

Witness name: Arthur Geraint Wynn Davies
Dated: 13 October 2011
Filed in response to a notice dated 16 August 2011

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

**WITNESS STATEMENT OF ARTHUR GERAINT WYNN DAVIES
EDITORIAL LEGAL MANAGER (RETIRED),
TELEGRAPH MEDIA GROUP LIMITED
13 OCTOBER 2011**

I, Arthur Geraint Wynn Davies c/o Telegraph Media Group Limited, 111 Buckingham Palace Road, London SW1W ODT, will say as follows:

1. Prior to my retirement on 31 July 2011, I was Editorial Legal Manager for Telegraph Media Group Limited (**TMG**), a position which I had held since 1987.
2. Although I was not originally a recipient of a notice from the Inquiry, I understand that TMG suggested that I might be better placed to address some of the requests made to Adam Cannon (my successor as Editorial Legal Manager from 1 August 2011, having joined TMG as Deputy Editorial Legal Manager in June 2010), particularly in relation to the earlier periods. I make this witness statement in response to the Leveson Inquiry's notice sent to me on 16 August 2011 (the **Notice**), with particular reference to the questions raised in the Notice. In accordance with the terms of the Notice, this statement addresses my experience at TMG and, in accordance with what I understand has been confirmed by the Inquiry, I have focused my response on matters from 2005 onwards. Should the

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Inquiry require any further assistance, or have any further questions in the future, I remain willing and able to assist the Inquiry.

3. As a preliminary point, the Inquiry has asked at various points that I provide details of the advice I provided whilst engaged by TMG. I am informed that TMG has not waived privilege. As such, I have generally not included in this statement any detailed information regarding the advice which I provided whilst engaged by TMG and there is no intention to waive privilege in any underlying advice or more generally.
4. The Notice has requested that I provide certain categories of documents to the Inquiry. In so far as responsive documents exist which are not subject to privilege, I understand those documents have been collated by TMG and are being provided to the Inquiry in response to the Company Secretary's notice.

Question 1: Who are you and a brief summary of your career history in the media and as a lawyer.

5. I was born in 1944, graduated with a law degree in 1965 (LLB Wales) and was called to the Bar in 1971 (Middle Temple). I hold a current practising certificate issued by the Bar Standards Board, have complied with the Board's Continuing Professional Development requirements, and, until my recent retirement, was registered as an employed barrister at TMG.
6. Following a period of six years as a law lecturer and a further five years as a practising common law barrister on the Midland & Oxford Circuit (Francis Taylor Building chambers), I was employed by Mirror Group Newspapers as the legal manager of the Sunday People and the Sporting Life for five years and after that for a further five years as deputy legal manager of the Daily Mirror. I left in 1987 to take up my appointment as the Daily Telegraph's Editorial Legal Manager. Over the past 34 years I have served a total of 12 national newspaper editors.

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Question 2: What [were] your responsibilities as in house legal adviser?

7. Until my recent retirement, I was head of the Editorial Legal Department of TMG (the **Department**). I was responsible for running every aspect of the Department, and for ensuring that pre-production and post-production (i.e. before and after the newspaper went to print) editorial related legal advice and support was available to the editorial teams of the Daily Telegraph, *telegraph.co.uk* and (from early 2010¹) the Sunday Telegraph, 364 days per year (the newspaper does not publish on Christmas Day), 24 hours per day.
8. The Department was separate from the Corporate Legal Department, the head of which is presently Kate Teh. The Corporate Legal Department had responsibility for advising TMG's commercial teams and Board on all non-editorial related matters, ranging from contractual negotiations with third party suppliers to the provision of company law advice. There were some areas of overlap between the two departments, for example dealing with data subject requests or in respect of certain issues concerning online audio/video rights, but they generally operated on a completely separate basis.
9. Until Adam Cannon joined the Department in 2010, the services of the Department were provided by me (as the only employed barrister) assisted by a team of three locum barristers. All of them had considerable experience as "Fleet Street lawyers" and/or as practitioners specialising in media law, and I trusted and had confidence in the professionalism and integrity of each. Although as locums they were contracted on a freelance basis, they worked primarily for TMG.

