on 7 March 2016 then there would have been no administrative suspensions and the matter would have been sorted out. It is fair for my client to conclude that any other complaints that had been made against him would not have resulted in his suspension. It is quite clear that the officers of the Party acting on behalf of the NEC had formed the view that there had been an organised attempt to disrupt a Party meeting. Without considering any evidence from my client, Mr. Pattison had formed his judgment before a proper investigation had been concluded and did not take account of the fact that the circumstances of the meeting were by their very nature unconstitutional.

My client responded positively to a final question posed by Mr. Pattison to the effect was my client prepared to work with and support CLP officers? My client responded very positively.

Despite the fact that no detailed allegations as to my client's conduct had been put to him by Mr. Pattison, giving him the opportunity to respond accordingly, he was subsequently advised by way of e-mail that his case had been referred to the NEC. It was my client's legitimate expectation that as an investigating officer Mr. Pattison would act impartially.

It is therefore of considerable concern that when Mr. Pattison attended a meeting of West Bridgford BLP of Rushcliffe CLP on 24 October 2016 he told members present:

"I am afraid I am going to struggle to explain where I am going to come from tonight because I can't tell you everything that is going on with the ongoing investigations, unfortunately. There is a wider issue to all of this. There is a background that has gone on months, months before this meeting."

He went on to say:

*"The two suspended members currently (**my client being one**) will have all the paperwork and they will be able to share it with you and you will be able to see what I've seen – and some of it is disgusting, I'll be honest with you. I've never seen anything like it in 28 years in politics."*

He then went on to say, in apparent contradiction of his previous statement:

"I can't tell you exactly what's happened or what I've seen because I am not going to prejudice the case [that is] ongoing."

It is quite obvious that far from having concerns about prejudicing the case against my client, Mr. Pattison had formed conclusions that were adverse to my client without ever putting the allegations to him and inviting his response. As outlined above my client had met with Mr. Pattison on 28 June 2016 and at no point did he put the allegations and the evidence for those allegations to my client even though all that information was obviously available to him as the written statements and e-mails that are relied upon by the NEC and contained in the charges pack which our client received in July 2017 were in existence prior to the 28 June 2016 meeting. In short, Mr. Pattison knew the case against my client prior to that meeting but at no time did he ask my client for his version of events which would have enabled him to make an objective judgment as to whether my client's suspension should be continued, let alone the matter referred to the NEC Disputes Panel.

The investigation, therefore, was conducted in a partial and prejudicial manner in flagrant breach of accepted standards of natural justice and in breach of my client's contractual rights to be treated with dignity and respect. Despite repeated requests the notes of the meeting on 28 June 2016 taken by George Carr-Williamson have not been disclosed to my client which is a breach of the Data Protection Act 1998 and a further example of the Party's failure to treat my client in a fair and just manner.

Not only was the conduct of the investigation a breach of accepted standards of natural justice but was also carried out contrary to the NEC Advice Note entitled "How to carry out an investigation into a breach of rule by a member". As you will no doubt be aware, this Advice Note under the heading "Commencing an investigation" states:

"The investigators have a duty to act fairly and without bias, but otherwise, Labour's rules state that the investigations can be conducted as the investigators see fit; including interviewing and receiving documentary evidence from the complainant, the member complained against (the respondent) and others."

The Advice Note under the heading "Witnesses" states:

"The investigator should interview the complainant, respondent and any other members who it is thought may have relevant information about the subject of the

allegation(s), irrespective of which side they appear to be on. When complainants or other witnesses, to the alleged breach of rule are interviewed a statement of their evidence should be written, agreed with and signed by them.

Investigators should ask the respondent whether there are any particular members that they would like the investigators to interview."

For all the reasons set out above it is quite apparent that at no stage did Mr. Pattison or any other authorised officer of the Party follow this Advice Note. My client had a legitimate expectation that officers of the Party would follow this advice from the NEC and this did not happen. This, in law, amounts to a further breach of my client's contractual rights as a member of the Party.

Breach of the Data Protection Act 1998.

Frustrated by the length of time that the investigation and referral to the NEC Disputes Panel was taking, on 21 September 2016 my client submitted a Subject Access Request under Section 7 of the Data Protection Act 1998 to the Party's Data Controller. After 41 days and therefore outside the statutory limit for responding to a Subject Access Request, my client received a letter from Mike Creighton, Director of Audit and Risk Management at the Labour Party, along with 47 pages of what purported to be in Mr. Creighton's words:

"... all information that relates to you that is held by the Labour Party."

The documentation provided was heavily redacted. Apart from a redacted e-mail dated 19 January 2016 none of this material included any reference to complaints against my client even though the charges pack contained five emails sent to Regional Officer Finbar Bowie by four individuals over the period 15 January 2016 to 18 January 2016 which formed part of the case against my client that he must now address before the NCC Panel. Obviously these e-mails were in the possession of the Party prior to my client's Subject Access Request.

Of further concern to my client is that within the documentation provided by Mr. Creighton, none of the following has been disclosed:

- My client's communication with Finbar Bowie, Regional Officer, over the Rushcliffe CLP members workshop on 24 November 2015;
- My client's communication with Finbar Bowie over his resignation as CLP secretary on 16 November 2015;
- My client's communication to Finbar Bowie of his complaint of bullying, intimidation and harassment by the chair of the CLP at the November 2015 GC meeting;
- My client's correspondence with Finbar Bowie concerning the 7 March 2016 Rushcliffe CLP meeting;
- The correspondence concerning my client's meeting with Gordon Pattison on 28 June 2016 and most importantly the notes of that meeting and any subsequent actions taken by Mr. Pattison or his colleague.

