

Second Witness Statement
Michelle Stanistreet
23rd January 2012
on behalf of
the National Union of Journalists

IN THE LEVESON INQUIRY INTO THE PRESS

**SECOND WITNESS STATEMENT OF MICHELLE STANISTREET
ON BEHALF OF
THE NATIONAL UNION OF JOURNALISTS**

I am Michelle Stanistreet, of Headland House, 308-312 Gray's Inn Road, London WC1X 8DP, and I make this witness statement from matters within my own knowledge, save where I identify otherwise. Where I report that which others have told me, I believe that which I report to be the truth.

1. I am the General Secretary of the National Union of Journalists ("NUJ"). I made an opening statement to the Leveson Inquiry on 16th November 2011 (Day 3, pp1ff). I confirm that the contents of that statement are true.
2. Firstly, I would like to express my gratitude to Lord Justice Leveson and the Inquiry team for the work you have done to ensure that those journalists who are too scared to give evidence to you directly, are able to give evidence through me. It is greatly appreciated by all those journalists I have spoken to and whose experiences are set out within this statement.
3. My opening statement sets out my personal history so far as it is relevant and I do not repeat it here. It also deals briefly with the history and democratic structure of the NUJ, an independent trade union which has been

representing journalists throughout the media industry for over 104 years. We have 38,000 members in our workplace chapels and our branches who work throughout the industry, as freelances and in staff roles in newspapers, news agencies, magazines, online, book publishing, in public relations and as photographers.

4. I, and other officers and members of the NUJ, have spent much time over several weeks identifying journalists to give evidence of their experiences of the culture, practices and ethics of the press to the Leveson Inquiry. I circulated the entire membership in November to ask if any member had and would provide evidence to the Leveson Inquiry. I attach the circular which I sent as MS2. I attach as MS1 evidence which I believe to be the truth which has been told to me by journalists who came forward and gave me that evidence.
5. As a result of my circular around 40 journalist members of the union got in touch with me and I have personally interviewed them either face-to-face or on the telephone. The range of issues those journalists have raised with me include, but are not restricted to – endemic bullying, huge pressure to deliver stories, whatever the means, overwhelming commercial pressures which are allowed to dictate what is published and the overweening power and control of editors over their journalists and of employers over their editors. Some of those who spoke to me only did it on the basis that it was for my information – they felt unable, because of the fear factor, of sharing their experiences formally, even on the basis of anonymity. In MS1 I have reported that which some 13 of them told me. Those who I have not reported told me that they would not wish me to report them even anonymously or, though they were prepared to be reported, added little to that which I have reported.
6. Each of the journalists whom I have reported have made clear to me that they feel too scared and frightened to give evidence in a way which would allow them to be identified by their current or prospective media employers. Those who have experienced or witnessed bullying of a vicious and engrained nature have largely been too fearful to speak out in case they lost their job, or

else they were forced out. Those who have witnessed first-hand unethical behaviour or been pressured into working in a way that is unethical are frankly terrified about being identified.

7. The fears they have expressed to me, which prevent them feeling able to be identified or to give evidence openly about the reality of newsroom culture and practices are manifold. There is a widespread belief that speaking out openly is tantamount to signing your own resignation letter – that editors and line managers will believe them to be disloyal and that by speaking out they will effectively become marked men and women. Some believe they will be sacked or forced out, others see the threat as more likely to come in the form of rather more subtle punishments - selection for redundancy, or seeing their career stymied and promotions withheld.
8. Above all, each of the journalists I report below are in fear of making themselves unemployable in the future and are convinced that taking part publicly in such a high profile and significant Inquiry will mean that major newspapers – and indeed other employers in the media industry – will not touch them in future. In an industry that is currently in crisis, where job losses are announced every week and cutbacks are rife, this is a real and pressing worry. It is not possible for a journalist to burn their bridges with one newspaper and walk into a new job at another. Those with a staff job are clinging on to them as it is. Journalism is a small world – journalists move between newspaper groups – to broaden their experience, for a promotion, to pursue a specialism - and employers and editors are well aware of those journalists working at competitor titles. The fear is of being effectively blacklisted by other titles. For freelancers and casuals, their employment is totally precarious - their services can be dispensed with on a whim, and they are particularly anxious about the reputational damage and impact on their work of speaking out.
9. Journalism – whether as a writer, editor, photographer or reporter – is a profession and a career. The number of major employers providing the opportunity for work and to shine in one's career is small. Many of those are