¹ Before 2010, the Sunday Telegraph was generally supported by a separate editorial legal team, headed by Julia Braybook. I would, from time-to-time, get involved with advising on editorial legal issues in the Sunday Telegraph, and I would regularly communicate with Julia Braybook regarding areas of mutual interest/concern, e.g. if a complaint was received which was applicable to both the Daily Telegraph and the Sunday Telegraph. Further, I took responsibility for 'legalling' the majority of the content in relation to coverage of MP's expenses in the Sunday Telegraph as well as the Daily Telegraph.

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10. The Department was situated in an office adjacent to the main editorial floor. While I felt it was important to maintain a professional detachment from the editorial staff at all levels – editorial was effectively the Department's 'client' – it was also important that the editorial lawyers were readily accessible to the editorial team. I encouraged the Department to think in terms of having simply relocated Chambers for the convenience of their client who, more often than not, required swift legal advice in order to meet production deadlines.

Pre-production:

11. On the pre-production side of the business, the Department's key role was to provide the journalists and editors with sound pre-production legal advice and guidance. The majority of the Department's work was concerned with scrutinising, amending and commenting on draft articles (both text and pictures) which were referred to it by a journalist, desk head, or anyone through the editorial process. However, the Department's responsibility extended to any pre-production advice required on the editorial side, ranging from advising on whether publication of a particular photograph gave rise to potential contempt or privacy issues, through to advising on the newspaper's response to a threatened injunction against publication. The approach which we encouraged, and which I believe was typically adopted, was 'if in doubt, refer it to the legal department'.

12. The legal advice provided by the Department was primarily concerned with libel, contempt, breach of privacy and copyright. However, a broad range of legal issues could arise, and it was my responsibility to instruct specialist external solicitors, Counsel and/or overseas legal representatives to assist the Department where necessary.

13. In addition to advising on the strict 'legal' issues, it was also the Department's responsibility to advise and draw to the attention of the journalists and editors concerns regarding the need to ensure compliance with the Editors' Code of Practice, as administered by the Press

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Complaints Commission on behalf of the newspaper and periodical industry (the **PCC Code**), and principles of responsible journalism expounded by Lord Nicholls in the *Reynolds* case². Adherence to both was central to the high standards of journalism that the Telegraph always strove to achieve.

14. Although the Department was responsible for flagging potential breaches of the PCC Code, and advising on the risks that an article could (for example) give rise to a claim for libel, the ultimate decision whether to publish, having received that advice, rested with the Editor.
15. The Department's other main area of responsibility on the pre-production side of the business was in relation to such matters as securing exclusive rights to serialise books (often coupled with exclusive interview/photographic access to the author), or the occasional buy-up of interviews with persons with a personal story to tell, for example, the exclusive story of multiple-birth parents. In these instances, the Department's lawyers would assist with drafting the appropriate contracts and/or advising on the terms of such agreements.

Post-production:

16. In the post-production phase, the Department's main responsibility was dealing with complaints arising from the Telegraph's published material (including online material).

² "Depending on the circumstances, the matters to be taken into account include the following. The comments are illustrative only. 1. The seriousness of the allegation. The more serious the charge, the more the public is misinformed and the individual harmed, if the allegation is not true. 2. The nature of the information, and the extent to which the subject matter is a matter of public concern. 3. The source of the information. Some informants have no direct knowledge of the events. Some have their own axes to grind, or are being paid for their stories. 4. The steps taken to verify the information. 5. The status of the information. The allegation may have already been the subject of an investigation which commands respect. 6. The urgency of the matter. News is often a perishable commodity. 7. Whether comment was sought from the plaintiff. He may have information others do not possess or have not disclosed. An approach to the plaintiff will not always be necessary. 8. Whether the article contained the gist of the plaintiff's side of the story. 9. The tone of the article. A newspaper can raise queries or call for an investigation. It need not adopt allegations as statements of fact. 10. The circumstances of the publication, including the timing."