- My client's communications with Labour Party officials which he had over the suspension of ten members of Rushcliffe CLP in March 2016.

It is quite apparent that the Party has failed in its obligations under the Data Protection Act 1998 which is a matter that my client could refer to the Information Commissioner. My client has written to you directly by letter dated 2 March 2018 with a request that you investigate his concerns prior to him making a referral to the Information Commissioner. In any event this breach of Data Protection law amounts to a further breach of my client's contractual rights that exist between him and the Party.

Unwarranted and unconscionable delay in dealing with my client's suspension.

As stated, my client was notified of his administrative suspension by letter from John Stolliday dated 11 March 2016. On 30 March 2016 my client sent an e-mail to Emma Foody asking for a meeting with her at the Regional Office to clarify certain matters relating to his suspension. No reply was ever received.

By letter dated 20 April 2016 Emma Foody wrote to my client advising that members of the East Midlands Regional Board were conducting an enquiry into *"what took place at the meeting (7 March 2016) and matters surrounding it including both the run up to and aftermath"*. The letter invited my client as a suspended member to give evidence to the enquiry. The letter concluded as follows:

"The enquiry panel hopes to resolve these matters as quickly as possible and any input that you can give to achieve this aim will be welcome."

Emma Foody signed that letter as "Secretary to the Enquiry".

By letter dated 25 May 2016 my client responded to Emma Foody setting out his submissions as best he could. It should be noted that at no time up to this point had full and adequate particulars of the allegations been put to my client. Indeed it is a theme running through this whole process that the officers of the party conducting the prosecution of my client have failed repeatedly to provide details of the allegations against him. As I shall refer to below, this remains the case even after the Party provided the charges pack that would be considered at the NCC Panel Hearing.

On 28 June 2016 my client met with the then Regional Director Gordon Pattison as described above.

On 11 July 2016 Gordon Pattison sent an e-mail to client explaining that his case had been referred to the NCC. No explanation was given as to why. In that e-mail Mr. Pattison stated:

"I am keen to resolve this matter ***as speedily as possible*** *so I am preparing paperwork this week to send to the Secretary of the Disputes Committee who will then be in touch with you directly."*

In fact it was over a year before the charges pack was presented to my client.

On 8 October 2016 my client wrote to Gordon Pattison asking him for an update as to progress. Mr. Pattison replied on 13 October 2016 saying: *"Peter, I will chase this for you."*

As mentioned above, on 24 October 2016, Gordon Pattison attended a meeting of West Bridgford BLP where he referred to the presentation of paperwork to my client.

On 4 November 2016 my client sent an e-mail to Gordon Pattison having consulted the Party's Legal Department and Governance Unit. No one within that unit was able to provide my client with any information about the process. My client's email to Gordon Pattison included the following:

"Gordon, I have been on to various people in Newcastle and London and have been told to call you as you are the person who knows most about where my suspension is. The last person to tell me that was Sam in the Governance and Legal Department, today, Friday 4th. You told me you weren't so..... I am at a bit of a loss now. I was told on Wednesday I would hear by Friday, but today was told that is a mistake and that I will hear eventually."

On 15 November 2016 my client sent a further e-mail to Gordon Pattison having again spoken to the Legal Department and Governance Unit who once again could give him no information but advised him that Mr. Pattison was responsible. My client's e-mail included the following:

"Gordon, I am contacting you again because all communications I have had with the Compliance Unit have pointed back to you as the person I need to contact to find out what is happening with my suspension. Three different people in different departments have told me to contact you. Just to remind you that the last official communication with the Party was 20th April. Gordon, this is moving into really unprofessional terrain now. Can you please contact me and give me roughly which decade I might expect to be looked into? STILL no one has given any hint of what I am suspended for. Regards and in anticipation."

No reply was received to that e-mail.

On 17 January 2017 my client received an e-mail from Sam Matthews, Head of Disputes, saying that my client's case was being referred to the NCC. There was no explanation as to why or when it might be dealt with.

On 10 March 2017 my client sent an e-mail to Sam Matthews, Head of Disputes, copied to Ann Black, Chair of the Disputes Panel and Glenis Willmott, Chair of the NEC, stating:

"Sam wrote to me on 17 January about my suspension saying it was being referred to the NCC. I did reply to Sam but have heard nothing back so I will try again. The information you gave me, Sam – about referral to the NCC – was communicated to me by Gordon Pattison in July 2016 – six months previously. Can you please tell me what has been happening in those six months? Can I point out that I have been told absolutely nothing about my suspension; even a meeting with Gordon Pattison in June 2016 shone no light on any possible allegations or charges. I never received a response from my submission to the Party in May 2016. Nor did I ever receive a copy of the notes of my meeting with Gordon, in spite of asking for them. I wonder if I might invite you all to consider how this is looking. It is no wonder people are getting suspicious as I become excluded from one thing after another: CLP AGM in 2016, Election of Conference delegates in 2016, Nomination for Local County Council seat, Nomination of Conference delegates 2017, branch AGM 2017, and pretty soon CLP AGM in 2017. I am beginning to wonder myself if this is what all the delays are about. I believe both Ann and Glenis are now aware of the injustices surrounding this. But my letters to Party Officials only get ignored; I rarely get a response. I am hoping for something different now. Tomorrow will be a full year, 12 months since my suspension. You have still been taking my money and I have still been campaigning hard and supporting Labour – that I will go on doing..... I look forward to hearing from you, ideally with a communication lifting my suspension. No one should be intimidated in the way I have been."

No reply was received to this e-mail.

On 1 July 2017 my client again e-mailed Sam Matthews, copied to Ann Black and Glenis Willmott.

