

22 April 2016

Iain Wright MP  
Chair of BIS Committee  
House of Commons  
London SW1 0AA

Dear Mr Wright

## **Workforce at Shirebrook**

Thank you for your letter dated 15<sup>th</sup> March 2016. I have been on leave over recent weeks hence the delay in responding.

You attached an order of the Committee summoning me to attend before the Committee on 7<sup>th</sup> June 2016 and containing what I take to be a threat of potential contempt proceedings being brought against me if I do not attend.

I have been reflecting on the content of your letter and, indeed, on our earlier correspondence in this matter. I hope that you will, (after the detail that follows below) understand the enormous frustration that I feel about the way in which your Committee has, to date, handled this affair. I am, in particular, disappointed that you should reserve the right to seek the support of the House of Commons in respect of '*any complaint of contempt*' before supplying me with more detailed particulars as set out below.

There are three specific pieces of information that, in the light of your letter, I need to receive before being in a position to finalise my position.

First, it may be that (despite that this is what I inferred) you did not intend to threaten any non-attendance by me before the Committee as a potential contempt of Parliament. Whether or not there is contempt of Parliament depends, in part, upon whether there is a reasonable excuse for the conduct that is the subject-matter of any complaint. The detail that follows is designed to show that I believe that I would have a reasonable excuse for non-attendance if I did not appear before the Committee.

Should you consider, having read my explanation below, that my non-attendance would constitute contempt please advise me in the clearest terms as I would then wish to take further detailed legal advice on the matter before deciding whether or not to attend. I would hope that you would in such advice explain unambiguously why you consider that what I have to say below would not constitute a reasonable excuse.

Secondly, would you please inform me whether your Committee claims a power to ask me questions on pain of sanction even if I did agree to attend. If you do claim such a power, please

could you let me know the alleged source of the power? My understanding, though I do not lay claim to any particular expertise, is that whatever your powers of summoning a witness, your Committee has no power to insist on questions being answered by a witness who attends.

Thirdly, if you do claim a power to compel me both to attend before the Committee and to answer questions on pain of proceedings for contempt, please inform me in detail of the process that would be followed if the Committee were to claim that I was in contempt and any potential sanction.

It is clear as a matter of fundamental right that a citizen is entitled to have clear, certain and accessible law so that (s)he may arrange their affairs with full knowledge of the law. If it is claimed that a potential sanction lies against me I need to know what that potential sanction is and how I may defend myself before your Committee or, as the case may be, before the full House of Commons. Would I be entitled to legal representation and be able to call witnesses? What, if any, safeguards would Parliament provide (such as an independent and impartial tribunal) in order to ensure that Parliamentary processes respected my fundamental rights of due process under Article 6 of the European Convention on Human Rights? Would there be a right of appeal?

I set out below why my current belief is that I have a reasonable excuse for not attending before the Committee on 7<sup>th</sup> June:

- (i) It is undoubtedly the case that select committees of Parliament ought to be in a position to perform a valuable function. However, in recent times some select committee proceedings have exposed witnesses appearing before them to a form of what can only be called a 'public trial'. Public exposure of that kind has the potential in a high profile case adversely to affect fundamental rights including commercial rights of property, privacy and fair process.
- (ii) I should state at once that I wish to assist the Committee by answering questions fully and frankly provided that this does not expose Sports Direct to risks of that kind. Indeed, I would respectfully suggest that the Committee itself would be enabled to undertake its functions more effectively if attendees felt able to give open and transparent answers.
- (iii) With these considerations in mind after receiving your Committee's letter of 21<sup>st</sup> December 2015 stating that you wished to review working conditions at Sports Direct and would invite me to contribute, I invited your Committee together with other interested MPs (Nick Boles MP, Chuka Umunna MP, Dennis Skinner MP, Ian Lavery MP, Gloria De Piero MP and Toby Perkins MP) to the company premises in Shirebrook to enable them to see first-hand the working conditions at Sports Direct. I indicated then (and, if there is any doubt, I confirm now) that I was prepared to answer relevant questions put to me by members of the Committee at the company premises. By your letter dated 1<sup>st</sup> February 2016, you invited me to give oral evidence before the Committee.
- (iv) It appears that on 10<sup>th</sup> February 2016 your Committee declined my invitation to attend Shirebrook ostensibly on the footing that there could be difficulty in organising all committee members to commit to spending a day outside Westminster. However, at least some members of a select Committee are often, if