multi-national employers. The fear of acquiring a reputation as being disloyal is therefore a real one. I know from my years in journalism that the world of national newspapers and media is a small one and senior executives and editors and their deputies meet and talk. When an experienced journalist seeks and might be considered for employment by a media company there will almost always be a phone call made by an executive of that company to his/her opposite numbers amongst previous employers to ask for off-the-record and wholly subjective views of the potential candidate. The vast majority of job vacancies, particularly on the national press, are not advertised and recruited for in the traditional way – word of mouth and personal approaches are much more the norm than written applications and formal interviews. Written references have little value in such a situation. I understand that other witnesses have referred to the ‘grapevine’ that exists in relation to consideration of prospective employment of journalists. A suggestion that a journalist was disloyal to a former employer whether true or false will be regarded as a fatal flaw and a bar to employment no matter how impressive is the journalist’s cuttings and experience. I have no doubt about that.

10. It goes without saying that the journalists do not imagine that any but the most foolish and ill-advised editor or manager will dispense any punishment in an obvious way - it would be far more likely that some fictitious reason will be given, feared usually to be one based on the alleged shortcomings of the journalist concerned, or that they would be selected in a redundancy round.
11. I have no doubt that these fears are both genuine and well-founded. I believe that any of the journalists whom I report below would find that his or her career prospects would be irretrievably damaged if he or she were identified as having given the evidence I report.
12. In those circumstances I ask the Inquiry to receive the evidence I report below notwithstanding that the journalists are anonymised and that by giving evidence through me cannot be cross-examined. Each realises that the weight to be attributed to the evidence is thus necessarily to be diminished.

Each, however, is insistent that s/he would wish that evidence to be placed before the Inquiry. Anonymity and my personal guarantee of it was the condition on which each of the journalists was prepared to provide this evidence and I will not, of course, betray this trust.

13. I should say that the suggestion that the fears to which I have referred could be laid to rest by legal means without need of anonymity is not of sufficient reassurance to the journalists to whom I have spoken.

14. I am advised that four possible mechanisms of legal deterrence have been mentioned:

- a. Contempt of court might be thought to deter an editor or employer seeking to punish a journalist for giving evidence. But the problem of proving the causative reason for imposition of the detriment would appear to be overwhelming. In addition I am told that there may be difficulties as to the mechanism of contempt of court in an Inquiry such as this in relation to an undertaking (rather than an Order of the Inquiry). Finally, its prospective deterrent effect may not be sufficient to prevent the harm being done, even if punishment did in fact follow.
- b. Associated Newspapers Limited indicated to the Administrative Court that it (and presumably other Core Participant employers) would be prepared to offer an undertaking (p.32 of its Statement of Facts and Grounds) but it only applied to employees and sought to restrain only disciplinary proceedings but not other detriments. I understand that enforcement of it after the Inquiry has concluded poses legal problems and it also highlights the problem of proof of causation.
- c. Unfair dismissal only applies to those who have been dismissed, not to those subject to other detriment. It is available only to those who have been employed for one year or more. It does not apply to freelancers who are not employees or casuals with breaks in continuous employment. It provides no prospective remedy but only compensation. Re-engagement and reinstatement are available remedies but they are awarded in only 0.19% of successful cases (8 orders out of 4,200

successful cases out of 49,600 unfair dismissal claims¹); in any event on pain of paying increased compensation (up to a maximum of some £17,000) an employer may lawfully refuse to comply with such an order. Proof of causation is also an overwhelming problem.

