

In the matter of the Leveson Inquiry into the Culture, Practices and Ethics of the Press

Exhibit "CJTM2"

This is exhibit "CJTM2" referred to in the Witness Statement of Colin Joseph Thomas Myler dated 24 November 2011.



culture, practices and
ethics of the press

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November 14, 2011

Dear Mr. Myler,

Leveson Inquiry into the culture, practices and ethics of the press

Thank you for your statement dated 30 September 2011. We have read and considered your statement, and wish to ask you some additional questions.

Notice under section 21(2) of the Inquiries Act 2005

As you are aware, under section 21(2) of the Inquiries Act 2005¹, read in conjunction with the Inquiry Rules 2006 (S.I. 2006 No 1838)², Lord Justice Leveson, as Chairman of the Inquiry, has power to require a person, within such period as appears to him to be reasonable, to provide evidence to the Inquiry panel in the form of a written statement, and/or to provide any documents in his custody or under his control that relate to a matter in question at the Inquiry.

Lord Justice Leveson has determined that it is appropriate, in view of his Terms of Reference and his investigatory obligations, that you should be required to provide some additional evidence to the Inquiry Panel. This should be in the form of a supplementary witness statement.

Your witness statement should cover at least the following matters or issues:-

- (1) The Inquiry has noted paragraphs 39-41 of your previous statement, which provide as follows:

"I am aware that newspapers often use investigators to carry out legitimate investigatory work. I only have specific knowledge of a private investigator being used by the newspaper on one occasion. In that case, I was told that the investigator was being used to conduct surveillance activities. The reason I was made aware that we were working with this investigator was because he had been arrested in relation to activities that he had carried out for another newspaper. I temporarily prohibited reporters from working with that investigator until the outcome of the criminal proceedings was known. The case eventually collapsed and I believe that the investigator did work for the newspaper again but only once

¹ <http://www.legislation.gov.uk/ukpga/2005/12/contents>

² <http://www.legislation.gov.uk/uksi/2006/1838/contents/made>

he had been cleared of any wrongdoing and he became a member of the National Union of Journalists.

Apart from this, I had no role in instructing, paying or having any other contact with private investigators and other external providers of information.

I did not have any knowledge of the number of occasions investigators were used and how much they were paid. If they were used, I believe it would have been in respect of lawful and legitimate inquiries. The Managing Editor's office would have been responsible for authorising payments to private investigators".

What is the name of the investigator who was arrested and then later cleared of wrongdoing? Did you ascertain the nature of the work he was doing for News of the World, and during which period?

- (2) The Inquiry has now become aware that Mr. Derek Webb claims to have undertaken surveillance work on behalf of News of the World. Were you aware that Mr. Webb was undertaking surveillance work on behalf of News of the World? Did you ever instruct him to undertake any surveillance work? What was the purpose of that surveillance work?
- (3) Were you aware that others in News of the World were instructing him to carry out surveillance work? If you were, who at News of the World was providing such instructions?
- (4) James Murdoch indicated to the Select Committee on 10 November 2011 that Tom Crone and/or Julian Pike may have instructed Mr. Webb to carry out surveillance on two lawyers (Mark Lewis and Charlotte Harris). Were you aware of this surveillance or of these instructions? Was this surveillance in respect of "lawful and legitimate inquiries" in your view?

Please provide the Inquiry with all or any documents relating to the questions posed above.

Lord Justice Leveson is required under his Terms of Reference to complete his report on the matters or issues under Part 1 of the Inquiry within 12 months. With this in mind, and having regard also to the scale and scope of his foregoing requirements of you, he has determined for the purposes of section 21(2) of the Inquiries Act 2005 that you should comply with this notice by **4pm on 24 November 2011**.

Lord Justice Leveson is also directed by law to explain to you the consequences of failing to comply with this notice. He therefore draws to your attention the provisions of section 35(1) of the Inquiries Act 2005 which make it a criminal offence to fail without reasonable excuse to do anything which is required by a notice under section 21. He wishes to make it clear that all recipients of section 21 notices are having their attention drawn to this provision, since it is a formal legal requirement.

He is also directed by law to indicate to you what you should do if you wish to make a claim under sub-section (4) of section 21, namely a claim that you are either unable to comply with this notice at all, or cannot reasonably comply with this notice within the period specified or otherwise. You are invited to consider the full text of section 21, including for these purposes sub-sections (3)-(5), if necessary with the benefit of legal advice. Lord Justice Leveson invites you to make any such claim in writing and as soon as possible, addressed to the Solicitor to the Leveson Inquiry into the Culture, Practices and Ethics of the Press, c/o Royal Courts of Justice, Strand, London, WC2A 2LL.

Furthermore, Lord Justice Leveson has power under section 19(2)(b) of the Act to impose restrictions in relation, amongst other things, to the disclosure or publication of any evidence of documents given, produced or provided to the Inquiry, including evidence produced under section 21. Lord Justice Leveson will be considering the exercise of his powers under section 19 in any event, but if you seek to invite him to exercise those powers in respect of your evidence, including documentary evidence, or any part of it, you should set out your position in writing as soon as possible.

Finally, Lord Justice Leveson draws to your attention the provisions of section 22 of the Act which state that you may not under section 21 be required to give, produce or provide any evidence or document if you could not be required to do so if the proceedings of the Inquiry were civil proceedings in a court in the relevant part of the United Kingdom, or the requirement would be incompatible with a Community obligation. No doubt you will take legal advice as to the effect of this provision, but, in the spirit of openness and with the wish to ensure that all possible aspects of his Terms of Reference are fully considered, he invites you nonetheless to waive privilege in relation to any such document or evidence. Please therefore state in your response to this notice whether you are prepared to do so.

For the avoidance of doubt, this notice only covers one aspect of the Terms of Reference and, as the Inquiry moves into other areas, it may well prove appropriate to serve further section 21 notices.

Yours sincerely,

Nicola Enston
Deputy Solicitor to the Inquiry