not usually, absent for particular meetings of that Committee. It is unclear to me why it was considered essential for all members of the Committee to attend in order for me to be asked questions. In any event, you will also recall that my response (on 17<sup>th</sup> February 2016) was to offer to make helicopter transport available so as to facilitate the process of visiting Shirebrook (a trip of around an hour) and ensure that as many members of the Committee that wished to attend could do so.

- (v) Regrettably, by letter dated 3<sup>rd</sup> March 2016, your Committee declined to attend again. No reasons were given save for a new observation that '*... it is normal practice for the BIS Committee to meet in public at Westminster and we agreed to adhere to this practice on this occasion.*' I accept, of course, that it is normal practice for a select committee to meet in public at Westminster but my offer was made on the premise that the case of Sports Direct was somewhat exceptional and certainly far from '*normal*'. Indeed, your letter of 3<sup>rd</sup> March made clear that a public hearing was being convened so that I could address '*reports in the media*' about working conditions at Sports Direct. No criminal or civil trial would expose a person or company to addressing '*reports in the media*' and I hope that you will understand my concerns in this respect and references in earlier correspondence to proceedings before the Committee being at risk of becoming '*a media circus.*' Disappointingly, and despite having previously agreed to meet with me at Shirebrook, on 15<sup>th</sup> March 2016 Mr Perkins MP, Mr Skinner MP and Ms De Piero MP told me that they were not prepared to meet until I had set a date to attend before your Committee. In the circumstances, I infer that they were pressured by you and/or your Committee into this about turn. This is a real shame as it prevented what I had hoped would be an open and constructive meeting from taking place.
- (vi) I should also say that some actions or statements of intent by your Committee reinforce my concerns because they strongly imply that the Committee is seeking publicity for what ought to be an objective inquiry. For example, in your letter of 3<sup>rd</sup> March you stated that '*[i]n the interests of transparency*' you might make your letter to me (which contained an express reference to possible proceedings for contempt against me) '*publicly available.*' I am uncertain as to why you think publication was necessary '*in the interests of transparency*' and would question whether it is usual or '*normal practice*' for letters from select committees to potential witnesses to be made publicly available. Another example of what I suggest is legitimate concern as to the Committee's actions is afforded by an interview that you gave to the BBC's News at Six where you stated publicly that '*[w]e will invite Mr. Ashley to give evidence.*' You made this statement over a month before you invited me (on 1<sup>st</sup> February 2016) to give evidence. This clearly demonstrates that you: (a) had already determined that you were going to invite me to give evidence, despite the contents of your letter dated 21<sup>st</sup> December 2015 (which are shown to be disingenuous in light of this) and no matter what my response to your letter; and (b) were willing to let the media know what you were going to do before you were going to tell me. At best this is questionable conduct and goes to the heart of my concerns around fair treatment at the hands of your Committee.

I trust that the above adequately sets out my reasons for my statement that I did not currently intend to attend before the Committee on 7<sup>th</sup> June 2016. In essence, I am concerned that the company (or myself) should not be unfairly subjected to a media trial. This should not mean that I am at risk of being sanctioned (if there is power to sanction at all) for contempt of Parliament.

Finally, I would like to confirm that there is an open invitation for you, the other members of your Committee and the MPs referred to above to attend Shirebrook to see first-hand the working conditions at Sports Direct and ask me relevant questions. It seems to me that this is a perfectly logical way of proceeding and of significant benefit to your inquiry as it would provide you with knowledge and understanding that you would not get sat in Whitehall. I will make myself available to you in Shirebrook on Wednesday 7 September 2016 so please let me know if you are willing to meet with me then.

In the particular circumstances I do hope that your Committee will provide the full information requested above.

Yours sincerely

Mike Ashley