- d. Protection against whistleblowing is only available as retrospective compensation. It is only available to a person in employment. The problem of proof of causation is again apparent. And it is not available in respect of a disclosure of unethical conduct unless that constitutes a criminal offence or breach of a legal obligation.

15. The most fundamental problem with these suggested alternatives to anonymity is that they do not protect against the deepest – and I believe realistic – fear, that of ‘career blight,’ discrimination against them by prospective employers in the future. There is no relevant legal protection against that. More than that none of the journalists have any confidence that these measures would adequately protect their careers. All are familiar with the case of Matthew Driscoll who gave evidence to the Inquiry and was awarded a very large sum (nearly £800,000) for disability discrimination but in consequence whose “career was finished” (as he told the Inquiry – Day 19, pm. p.63).

16. The stark reality is that without the guarantee of anonymity and my personal assurances of total confidentiality, none of the journalists who have come forward to me would have the confidence to stick their head above the parapet and speak about their experiences and their employers openly and in public.

17. I must report my concern that several journalists who I have spoken to over recent weeks have also been approached for information by the Leveson Inquiry team. They were subsequently contacted by other journalists – at [Redacted] and at [Redacted] – who knew that the Inquiry Team had made contact and [Redacted] and [Redacted] journalists wanted to know if the journalists approached by the Inquiry Team would be appearing at the Inquiry.

¹ Ministry of Justice, *Employment Tribunal and EAT Statistics, 2010-2011*, 1st September 2011.

No doubt there is an innocent explanation for this, but it has added to concerns felt by journalists throughout the industry and a reason why many felt unable to even speak in confidence. It is no overstatement to say that a febrile atmosphere currently exists within the newspaper industry - many journalists feel they are being scapegoated by senior executives, editors and owners. This has clearly exacerbated the fear of speaking openly about the reality of life for journalists at the sharp end of the press.

18. The testimony I have collated clearly reflects the concerns the union has already expressed about the culture, ethics and practices within the press in the broadest sense. Bullying is endemic and a culture of impunity exists that allows the perpetrators – the majority of whom are senior newsroom executives – to go unchecked. Too many journalists are put under intolerable and inhumane pressure to deliver stories – whatever the means.

19. There is also a specific problem in the unethical representation of black and ethnic minorities in some newspapers and I raised my own personal experience of this at Express Newspapers during my opening statement to the Inquiry. Journalists that I spoke to in the course of collating this testimony painted a disturbing picture of the nature of the day to day sentiments expressed by senior editorial staff – such comments give an insight into the approach taken on coverage of race and ethnicity. These included a reporter being told by the news editor to “write a story about Britain being flooded by asylum-seeking bummers”; instructions to “make stories as right wing as you can”; a reporter being told to go out and find Muslim women to photograph with the instruction: “Just fucking do it. Wrap yourself around a group of women in burkas for a photo.”

20. Asked by Robert Jay QC about ethics, the owner of Express Newspapers Richard Desmond’s response gave an insight into the approach taken within the newspaper titles he owns: “Ethical – I don't know what the word means, perhaps you would explain what the word means.” He added: “We do not talk about ethics or morals because it's a very fine line and everybody is different.” For many journalists working at the Express newspaper titles – the Daily

Express, Sunday Express, Daily Star and Daily Star Sunday – the “fine line” has been a clear one since Mr Desmond purchased the titles 12 years ago. Individual journalists and the NUJ have gone on record complaining about editorial interference and abuse of journalistic ethics. Richard Peppiatt told the Inquiry about the anti-Muslim stories he had to write during his time on the Daily Star, and how a fellow colleague had quit the paper because of them. He said: “I’m deeply ashamed to this day that I didn’t walk out with her. That’s the atmosphere: you toe the line or you get punished.” He also spoke about the repercussions of speaking out publicly. He said: “After resigning from the Daily Star I suffered a campaign of harassment and threats to my person, which likely included my phone being hacked.”