In March 2017 Peter Watson, a West Bridgford Labour Party member had contacted Ann Black by e-mail stating:

"... as an active trade unionist I would be outraged if an employer suspended a member for a year without explanation, hearing or appeal. I would be straight on to the union's solicitor to take them to task. It's incredible that a part of the Labour Party behaves worse than most employers."

On 20 July 2017 Ann Black responded to Peter Watson by e-mail stating:

"Hi Peter,
I have asked for a reply to be sent to you. ***I have also asked that the suspensions are immediately lifted.***
Best wishes
Ann."

The significance of the intervention by Ann Black as the then elected Chair of the NCC and Disputes Panel is highly instructive. It raised the legitimate expectation that my client's suspension would be lifted and yet on 24 July 2017 Sam Matthews sent an e-mail to my client which states:

"Dear Mr Gates,

I am writing to inform you that charges have been supplied to the Secretary of the National Constitutional Committee (NCC) who will now begin the process of arranging a hearing.

The Secretary of the NEC will be in touch shortly to supply you with a charge bundle and any other useful documents ahead of the hearing. You will remain under administrative suspension until the hearing takes place. I understand that you have been in contact with an NEC member regarding your suspension. They have made clear the importance of bringing this matter to a conclusion quickly. We have therefore requested that the Secretary of the NCC arranges your hearing as soon as is practicable."

On 26 July 2017 my client sent an e-mail to Sam Matthews pointing out that Ann Black, Chair of the Disputes Panel, had asked for the suspension to be immediately lifted. The e-mail read:

"Sam,
(I have copied three members of the NEC including Ann Black, plus my CLP and branch officer, and Peter Watson who is referred to below).

In case you have been out of the loop I have copied below Ann Black's email asking for my suspension to be ***'immediately lifted'****.*

*Can you please confirm that contrary to your previous e-mail, my suspension has now been lifted as per the request of the elected Chair of the Disputes Panel. Ann's request for "****immediate****" lifting was on Thursday, 20th.*

I would be grateful for a fast response.
Peter."

Sam Matthews replied to that e-mail on 27 July 2017 as follows:

"Dear Mr. Gates

It is undoubtedly the case that this matter has taken too long for charges to be presented to the NCC, hence Ann's desire and clear indication to Party officers that the matter should be progressed as quickly as possible. The initial delay was caused by an administrative error owing to staffing changes within the Party. The delay this year was caused by the general election when all constitutional matters were put on hold as all staff focussed on electing a Labour government."

On 28 July 2017 my client received the charges pack form the Party. In fact, this charges pack was incomplete as there were missing pages, particularly from statements made by complainants. It is apparent that the original documents were printed on both sides of the paper and the second pages had been omitted.

By letter dated 1 August 2017 my client wrote to Jane Shaw of the Party's Governance and Legal Unit and Secretary to the NCC. He confirmed to Ms Shaw that he intended to contest the charges and that he wished to have legal representation at any panel hearing. My client requested disclosure of all documentary evidence held by the Party upon which it relied to pursue the charges against him. He specifically referred to two of the charges referring to "excessive correspondence" that he was alleged to have sent contrary to the Party's Bullying and Harassment Policy and pointed out that the charges pack included only two examples of e-mails from him, one very brief substantive e-mail request to place three items on a CLP GC agenda and the other chasing a response. He quite rightly requested that if such an allegation was to be made then documents that the Party alleged amount to "excessive correspondence" should be seen by him. He also requested disclosure of a copy of the notes of the meeting that he had had with Gordon Pattison on 28 June 2016, a request, of course, that he had previously made to the Party. He also alerted Ms Shaw to the fact that there were missing pages in the charges pack.

Jane Shaw responded to my client by e-mail dated 31 August 2017 as follows:

"Dear Dr. Gates
Thank you for your letter dated 1 August. I am sorry for the delay in replying, but I have been on annual leave.

The charges that have been received against you, your intention to contest and request for legal representation will be reported to the next meeting of the NCC, which will be on 27th September and notice of the hearing will be sent to you and the Presenter as soon as possible thereafter. It would be helpful in the meantime if, you could let me know of any dates in October and November, including Saturday and Sunday when you, your proposed representative and your witnesses WOULD NOT BE ABLE to attend a hearing.

I have forwarded your query regarding the apparently missing page in the Presenter's bundle and your request to provide with copies of the 'excessive correspondence' and note of the meeting with Gordon Pattison to the Presenter and will let you know when I have his response. However, please note that the NCC has no power to require either side to provide specific documentation.
Kind regards
Jane"

I was then instructed by my client to write to Jane Shaw which I did by e-mail dated 22 September 2017 as nothing further had been heard since her e-mail to my client of 31 August 2017. I did not receive a reply to that letter and therefore sent a follow up e-mail on 5 October 2017. Eventually on 2 November 2017 Jane Shaw did reply to me by e-mail. She advised that the NCC had agreed that I could represent my client at the panel hearing and suggested a date of Saturday, 9 December 2017 for the panel hearing. She rejected the suggestion that I had made for a pre-meeting. She requested that my client, by 30 November 2017, provide his written response to the

charges, details of any witnesses that he wished to call, a written statement from each witness and any challenge that he wished to make to the NEC's case.

In the last week of September 2017 I had contacted fifteen of my client's twenty witnesses who had indicated they were available to attend the panel hearing to give evidence on behalf of my client. Statements were received from those witnesses shortly thereafter. My client had already commenced the preparation of a full and comprehensive response to the charges and therefore by 9 November 2017, well within the time limit set by Jane Shaw, I was able to send to Ms Shaw my client's response bundle including all the witness statements.

