

IN THE MATTER OF THE LEVESON INQUIRY

EXHIBIT RCD1

This is the exhibit RCD1 referred to in the witness statement of Richard Clive Desmond signed on
September 2011

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8 August 2011

Dear Mr Desmond,

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

It may have come to your attention that an Inquiry has been set up under the Inquiries Act 2005, chaired by the Rt Hon Lord Justice Leveson, following the recent "phone hacking" public scandal. Under Part 1 the Inquiry will inquire into the culture, practices and ethics of the press. Its Terms of Reference are available on-line at <http://www.number10.gov.uk/news/leveson-inquiry-panel-terms-of-reference/>.

Lord Justice Leveson's expectation is that witnesses will be willing to assist his Inquiry by providing both a statement and documents voluntarily and in the public interest.

However, given the timescales within which he has been asked to operate and the desirability of ensuring, with limited exceptions, consistency of approach to potential witnesses, he has decided to proceed in a formal manner using the powers conferred upon him by statute. No discourtesy is of course intended by this.

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

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 at this stage be required to provide evidence to the Inquiry Panel in the form of a witness statement as more specified below.

The company of which you are the Chairman has been asked to provide corporate governance documents, written policies dealing with various matters (including checking of sources, ethical conduct, editorial guidance, compliance, use of private investigators and remuneration / bonus payments) and documents relating to certain expenses, including disbursements to private investigators in relation to the Daily Express, Sunday Express,

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

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

Daily Star and Daily Star Sunday. Your witness statement should cover at least the following matters or issues:-

- (1) Who you are and a brief summary of your career history in the media.
- (2) How the system of corporate governance is supposed to work at the Daily Express, Sunday Express, Daily Star and Daily Star Sunday, and Northern & Shell, of which you are a proper officer, with particular emphasis on systems to ensure lawful, professional and ethical conduct and by reference to any relevant documents.
- (3) How you understand the system of corporate governance to work in practice at the Daily Express, Sunday Express, Daily Star and Daily Star Sunday, and Northern & Shell of which you are a proper officer with particular emphasis on systems to ensure lawful, professional and ethical conduct;
- (4) What your role is in ensuring that the corporate governance documents referred to above and all relevant policies are adhered to in practice. If you do not consider yourself to have been/be responsible for this, please tell us who you consider to hold that responsibility;
- (5) Whether the documents and policies referred to above are adhered to in practice, to the best of your knowledge;
- (6) Whether these practices have changed, either recently as a result of the phone hacking media interest or prior to that point, and if so, what the reasons for the change were;
- (7) Where the responsibility for checking sources of information (including the method by which the information was obtained) lies: from reporter to news editor/showbiz editor/royal editor to editor, and how this is done in practice (with some representative examples to add clarity);
- (8) To what extent board members are aware, and should be aware, of the sources of the information which make up the central stories featured in your newspapers each day (including the method by which the information was obtained);
- (9) The extent to which you consider that ethics can and should play a role in the print media, and what you consider 'ethics' to mean in this context;
- (10) The extent to which you, as a proper officer of the company, feel or have felt any financial and/or commercial pressure from others, and if so from whom, and whether any such pressure affected any of the decisions you made as a proper officer of the company (such evidence to be limited to matters covered by the Terms of Reference);
- (11) The extent to which you, as a proper officer, had a financial incentive for your newspapers to print exclusive stories (NB. It is not necessary to state your precise earnings);
- (12) Whether, to the best of your knowledge, your newspapers used, paid or had any connection with private investigators in order to source stories or information and/or paid or received payments in kind for such information from the police, public officials, mobile phone companies or others with access to the same: if so, please provide details of the numbers of occasions on which such investigators or other external providers of information were used and of the amounts paid to them (NB.

You are not required to identify individuals, either within your newspapers or otherwise);

- (13) What your role was in instructing, paying or having any other contact with such private investigators and/or other external providers of information;
- (14) If such investigators or other external providers of information were used, what policy/protocol, if any, was used to facilitate the use of such investigators or other external providers of information (for example, in relation to how they were identified, how they were chosen, how they were paid, their remit, how they were told to check sources, what methods they were told to or permitted to employ in order to obtain the information and so on);
- (15) If there was such a policy/protocol, whether it was followed, and if not, what practice was followed in respect of all these matters;
- (16) Whether there are any situations in which neither the existing protocol/policy nor the practice were followed and what precisely happened/failed to happen in those situations. What factors were in play in deciding to depart from the protocol or practice?
- (17) The extent to which you are aware of protocols or policies operating at the Daily Express, Sunday Express, Daily Star and Daily Star Sunday in relation to expenses or remuneration paid to other external sources of information (whether actually commissioned by your newspapers or not). There is no need for you to cover 'official' sources, such as the Press Association;
- (18) The practice of your newspapers in relation to payment of expenses and/or remuneration paid to other external sources of information (whether actually commissioned by the Daily Express, Sunday Express, Daily Star and Daily Star Sunday or not). There is no need to cover 'official' sources such as the Press Association;
- (19) In respect of editorial decisions the editor has made to publish stories, what system of oversight, if any, there is and examples of how that has worked in practice.
- (20) Whether you, or the Daily Express, Sunday Express, Daily Star and Daily Star Sunday (to the best of your knowledge) ever used or commissioned anyone who used 'computer hacking' in order to source stories, or for any other reason.
- (21) Whether the company has conducted any inquiry into phone hacking or computer hacking or "blagging" or bribery or corruption and, if so, your role in the inquiry and the outcome.
- (22) If you cannot answer these questions, or take the view that they could be more fully answered by someone else, you must nonetheless provide answers to the extent that you can, and to the extent that you cannot you must provide the Inquiry as soon as possible with names of those who would be able to assist us further.

The terms of this formal notice should not necessarily delimit the evidence, including documentary evidence, which you provide to the Inquiry. It may well be that you can give important additional evidence beyond the four corners of the statutory requirements being imposed on you by this notice: if you can, you are encouraged to do so in line with the general invitation extended by Lord Justice Leveson during the course of his opening remarks on 28th July 2011.

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 Friday 16th September 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



KIM BRUDENELL
Solicitor to the Inquiry