21. Unlike Mr Desmond, the NUJ believes that we absolutely should be talking about ethics – but we also need action. That’s why we are clear that journalists should be able to speak out when concerned about unethical practice and pressures to break the Code of Conduct, without the fear of losing their job or suffering adverse repercussions. That’s why we are calling for the introduction of a Conscience Clause. It is perhaps a positive sign of progress within the industry that Sly Bailey, chief executive of Trinity Mirror, indicated she “might” support the introduction of such a Conscience Clause during her appearance at the Inquiry. Journalists, through their representative body the NUJ, also need to be part of any future regulatory body that succeeds the PCC in order that they, together with representatives from civic society, can play a full part in ensuring that the media is genuinely accountable.

22. I have no doubt that the experience of journalists as outlined below is merely the tip of the iceberg – they represent the collective experience of many others working in newspapers. The NUJ has been long concerned about the prevalence of bullying and the culture of impunity that often exists within many of our newsrooms. Cases tend to get resolved by the departure of the journalist, when they can either take no more or they are sacked – inevitably those cases end in a pay-off of some kind, routinely resolved with a gagging clause in a compromise agreement to prevent journalists speaking openly of

their treatment. The deepening crisis of cuts and job losses in the industry, and the casualisation of the workforce have made journalism a precarious industry where experienced and talented journalists are ruthlessly despatched on a regular basis. The pressure to deliver stories, whatever the means, is clearly a real and significant one and many journalists are working for companies where there is no independent source of support and advice in the form of a trade union and there is a culture that militates against speaking out. This combination of factors makes for a toxic mix where journalistic ethics and professional standards can suffer.

23. I asked all journalists I spoke to whether they would be willing to speak publicly and on record about their experiences. In an ideal world, this of course would be the best way of the Inquiry being able to learn firsthand the reality of working life for many journalists. However, the response was unanimous that speaking out publicly was not an option. The reasons they gave to me were, as I have outlined, about fear of the consequences – the reaction of their employers, the fear of never being able to work in the industry again, that the punishment for speaking out and telling the truth would be “career blight” and the overwhelming fear that their reputations would be trashed in public by the powerful media groups. Those working in precarious employment – relying on casual shifts or freelance work – were particularly frightened about the immediate consequences of giving evidence openly but these fears were expressed vehemently by all.

24. These are not irrational fears. I understand the concerns expressed to me and I believe them to be well-founded which is why I believe anonymity to be so important – without this testimony the most important insight into the culture, ethics and practices of the press, the experiences of working journalists at the sharp end, would not be heard at this Inquiry.

25. All the interviews with journalists whom I report were conducted by me personally. All of them were either known to me or to other senior officials of the NUJ. I took contemporaneous notes of all my interviews and discussions, which were carried out by phone and in person. Journalism is a small world

and it was a straightforward process to verify the identity of each – in terms of checking whether the journalist was who they claimed to be and whether s/he works/has worked where they say they have .

26. It is also important to stress that those journalists who spoke to me, but whose fears were such that they did not even want to give testimony anonymously so that I have not included their evidence in MS1, told me what have now become very familiar stories of their experiences. The pattern of bullying behaviour, of pressure to deliver stories whatever the means, a fear of speaking out in the workplace on an issue of journalistic ethics or practices, of dysfunctional and unethical behaviour led from the top, the appalling treatment of those working as casuals and freelances – these were raised repeatedly in relation to the same workplaces and titles as those to which the journalists I report referred. Indeed, the evidence I heard from both the journalists I report and those I do not demonstrates clearly to me that these are endemic issues. Certainly, the testimony I have reported cannot be dismissed as the individual gripes of an individual – these are not “rogue reporters”; I have no doubt they represent the collective experience of what is sadly far too many journalists throughout the industry.

I confirm that the matters I have set out in this my witness statement are true to the best of my knowledge and belief.

signed



dated: 23rd January 2012

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