Jane Shaw acknowledged receipt of my client's response bundle by e-mail dated 13 November 2017 and confirmed that copies of the bundle had been sent to the members of the panel who would be hearing my client's case and the NEC presenter.

I had suggested in my letter of 9 November 2017 that due to the comprehensive information provided by my client in his response to what were, in my opinion, vague allegations against him, that it would be reasonable for the panel of the NCC to deem that the hearing would not be in the interests of either side, and certainly not in the best interests of the Party. I had not received a response to that point by 24 November 2017, albeit I understand Jane Shaw was absent from her office due to ill health, so I therefore sent an e-mail to her asking, if there was to be a hearing, where that would take place so that I could make the necessary arrangements for my client's witnesses to attend. Later that day Jane Shaw did respond confirming that she was back at work, that the panel hearing would take place and confirming the venue.

My client's case was supported by fifteen witnesses. I was aware of the provisions of paragraph 5B(iii)d of Appendix 6 of the Party Rules which, as a general rule limits the number of witnesses giving oral evidence to up to six witnesses unless additional witnesses are material to specific elements of the charges and their evidence is not able to be confirmed by other witnesses. In a further e-mail from me to Jane Shaw sent on 26 November 2017 I requested confirmation that oral evidence would be received from all of my client's witnesses as I considered that the evidence that they gave was material to specific elements of the charges, although this was a difficult judgment in light of the extremely vague nature of the allegations against him as set out in the charges pack. I also mentioned in my e-mail the point that my client had raised, as referred to above, in his letter to Jane Shaw of 1 August 2017 that there were missing pages from the charges pack which amounted to 5 pages in all, being page 2 of an e-mail from one of the main complainants to Emma Foody, 3 pages of a statement of another of the complainants and one page of a statement of a third complaint.

Jane Shaw responded to me by e-mail on 28 November 2017, sending me complete copies of the three documents from which pages were missing, so over four months since the charges pack had been sent to my client. She further indicated that the NCC panel would not take oral evidence from more than six witnesses on behalf of

my client and suggesting that some of those witnesses were just 'character' witnesses, a matter that I will deal with below.

I then received an e-mail on 1 December 2017 from Jane Shaw where she expressed the view that the case was unlikely to be concluded in a one-day hearing and enquiring whether my client and his witnesses could continue with the hearing on Sunday, 10 December 2017. I responded by e-mail on 2 December 2017 to advise that I would not be available on Sunday, 10 December 2017 nor would my client and some of his witnesses. In an e-mail from Jane Shaw dated 4 December 2017 she noted the unavailability of myself, my client and some of his witnesses on 10 December 2017 but also advised that others involved in the presentation of the NEC's case could not attend on that day. In consequence she advised that the hearing on 9 December 2017 would not go ahead precipitating further delay in resolving this matter. She invited me to indicate days in January when myself, my client and his witnesses would be available to attend a hearing.

Attached to an e-mail of 11 December 2017 Jane Shaw sent to me further documentation confirming that one of the NEC's witnesses, Sandra Coaker, was not prepared to attend any hearing to give oral evidence although statements given by her would be presented to the panel. There was also further documentation of a prejudicial nature towards my client, that I will comment further on below. In further e-mails Jane Shaw continued to enforce the point that my client would be allowed only six witnesses at any reconvened panel hearing.

On 23 January 2018 Jane Shaw sent me an e-mail suggesting that the reconvened hearing could take place on 9, 10 and 11 February 2018. She acknowledged my client's position that the hearing could only take place over a weekend as many of my client's witnesses were employed. She indicated that if it was not possible to convene a panel hearing on 9, 10 and 11 February 2018 then I was to provide dates in March 2018 when myself, my client and his witnesses would not be available to attend a hearing held on two consecutive days. She then stated "*failing which the hearing will be scheduled without further reference to you and your client.*" She required a response by 29 January 2018.

I responded to this e-mail on 25 January 2018 by forwarding to Jane Shaw letters from my client explaining his position in some detail. I was further able to, by e-mail dated 30 January 2018, advise that my client and his witnesses could attend a hearing on 9/10 February 2018. By e-mail sent at 17.37 on 30 January 2018 Jane Shaw then advised that in fact due to the NEC's presenter's absence from work for much of January and the unavailability of some of the NEC's witnesses, the panel hearing could not, in fact, go ahead over the period 9 – 11 February 2018. Once again, therefore, despite every effort being made by my client to arrange the panel hearing, it was the non-availability of NEC witnesses that precipitated further delay in concluding this case. I was invited by Jane Shaw to indicate dates in March or April when myself, my client and his witnesses would not be available to attend a hearing.

It is now two years since my client was notified of his administrative suspension. Throughout this time he has cooperated fully with what he considers has been a completely unfair and unjust process instigated by the Party. It is beyond doubt that the blame for this delay rests entirely with the Party's officers and procedures resulting in a fundamental breach of the contract that exists between my client and the Party. My client has always supported the Party during this time, and before, and has paid his membership fees whilst being denied key membership rights, including:

- To stand as a delegate to two national conferences;
- To attend two national conferences as a visitor;
- To attend all branch meetings for two years;
- To attend any CLP meetings for two years;
- To stand as a delegate to two regional conferences;
- To attend two regional conferences as a visitor;
- To stand for any post in Rushcliffe CLP for two years;
- To stand for any post in his branch for two years;
- To stand as a local council candidate;
- To put his name forward as a possible PPC nominee;
- To edit the local newsletters;
- To attend the hustings for the PPC;
- To attend Labour Party official rallies with the party leader or other significant MPs;
- To take part in any CLP/BLP group or meeting on election strategy;
- To receive any communication from the CLP for two years.