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17. If a claim or complaint raised legal issues, such as allegations of contempt, libel, breach of privacy or copyright, it would automatically be referred to the Department for its management and resolution, if necessary with appropriate external legal advisers. The Department was responsible (with the benefit of any external legal advice) for advising the Editor and TMG's management on the prospects of successfully defending any threatened legal action, and for managing TMG's defence and/or settlement of the matter.
18. Except for complaints about minor factual errors, the majority of other complaints about the Telegraph's published material – including complaints that the Telegraph had in some respect breached the PCC Code – were routinely referred to the Department in line with a standing Editorial Directive³. Complaints received could cover a range of issues, from erroneous captioning of photographs, to a suggestion that a journalist had failed to contact a story-subject for their side of the story.
19. On receipt of a complaint, the Department was responsible for investigating the complaints promptly and thoroughly in collaboration with the journalist or photographer in question and his/her departmental head. It was also responsible for drafting recommended responses to the complainant - both a holding letter pending investigation, and the substantive response – to be sent by the editorial team. In circumstances where it was considered appropriate to publish a correction or any other form of clarification, explanation or apology the Department was responsible for drafting the wording of the same for editorial consideration and approval (invariably by the Editor) prior to its being offered to the complainant.

³ I address Editorial Directives more generally at paragraph 46 below. However see, by way of example, the Directive issued by Richard Ellis (Executive Director, Editorial) to all editorial staff on 24 May 2007: *"It's essential that the Editor and the legal department... is made aware of all complaints, whether written or verbal, as soon as possible after we receive them. There have been costly incidents where a journalist has kept quiet about a letter or telephone call or complaint in the vain hope that it just goes away. Trust me, they don't – and delays in dealing with them can be extremely damaging"*.

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20. Where complaints were referred to the Telegraph by the PCC, the procedure outlined above was followed except that communications with the complainant would be channelled through the PCC's secretariat, including the offering of any proposed wording for a correction and apology together with specifics regarding the proposed date, position and prominence for its publication. In my experience, the PCC's secretariat was frequently of great assistance in acting as an impartial mediator and in securing the resolution of complaints without the need for a formal adjudication by the PCC itself. It was rare for the Telegraph to be found in breach of the PCC Code following a formal adjudication.

Question 3: [Have you] ever been asked to advise upon the legality of methods of obtaining information including (but not limited to) phone hacking, computer hacking and 'blagging'?

21. To the best of my recollection and belief, I was never asked by anyone at the Telegraph to advise upon the legality of methods of obtaining information involving either telephone hacking or computer hacking⁴.

22. Similarly, to the best of my recollection and belief, I was never asked by anyone at the Telegraph to advise regarding the legality or otherwise of any subterfuge or undercover exercise in advance of the exercise being conducted. The only occasion I can recall when I was asked to advise in respect of a subterfuge exercise was in December 2010, in the context of considering whether to publish information which had already been obtained by Telegraph reporters having posed as constituents in the surgeries run by a number of senior Liberal Democrat MPs. By the time I was asked to advise the exercise had been undertaken and the information had already been obtained.

23. I have, from time to time, also been asked to comment and advise more generally regarding possible methods of obtaining information. For

⁴ In the context of MP's expenses, how the disk was obtained was a relevant consideration. However, note my understanding of the circumstances surrounding the offer of the disk to the Telegraph (see paragraph 26 below).

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example, occasionally certain Telegraph journalists received leaked documents. I do not recall any occasion when offer of payment was made by any Telegraph representative to secure delivery of such leaked documents (save for in the case of the MP's expenses disk, addressed below), nor any occasion on which Telegraph journalists procured, or in some way instigated or encouraged, the leaking of documents. However, I was occasionally asked to advise in relation to issues surrounding the legality of receipt of leaked documents by journalists which a confidential source had delivered voluntarily without prior inducement, encouragement, or assistance - financial or otherwise - on the part of the journalist.

