

CONFIDENTIAL AND PRIVILEGED

Witness name: Tony Gallagher

Dated: 10 July 2012

Filed in response to a notice dated 28 June 2012

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

**WITNESS STATEMENT OF TONY GALLAGHER
EDITOR, THE DAILY TELEGRAPH
10 July 2012**

I, Tony Gallagher, of 111 Buckingham Palace Road, London WS1W 0DT will say as follows:

1. I make this witness statement in response to the Leveson Inquiry's notice dated 28 June 2012. I made an earlier statement on 14 October 2011 and gave oral evidence to the Inquiry on 10 January 2012.

(1) Who you are and your current job title.

2. I am the editor of The Daily Telegraph and have been since 2009. A brief summary of my career history is set out in paragraphs 2 and 3 of my first statement.

(2) To what extent were you personally involved in drawing up this proposal for a new system of self-regulation based on contractual obligations, as now set out by Lord Black?

3. Murdoch MacLennan, the Chief Executive of the Telegraph Media Group (TMG), has taken the lead on this issue for the company. I am also aware that Mr MacLennan has discussed the scheme on many occasions with Lord Black, who is a TMG director. As editor, I have not been formally

!

CONFIDENTIAL AND PRIVILEGED

Witness name: Tony Gallagher

Dated: 10 July 2012

Filed in response to a notice dated 28 June 2012

involved in drawing up any proposal for a new system of self-regulation.
However I support the principles of press self-regulation

(3) How far would you personally, in your capacity as editor, expect to be involved in the final decision as to whether your publication signed up to the contractual obligations envisaged by this system? Please explain in full how that decision would be taken.

4. As editor, I would expect to be consulted prior to the decision to join the new regulator but the final decision would be for TMG through its CEO and its Board.

(4) In so far as you are able to do so, please indicate whether your publication is at present fully ready and committed to enter into these contractual obligations. If it is not at present fully ready and committed, please explain why, and detail any changes that would need to be made to the proposal, any further development to proposal required, or any preparatory steps that would need to be taken at your publication, in order to put it in the position of being fully ready and committed to enter into these obligations. If there are no circumstances in which it would be prepared to enter into obligations of this nature, please explain why not.

5. I understand that TMG is prepared to sign up to the scheme.

(5) What specific differences would membership of a system of the kind set out by Lord Black, underpinned by contractual obligations, make to the culture, practices and ethics of your publication?

6. Evidence put forward by TMG to this Inquiry shows the company to be well-run with strong internal corporate, editorial and legal governance procedures in place. While no company can or should be complacent, our culture, ethics and practices are excellent.

CONFIDENTIAL AND PRIVILEGED

Witness name: Tony Gallagher

Dated: 10 July 2012

Filed in response to a notice dated 28 June 2012

7. *The Daily Telegraph* has always prided itself on its quality journalism. We are firm believers in the Editor's Code and abiding by it is a contractual obligation of all our journalists. I have always sought to abide by both the spirit and letter of it.

8. As the editor of *The Daily Telegraph*, while there will be new requirements placed upon us, I do not envisage that the existence of a new self-regulatory system will have much practical impact upon the publication.

(6) Is there any other comment you wish to make on the proposal put forward by Lord Black, or on the proposals put forward by others, that are now published on the Inquiry website.

9. Although none of the proposals I have read appear to espouse full state content regulation, there appears to be a growing – and in my view, disturbing – clamour for some kind of 'statutory oversight'.

10. To counter concerns about this injection of a role for the state and government in newspapers, there has been a suggestion that a statute could be used to enshrine the independence of the press or the independence of a new regulator.

11. Although there are some who feel that this is a satisfactory safeguard from government or state intervention in newspapers, I also do not believe that there is such thing as 'a little bit of statute'. Leaving aside fundamental principles about any form of state or government intervention in newspapers or the press, there would be nothing to stop legislators returning at will to amend the statute, or indeed any statute, and rewriting the rules to become more onerous in due course.