Unconscionable reliance by the NEC on falsified and prejudicial documentation in prosecuting my client

(i) Two versions of the minutes of the meeting on 7 March 2016

It has come to light during this process that two versions of the minutes have been in circulation during the course of this process which calls into question the legitimacy of the decision to suspend my client in the first place if, as seems likely, a set of inaccurate minutes was presented to the decision maker. To illustrate this point I am enclosing copies of the minutes that were considered by a meeting of the EC on 4 April 2016. You will note that under the heading E7: Date of next meeting: Monday 4th April (if needed) are six paragraphs relating to the meeting that took place from 8pm onwards on 7 March 2016. For completeness I am enclosing copies of the minutes of the EC meeting on 4 April 2016 which disclose a detailed discussion as to the accuracy of the minutes of the meeting of 7 March 2016. Indeed the EC on 4 April 2016 had a vote as to the accuracy of the minutes.

I am also enclosing a copy of the version of the minutes of the meeting of 7 March 2016 that has been included in the charges pack presented by the NEC to my client in July 2017. It is noteworthy that in a report made by Andy Furlong of the meeting, compiled at 11.00pm following the meeting on 7 March 2016, which also appears in

the charges pack, he states: *"The secretary continued to take minutes during the period of disruption and I have requested sight of these at the earliest opportunity."*

My comment on the version of the minutes that appear in the charges pack is that these are a full record of what happened at the meeting, and have the appearance of a transcript, perhaps from an audio recording. My client is concerned that these comprehensive minutes have been deliberately edited in order to produce a record that is more prejudicial to his position. Without an explanation as to why two sets of minutes exist, my client asserts that there has been an improper interference with a written record with the aim of influencing the decision to suspend him, and others, from Party activities. This constitutes a further breach of the contract that exists between him and the Party.

(ii) <u>The inclusion in the charges pack of anonymous, unattributable documentation.</u>

The charges pack contains four documents, being letters sent to two of the complainants and a leaflet referencing the suspensions of members of Rushcliffe CLP. The wording of these documents is unpleasant in nature and clearly designed to cause alarm to the recipients. My client denies any involvement in the compilation and distribution of these documents and there is absolutely no evidence to suggest that they can be attributed to him. Indeed as soon as the leaflet came to my client's attention he telephoned Gordon Pattison, in his capacity at the time as Regional Director, to seek advice as to how best to deal with this situation. Mr. Pattison advised him to take no further action as to do so would give unnecessary attention to the same. My client followed up his telephone conversation with Mr. Pattison by an e-mail sent on 28 July 2016, attaching a copy of the offending leaflet and expressing his anger that it had been sent to members of Rushcliffe CLP. In short, the inclusion of these documents in the charges pack is an obvious and unwarranted attempt to associate my client with unacceptable conduct without any evidential basis whatsoever. This is another example of the Party failing to treat my client with dignity and respect and therefore amounts to a further breach of the contract he has with the Party.

(iii) <u>Fabricated e-mail communication between my client and John Walsh</u>

On 11 December 2017 I received an e-mail from Jane Shaw attaching a scanned copy of what purported to be an e-mail exchange between John Walsh and my client on 22 January 2016. Words attributed to my client in an e-mail he is alleged to have sent contained some comment that could be construed as disrespectful towards two of the members of Rushcliffe CLP whose statements are being relied upon by the NEC in the prosecution of my client. Despite an exhaustive search by my client of his electronic data he could find no trace of the e-mail that he is purported to have sent. I sent an e-mail to Jane Shaw on 20 December 2017 asking her:

"(a) Can you provide us with the electronic version of this exchange so we can identify the route and the provenance of the original e-mails themselves?

(b) Can you provide us with information on how you came into possession of what was a private communication from John Walsh to my client, whether it was obtained legally, and why it is included in the documentation?"

I have received no response to those requests. This raises a very serious issue as to how private communications between my client and another has come into the possession of the Party, particularly as my client's researches suggest that an e-mail purportedly bearing his name has been fabricated. The Party's silence on my appropriate and justified enquiries referred to above gives my client concern that this is once again an attempt to present prejudicial and fabricated evidence to a quasi-judicial body, namely the panel hearing. It is also another example of a failure on the part of the Party to treat my client with dignity and respect and a consequent breach of the contract between my client and the Party.

(iv) <u>The unwarranted restriction on the number of witnesses my client wishes to give evidence at the panel hearing</u>

A total of 20 Labour Party members have provided statements in support of my client's case. Over a series of e-mails Jane Shaw has advised that the panel will only be prepared to hear the oral evidence from 6 of my clients' witnesses.

I am aware of Appendix 6 to the procedural guidelines in disciplinary cases brought before the NCC within the rules of the Labour Party. Specifically I note the provision at clause 5(iii)(d) stating:

"The NCC is concerned with the content of the charges presented and panels are not therefore generally concerned to hear 'character' witnesses on either side. As a general rule, a panel of the NCC will not take oral evidence from more than 6 witnesses from the presenter/respondent, ***unless additional witnesses are material to specific elements of the charges and their evidence is not able to be confirmed by other witnesses."***

The problem faced by my client has been that the charges laid against him and the supporting evidence is so lacking in particularity that he feels he must be supported by a number of witnesses so that the panel can consider live evidence, particularly in light of the provision contained in the NEC Advice Note in respect of disciplinary procedures as referred to above which states:

"It should be noted that in normal circumstances the NCC will give greater weight to the evidence of a witness who appears before the panel at the hearing and has their evidence tested by questioning."