24. In any such case, the purpose of the advice that I provided was threefold: to ensure that the documents had been obtained, and could be retained, lawfully; to protect the anonymity of the source (and hence to ensure compliance with clause 14 of the PCC Code, which imposes a moral obligation on journalists to protect confidential sources of information); and to ensure that the means by which the leaked documents were delivered to the journalist did not disrupt the production of TMG's newspaper titles or contaminate TMG's computer systems through the electronic delivery of the documents.

25. Turning to TMG's purchase of the disk containing details of MP's expenses, privilege has not been waived by TMG and as such I do not propose to comment in detail on the advice which I provided. I understand that the Inquiry has been provided with a copy of the book, *No Expenses Spared*, which sets out the history of the MP's expenses story, and comments on my role in advising the Telegraph in relation to its investigation, in some detail.

26. I should, however, confirm that by the time I was asked to advise in relation to the disk, I understood that a duplicate disk containing all the expenses claims for the past five years was already in existence and in the custody of those who were offering to supply it, that at least parts of it had been leaked to the representatives of some other newspapers, and that no

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member of the Telegraph's staff had in any way been involved in procuring, encouraging or assisting in its leak.

27. I would also note that the MP's expenses story is an example of a case where, whilst it was particularly important to be mindful of the overwhelming public interest in the information, it was also important to have regard to the seriousness of the matters being put to the MPs, and to the principles of responsible journalism espoused by Lord Nicholls in the *Reynolds* case. As such, all the proposed disclosures were put to each MP with sufficient time before going to press to allow them to respond, and any article included their response and gave it due weight. All articles relating to MP's expenses were scrutinised and amended as necessary on this basis, and special care was taken to ensure redactions were applied and images pixillated to avoid disclosure of sensitive information.

28. As a consequence of this approach, despite the Telegraph's extensive coverage of MP's expenses it resulted in only one PCC complaint being upheld (breach of Clause 1 (Accuracy) of the PCC Code by an article which, in a formal adjudication by the PCC, was held to have contained an erroneous reference to Brian Binley MP as a "millionaire"), and only one libel action (in respect of a front page Sunday Telegraph article on 31 May 2009) which TMG defeated⁵.

29. More generally, one of the important benefits of the Department being located in an office adjacent to the editorial team was that journalists could, and often did, speak to me or one of the locums in the Department on an impromptu basis about work in progress. For example, in light of a verbal synopsis of a story at its embryonic stage, I would offer suggestions as to what further journalistic research ought to be undertaken in order to make a proposed story legally safe for publication, e.g. obtaining corroborative evidence in the form of documents filed at Companies House

⁵ *Cook v Telegraph Media Group Ltd* [2011] EWHC 1519 (QB)

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or obtaining Statements of Case in filed civil proceedings (in accordance with the relevant Civil Procedure Rules for England & Wales).

30. I always found that this process of "on the job training", reminding the journalists of the limits on journalistic freedom imposed by the law and the need to have due regard for such requirements of the PCC Code as were relevant to the work in progress, to be effective in reinforcing awareness within the editorial team in each department of the need to practise journalism responsibly and lawfully. I was a very hands-on Editorial Legal Manager and I sought to ensure that I was engaged with, educating and available to advise members of the editorial team whenever necessary at the pre-production stage. The nearby presence of editorial lawyers and accessibility to swift legal advice was, I felt, an important part of informing the culture and approach of all the editorial departments - especially those involved in news gathering.

Questions 4 and 6: What training, guidance and policies were provided to you by your employer in order to enable you accurately to advise upon the legality of methods of obtaining information (including keeping up to date) / issues of bribery and corruption? Do you consider that it was adequate?

31. As TMG's Editorial Legal Manager, I would aim to keep up-to-date regarding legal developments relevant to my daily area of practice - particularly defamation, contempt and copyright case law. I was, in any event, required by the Bar Council to attend at least 12 hours of training (approved for continuing profession development purposes) each year.