CONFIDENTIAL AND PRIVILEGED

Witness name: Tony Gallagher

Dated: 10 July 2012

Filed in response to a notice dated 28 June 2012

12. Given the often rumbustious state of relations between Parliament and newspapers, I would be worried legislators in future might seek to revisit statute with onerous consequences for a free press. Could MPs be trusted not to seek revenge against the press in response to the exposure of misdeeds like their expenses? Moreover, our experience with the Freedom of Information law - regardless of who is in power - gives me cause to doubt government commitment to the free flow of information. Routinely, my reporters' requests for information - however anodyne - are obstructed by government departments, no doubt hoping they will tire of their pursuit.
13. On a practical note, at a time when there is an explosion of information via the internet, do we really want to spend years looking to enact a statute which would only regulate one part of the media? Freedom of speech, after all, is a fundamental human right.
14. There have also been parallels drawn with Ofcom and the regulation of television but these too bear little scrutiny. Television, state licensed and beamed into every home, has a statutory duty of impartiality. News, in any event, is a tiny proportion of TV's output. Also, it is worth noting that in comparison to the proposals put forward by Lord Black, Ofcom as a regulator is slow, expensive - and crucially - an imposition of the state.
15. There has been a lot of criticism of press self-regulation. However, although the Inquiry has heard evidence of bad practice at some newspapers, including criminality, and that type of conduct should be

CONFIDENTIAL AND PRIVILEGED

Witness name: Tony Gallagher

Dated: 10 July 2012

Filed in response to a notice dated 28 June 2012

deplored, this does not mean the basis of the system is flawed. In the words of Lord Judge, the Lord Chief Justice:

'We don't say the GMC and self-regulation have failed when, as sometimes happens, a doctor sexually molests one or more of his patients or, like Harold Shipman, murders them'.

16. In relation to the powers that the new regulatory body would have to deal with breaches, what is proposed seems to me to be more than sufficient, but there is room to consider more. For egregious breaches of a new newspaper code, would it not be possible for the regulator to recommend to the publisher that it should consider suspending the editor or member of staff responsible? I suspect this would be a substantial sanction to any journalist.

17. Personally, I am not in favour of levying fines, given the parlous state of newspaper finances, both local and national. I worry that even punitive fines would not be enough to satisfy newspapers' sternest critics.

18. I think powerful incentives could be dangled before new and future publishers to join Lord Black's scheme. Lord Black has identified many of these, including a low cost arbitral legal system to make libel cases less onerous.

19. However, I think more could be done to turn refuseniks into pariahs. The Lobby, for instance, might deny access to newspapers unwilling to adhere to any new code. Downing Street and government departments could also refuse to deal with such pariah publications. Many of the constituent parts of a newspaper – football writers, royal correspondents, photographers – organise themselves into groups to negotiate privileged access. These too could exclude rogue publishers.

CONFIDENTIAL AND PRIVILEGED

Witness name: Tony Gallagher

Dated: 10 July 2012

Filed in response to a notice dated 28 June 2012

20. Lord Black was asked during his evidence on 9 July 2012 why editors need to be involved in the regulatory system. Whilst traditionally editors have served on the Editors Code Committee and the PCC, I do not think this is a pre-requisite for a new regulatory body. I would be happy to simply see senior editorial staff on the new body. Such senior staff would help establish the credentials of the new board, providing a current connection to titles rather than retired staff or academics, both of whom are too remote from the editorial process.

21. As to the issue of public interest, TMG has made submissions on this matter and I have touched upon it, along with ethics in my first statement. I believe Lord Black is right to conclude that nobody will "ever be able to produce an overarching definition". The media commentator and former editor of The Guardian, Peter Preston said something similar:

"Public interest isn't some stable, solid thing. No law can quite pin it down".

22. The Telegraph does not receive many privacy complaints. Where it is necessary to address the public interest because a particular article does impact upon an individual's private life, then of course we do so. I do however agree with Lord Woolf's statement that a role model:

"may hold a position where higher standards can rightly be expected...whether you have courted publicity or not, you may be a legitimate subject of public attention. If you have courted attention then you have less ground to object to the intrusion which follows. In many of these situations, it would be overstating the case to say that there is a public interest in the information being published. It would be more acceptable to say that the public have

CONFIDENTIAL AND PRIVILEGED

Witness name: Tony Gallagher

Dated: 10 July 2012

Filed in response to a notice dated 28 June 2012

an understandable and so a legitimate interest in being told the information”.

Much of what is published in the paper does not need a specific public interest justification and a restriction of that kind has no place in a mature democracy.

I believe that the facts stated in this witness statement are true.

Tony Gallagher

10 July 2012