Three of my client's witnesses are central to my client's case over the organisation and the establishment of the meeting on 7 March 2016. These were three members of the EC who were present at that meeting. Each of these provides crucial evidence of the inappropriateness and unconstitutional nature of that meeting. They each were concerned that the meeting should not be closed down when it was, and that the observers should have been allowed to stay. Each has their own individual

perspectives which the panel should consider and ask questions as appropriate. None of them provide 'character' evidence.

Three other Party members attended the meeting of 7 March 2016. Each of these sat in different parts of the room and each of them will have interpreted events again in their own individual way. They are not character witnesses.

Two other witnesses are central to my client's case in demonstrating the lack of credibility of the allegations made against him. There is an allegation in the charges pack by one of the complainants that my client said at a meeting he attended that he had broken Data Protection Rules. This was not the case and was not something that my client ever said. Another witness can rebut an allegation made by one of the complainants that my client intended to breach the nominations of Rushcliffe CLP in the election for the East Midlands Regional Board in October 2015.

One of the charges against my client is that he somehow leads a group of members who are misogynistic and discourage the involvement of women. Four women members of the Party are able to give evidence to rebut these allegations.

The attempt to refuse to hear oral evidence from all these witnesses is unreasonable and contrary to fair procedure and rules of natural justice. It constitutes an attempt by those representing the NEC to disadvantage my client in being able to rebut what are very damaging, albeit, vague allegations against him. My client is entitled, as a member of the party, to have a fair hearing before a panel that will decide his future contractual rights.

Summary and remedies sought

I have given full particulars throughout this letter of repeated breaches of the contract that my client has with the Party. Unless the decision to suspend him is reversed and his full membership rights restored he will institute proceedings for an injunction to quash the decision and he will also seek damages and costs.

Actions required of you

Within the next fourteen days I require you to acknowledge receipt of this letter and within 21 days provide me with either confirmation that my client's suspension has been withdrawn or a substantive reply to all matters raised herein.

Alternative Dispute Resolution

My client recognises that litigation should be a last resort and would consider any form of Alternative Dispute Resolution (ADR) which might enable the parties to resolve this dispute without commencing proceedings. This could take the form of a negotiation meeting between the parties or a more formal mediation facilitated by a third party. Should you not agree to pursue a method of ADR pre-proceedings I will draw the court's attention to that refusal on the issue of costs should proceedings prove necessary.

Conclusion

I have referred above to the intervention of Ann Black while Chair of the NCC and Disputes Panel who recommended the immediate lifting of my client's suspension in July 2017, but to no avail. What is remarkable is that her duly elected successor, Christine Shawcroft, clearly takes a similar view of my client's suspension. On 8 February 2018 Ms Shawcroft e-mailed Sam Matthews in the Legal and Constitutional Unit, copying you in as well as Jane Shaw and John Stolliday, stating:

"Hi Sam,
Sorry to bombard you with emails when you're so busy, but I'm hoping that I can cut officers' workload, at least by a bit.
Looking through cases which we are dealing with, or have dealt with, it has struck me that there is a huge imbalance in the one concerning Peter Gates from Rushcliffe. On the word of a very small number of people, two of whom have now left the area, Mr Gates was accused of intimidation. His case has been delayed coming to the NCC, partly because of the large numbers of witnesses Mr Gates wished to call. He is supported by the Chair of his CLP, a retired police officer, and the chair of his branch, along with a great many other branch and CLP officers. The branch and the CLP have many times tried to find ways to support Mr Gates, only to be told that they have to wait for Labour Party processes to take their course. Mr Gates has been a Party member for 25 years and was himself CLP secretary for a time. It is nearly two years since he was suspended.
It just seems to me that, when a very large number of members support someone, against the word of a very small number of people, what is the Labour Party doing taking up a great deal of everyone's time just because of a very small amount of hearsay evidence? Ann Black asked for this suspension to be dropped some time ago, and it seems to mean that there is nothing to be gained, and a great deal of time to be wasted, from pursuing it.
Please let me know what you think we can do to just clear this matter up.
Thanks again for your help,
Christine"

My client agrees with Christine Shawcroft that he has been suspended on *"a very small amount of hearsay evidence"* from *"a very small number of people"*. This is very clear from the charges pack. My client and I hope the Party will agree with Christine Shawcroft that as far as my client's suspension is concerned, *"there is nothing to be gained, and a great deal of time to be wasted, from pursuing it"*.

As you will discern from the length of this letter and the detail herein much preparation has been done both by myself and my client in the presentation of his case. In short he is ready to issue proceedings without delay should you not comply with his request for the full reinstatement of his membership rights. His membership of the Party means a great deal to him. He wishes to play a full campaigning role in the future to help to return Labour to power locally and nationally and to put this very unfortunate episode behind him. His commitment to the Party however is

matched by his sense of injustice caused by the way he has been treated by certain officials and a very small number of fellow members. He is saddened by the fact that the only way he might see justice done is by the intervention of a Court but he will not hesitate in taking all necessary steps to achieve that aim.

I look forward to hearing from you within the next fourteen days.

Yours faithfully

MARTIN LEE
MARTIN LEE & CO

WILLIAM STURGES
SOLICITORS

William Sturges LLP
Burwood House
14-16 Caxton Street
London SW1H 0QY
Telephone
+44 (0)20 7873 1000
Facsimile
+44 (0)20 7873 1010
Email
law@williamsturges.co.uk
Dx
2315 Victoria

10 April 2018

Martin Lee & Co Solicitors
12 Queen Street
Mansfield
Nottinghamshire NG18 1JN

Our Reference

JAS/47839-31

Your Reference

MKL/SW

SENT BY EMAIL ONLY : mlee@martin-lee.co.uk

Dear Sirs

Administrative suspension of Dr Peter Gates

We thank you for your letter of 12 March 2018, which you sent by email to Mr Iain McNicol, former General Secretary, of The Labour Party ("the Party"). We confirm that we are instructed by the Party in respect of this matter and trust that the position set out in this response will avert the need for the commencement of litigation.