32. As such, I periodically attended training seminars and conferences on relevant areas of law, including:

11 September 2007	"Protecting the Media"	Informa Professional
7 December 2007	"The 2007 Annual Criminal Law	Sweet & Maxwell

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Conference"		
11 March 2008	"25th Annual Defamation Conference"	Informa Professional
21 November 2008	"Judicial Review Conference"	Sweet & Maxwell
11 March 2010	"Counter-terrorism & Human Rights Conference"	Justice/Sweet & Maxwell
25 March 2010	"Defamation & Privacy"	IIR UK Ltd
21 September 2010	"5RB Conference on Media Legal Developments"	5 Raymond Buildings Chambers
30 September 2010	"User Generated Content"	IIR Conferences London

33. I also read relevant case law and PCC rulings, and subscribed to the MediaAlerts database to ensure that any developments were brought to my attention.

34. TMG paid for my attendance at training seminars and conferences, and paid for the subscription to the Media Law Alerts service.

35. As indicated by the titles of the courses above, the training did not particularly focus on the legality of methods of obtaining information. The Media Law Alerts did, of course, flag any case where (for example) the PCC had ruled that a particular use of subterfuge was not justified under the PCC Code, in which case I would have noted the case.

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36. With regard to bribery and corruption, the Bribery Act 2010 came into force one month before I retired, by which stage Adam Cannon had been working as my Deputy Legal Manager for 13 months and was about to succeed me as Editorial Legal Manager. Adam Cannon is therefore better placed than I am to speak about the training and guidance provided in respect of the Bribery Act.

37. With regard to any more general training or guidance on bribery and corruption, I do not recall any such specific training having been provided, and nor was I aware of any specific, written TMG policies dealing with bribery and corruption. As a qualified lawyer and a barrister I do not consider that I needed any special training to detect bribery or corruption. Similarly, I would never have been in any doubt that TMG would have strongly condemned such actions. Had I become concerned that any bribery or corruption was taking place I would have expressed my concerns – if necessary to Chief Executive/Finance Director level – to ensure they were fully investigated and addressed.

38. Exactly the same applies with regard to training or policies on the use of phone or computer hacking. Had it come to my attention that employees of the Telegraph were hacking, or procuring others to hack, telephones or computers, I would have required no special training or policies to realise that such actions were illegal, and would be condemned by TMG, and I would have taken action accordingly.

Questions 5: [Have you] ever been asked to advise upon the legality of paying public servants (including police constables) for information either in cash or kind?

39. To the best of my recollection and belief, I was never asked to give any advice regarding the legality of making any direct, cash payments to any public servant or police officer.

40. It was my understanding that (for example) the Daily Telegraph's crime reporters would from time to time buy an off-duty police officer a drink, or a

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political correspondent or senior member of the editorial team would entertain politicians to lunch (although I have never been present when any such hospitality was offered). There was, to this extent, payment in kind to such individuals. However, I cannot remember ever having been asked to advise in relation to the legality of such payments in kind, or ever having been involved in any other way with such payments.

Question 7: Have you had input into any internal inquiry into phone hacking, computer hacking, 'blagging' or bribery or corruption? If so, please describe the same, setting out your role and the outcome.

41. To the best of my recollection and belief, I have not at any time had any input into or otherwise been involved in any TMG internal inquiry into phone hacking, computer hacking, "blagging" or bribery or corruption.

42. Although I do not believe it falls within the scope of the question asked by the Inquiry, for completeness I mention that earlier this year I was interviewed in relation to an investigation into the leak of a digital audio recording created during a subterfuge interview between Vince Cable MP and the Daily Telegraph reporters. I was expressly told at the start of my interview that I was not being treated as a suspect because, as is the case, I had never had access to the digital recording in question and was on annual leave at the time the apparent leak occurred.

Questions 8 to 10: How [did] you understand the system of corporate governance to work in practice... with particular emphasis on systems to ensure lawful, professional and ethical conduct?;

What was your role in ensuring that the system of corporate governance and all relevant policies [were] adhered to in practice?; and

Were [such policies] adhered to in practice, to the best of your knowledge?