To be clear at the outset, the decision to administratively suspend your client from the Party was taken pursuant to Chapter 6 clause I.1.A of the Party Rule Book ("the Rules"):

> "In relation to any alleged breach of the constitution, rules or standing orders of the Party by an individual member or members of the Party, the NEC [National Executive Committee of the Party] may, pending the final outcome of any investigation and charges (if any), suspend that individual or individuals from office or representation of the Party notwithstanding the fact that the individual concerned has been or may be eligible to be selected as a candidate in any election or by-election…"

You should also note, Chapter 6 clause I.3 of the Rules:

> "A 'suspension' of a member whether by the NEC in pursuance of 1 above… shall require the membership rights of the individual member concerned to be confined to participation in their own branch meetings, unless the reason for the suspension in part or in full is their conduct in party meetings or there are concerns that their presence at branch meetings may be detrimental to the party, and activities as an ordinary member only and in ballots of all individual members where applicable. A suspended member shall not be eligible to seek any office in the party, nor shall s/he be eligible for nomination to any panel of prospective candidates nor to represent the Party in any position at any level. The member concerned will not be

> eligible to attend any CLP meeting other than to fulfil the requirement to participate in ballots."

It follows that, by virtue of the serious allegations (including those of bullying and harassment) brought against your client, the determination of the NEC was entirely appropriate at the time so as to prevent the risk of further abuse at CLP level.

Notwithstanding the above, upon consideration of the fact that your client been subject to this interim disciplinary protocol for over 2 years, we confirm that your client's administrative suspension will be lifted. You must recognise, however, that this action is without prejudice to the following:

1. The instances of delay, which you refer to, are not entirely the fault of the Party – numerous changes to the disciplinary timetable have occurred on account of factors outside the Party's control, including the availability of an National Constitutional Committee Panel and, more significantly, all the witnesses to these proceedings;

2. Your client accepts that, as per Chapter 6 clause I.1.A of the Rules, the NEC is entitled to administrative suspend him again should he engage in any conduct that is deemed to be in breach of the Rules; and

3. The ongoing NCC process will continue in accordance with Chapter 6 and Appendix 6 of the Rules.

For the avoidance of doubt, point 2 above includes (but is not limited to) any further disclosure of sensitive information provided to your client, as part of the NCC's disciplinary process, being shared outside of parties involved in this action, such as during CLP meetings, which is likely to have the effect of intimidating witnesses or others involved in your case.

Conclusion

As a non-public body, the integrity of the Party's disciplinary procedure must be maintained to ensure due process is followed. The NEC asserts that there is still a prima facie case for your client to answer. These have been put to your client in the form of 'Charges'. The arguments that you make in your correspondence, particularly those at pages 21 – 24 of your letter, will be heard by the NCC, as directed under Chapter 2 clause I.8:

> "...Any dispute as to whether a member is in breach of the provisions of this sub-clause [as is the case here] shall be determined by the NCC in accordance with

> Chapter 1 Clause IX above and the disciplinary rules and guidelines in Chapter 6 below…"

The NEC will respond to your client's defence at the NCC Hearing and, as such, we do not address the substantive points raised by you on behalf of your client. We reiterate that the NCC is the appropriate forum to decide whether your client is in breach of Chapter 2.I.8 of the Rules.

The Secretary of the NCC will take advice and contact your client in respect of the number of witnesses he is entitled to call for oral evidence. She will, thereafter, make arrangements with your client for the date of the NCC Hearing.

If your client chooses to proceed with an injunction then kindly note that we are instructed to accept service of proceedings and intend to vigorously defend the same. Accordingly, aside to your client providing an undertaking in damages, we reserve the right to bring this letter to the consideration of the court on the question of costs should it become necessary.

Yours faithfully

William Sturges LLP

Martin Lee & Co
Solicitors

Martin Lee LLM
Sole Principal

Paula Ford BA (Hons)
Solicitor

Nicola Robertson LLB (Hons)
Solicitor

Our ref: MKL/SW/
Your ref: JAS/47839-31

William Sturges
Solicitors
DX 2315
VICTORIA
Also by e-mail

2 May 2018

Dear Sirs

Re: My client Dr Peter Gates
Your client: The Labour Party

I now respond to your letter of 10 April 2018 which was written in response to my pre-action protocol letter of 12 March 2018. My client is delighted to note that his administrative suspension has been lifted. He is, however, both concerned and disappointed that the party considers it appropriate to continue with disciplinary action against him, based on the charges pack sent to him in July 2017. You are aware from my letter of 12 March 2018 that my client's view is that the way this process has been conducted has been deeply flawed and characterised by serious breaches of natural justice. I do not intend to rehearse all the arguments that I comprehensively covered in my letter of 12 March 2018 but wish to summarise why my client remains of the view that he cannot accept that the integrity of the Party's disciplinary procedure will be maintained by this process.

As explained in my letter of 12 March 2018 addressed to the former General Secretary of the Party, my client by letter dated 21 September 2016 made a data Subject Access Request pursuant to Section 7 of the Data Protection Act 1998 ("the 1998 Act"). Mike Creighton, Director of Audit and Risk Management at the Labour Party at that time eventually responded to my client by letter dated 2 November 2016 under cover of which he sent 47 pages of what Mr. Creighton claimed to be all information that related to my client that was held by the Labour Party. The documentation provided was heavily redacted. Apart from a redacted e-mail dated 19 January 2016, none of this material included any reference to complaints against my client even though the charges pack contained five e-mails sent to regional officer

Finbar Bowie by four individuals over the period 15 January 2016 to 18 January 2016 which form part of the case against my client that he must now address before the NCC Panel.

That omission alone demonstrates that my client's Subject Access Request was not dealt with lawfully and in accordance with the provisions of the 1998 Act. By letter dated 4 November 2016 my client wrote to Mike Crichton pointing out that the Party had failed to provide all the personal data held by it in respect of my client. My client has never received a response to that letter. On 2 March 2018 he wrote to the then General Secretary, Iain McNicol, raising his concerns that the Party had not dealt with his Subject Access Request in accordance with the 1998 Act. Once again my client has received no response to his complaint despite the fact that he also drew this issue to the attention of the new General Secretary, Jennie Formby, by letter dated 23 March 2018. My client is reluctant to refer this matter to the Information Commissioner as is his right, but he will do unless your client deals with his complaint and discloses all his personal data held by the Party with any redaction kept to a minimum and done only in accordance with the provisions of the 1998 Act.

This non-disclosure is, of course, highly relevant to the disciplinary procedure that my client is subject to. My client, of course, accepts that the NCC is the appropriate forum to decide whether my client has breached Party rules contrary to Chapter 2.I.8 of the Labour Party rule book. You assert in your letter that the arguments contained in my letter of 12 March 2018, specifically at pages 21 to 24, will be heard by the NCC and you refer again to Chapter 2.I.8 which defines the NEC as the body under Party rules to decide on any dispute as to whether a member is in breach of Party rules. With respect, this rather misses the point of the arguments that I made under the heading in my letter of 12 March 2018: "Unconscionable reliance by the NEC on falsified and prejudicial documentation in prosecuting my client." Under four subheadings I drew attention to the matters that illustrate how deeply flawed this whole process in prosecuting my client has been and quite justifiably my client believes that the integrity of the Party's disciplinary procedure has been undermined. These are not matters that can be dealt with at a hearing of the NCC Panel for two important reasons: (1) they are matters of process and not points to be decided in assessing whether my client has breached Party rules; and (2) they raise questions for Party officials to answer and it is my understanding that no Party official will be called to give evidence, and be cross-examined, at the NCC Panel hearing.

My client is entitled to know how two versions of the minutes of the purported meeting of the EC of Rushcliffe CLP on 7 March 2016 came into existence. It is my client's belief that documentation must exist that will shed light on this issue, and that documentation should be disclosed to him so that he is able to fully prepare for the NCC Panel hearing. It may be disclosed if the Party properly responds to my client's Subject Access Request but if not, and if the Party continues to refuse to address this issue, my client may be forced to make an application to the court for pre-action

disclosure as he reserves the right to institute proceedings for an injunction to halt the disciplinary process to which he remains subject.

I make a similar point concerning the inclusion in the charges pack of anonymous, unattributable documentation. As you are aware, my client denies any knowledge of four documents that do not identify the sender, being letters and leaflets sent to members of Rushcliffe CLP that are unpleasant in nature. My client is entitled to know why the NEC considers it appropriate to rely on this documentation and can only conclude that there is in existence other documentary evidence suggesting my client's involvement in the compilation and distribution of these offending documents. As stated, my client is considering an application for pre-action disclosure.

Somewhat more sinister is the e-mail communication relied on by the NEC which purports to have been exchanged between my client and John Walsh. Please refer to my observations in this regard on pages 22 and 23 of my letter of 12 March 2018. My request for the electronic version of this exchange to enable my client to identify the route and the provenance of the original e-mails has been ignored by the secretary to the NCC. No response has been received to explain how this e-mail communication came into the possession of the NEC. As I observed in my letter of 12 March 2018 this is a very serious issue as to how private communications between my client and another has come in to the possession of the Party, particularly as it appears that the e-mail that he is alleged to have sent is a complete fabrication. Once again I believe that documentation will be in the possession of the Party that will reveal how this came into its possession. I would also seek, in any application for pre-action disclosure, the electronic version of this exchange which, as stated, I have previously requested from the secretary of the NCC.

I request that you read again the observations I make at pages 23 and 24 of my letter of 12 March 2018 under the heading "The unwarranted restriction on the number of witnesses my client wishes to give evidence at the panel hearing." In an e-mail to me of 19 April 2018, Jane Shaw, NCC secretary, continues to assert that the panel will only be prepared to hear the oral evidence of 6 of my client's witnesses. This stance also undermines the integrity of the Party's disciplinary procedure. As I have suggested to the Party's representatives since my involvement in this case, the allegations against my client as contained in the charges pack are vague in their nature and amount to assertions that are not supported by any evidence that has been disclosed. To impose an arbitrary cap on the number of witnesses my client can call to rebut these assertions is entirely unreasonable and contrary to fair procedure and the rules of natural justice.

Conclusion

Despite the fact that the lifting of his administrative suspension has enabled my client to return to playing a fully active role in the Party, he considers the decision to

continue with his prosecution to be disproportionate, irrational and unfair. I remain of the view that in proceeding to a panel hearing of the NCC, in light of the considerable flaws in the process that I have outlined in this letter and my letter of 12 March 2018, the Party continues to breach the contract that exists between it and my client. I have indicated above that subject to the Party dealing lawfully and properly with my client's Subject Access Request and what is revealed through that process, my client reserves the right both to institute proceedings for an injunction to halt the disciplinary process but before launching substantive proceedings it may be appropriate for a pre-action disclosure application to be made to the Court.

I request that you take your client's further instructions on all these matters and revert to me within the next fourteen days.

Yours faithfully

MARTIN LEE
MARTIN LEE & CO