43. I was not concerned with TMG's corporate governance in the narrow sense of the term, e.g. ensuring the effectiveness of the Board or reviewing procedures for executive remuneration. Nor was I concerned

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with the formulation or supervision of compliance with the various policies that would be issued to staff from time to time or updated in the Staff Handbook concerning, for example, TMG's email policy or data protection compliance: such matters fell within the remit of TMG's Corporate Legal Department.

44. The Department was concerned with ensuring that both formal and informal systems were in place to provide advice and guidance to the editorial teams regarding what was lawful, professional and ethical conduct. Examples of the key systems in place were:

- a) pre-production scrutiny of articles and provision of advice;
- b) issuing Editorial Directives; and
- c) issuing legal warnings.

45. The first 'system' referred to above, specifically the pre-production legal advice made available to the editorial teams, has already been addressed in detail above.

46. Editorial Directives would be issued periodically, either by way of reminder of procedures to be followed in a given situation or in anticipation of forthcoming events. For example, on 17 October 2010, in light of the forthcoming spending review, my Department reviewed and re-issued an Editorial Directive reminding staff of the Bank of England's guidelines on reproducing banknotes, and flagging that any proposed reproduction should be referred to the Department before publication. I understand that a complete set of all Editorial Directives issued has been provided to the Inquiry.

47. The Editorial Legal Department was also responsible for ensuring that any legal warnings or restrictions, for example, any D Notice⁶, any request from the police for a news blackout pending an investigation, or any

⁶ A notice given by the Department of Defence to the media in order to prohibit a publication of information on matters said to be of national security.

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specific request from the PCC for press restraint (such as in cases of bereavement or door-stepping people in the news), was immediately relayed to relevant editorial staff. Similarly, in the event an injunction against publication was received, the Department was responsible for ensuring that senior editorial staff and the editorial library were informed.

48. I should emphasise that my rôle, and that of the Department, was an advisory role. If ever I became aware, either directly or through a member of my team, that there was any deviation from established editorial procedures - particularly those set out in Editorial Directives - or any other questionable journalistic conduct, I would alert a TMG executive, either in writing or verbally, as appropriate. Insofar as editorial matters were concerned, I would consider the Executive Director, Editorial (Richard Ellis), to be the person who primarily held responsibility to ensure adherence in practice. However, to the best of my recollection and belief, by and large there was compliance with the Editorial Directives and the procedures in which my Department had a particular interest.

Question 11: [Have the above] practices changed, either recently as a result of phone hacking media interest or prior to that point, and if so, what the reasons for the change were

49. Given my retirement, I do not feel competent to address whether practices have changed as a result of the recent stories regarding phone hacking and I suggest that Adam Cannon is probably better equipped to answer this question. However, during my time at TMG I never had any reason to suspect that any member of staff was engaged in employing phone or computer hacking, and as such I have no reason to believe that any staff member will have had any reason to "change" his or her methodology.

Questions 12 and 13: Where [does] the responsibility for checking sources of information (including the method by which the information was obtained) lie;

To what extent an editor is aware, and should be aware, of the sources

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of information which make up the central stories features in the... newspapers each day (including the method by which the information was obtained).

50. Responsibility for being satisfied with the legitimacy, integrity and reliability of journalistic sources rested primarily with the journalists, their editorial departmental heads and ultimately the Editor.

51. Ordinarily, scrutiny of text and images by the Department would not include verifying the underlying human sources of information. However, in circumstances where any text or photographs begged any question regarding the trustworthiness of the source, I would seek an assurance from the journalist that he/she was satisfied as a professional journalist that the source was legitimate and reliable. My concern was primarily to understand the legal risk that the source presented – would reliance on the source, particularly one that wished to remain anonymous, expose the Telegraph to the risk of any legal or PCC Code infringement.

52. Regarding the extent to which Editors are, and ought to be, aware of sources of information, I believe the Editors are better placed to address this question.

Question 14: 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?

53. I believe that ethics, in the sense of "doing the right thing", ought to be at the forefront of both the editorial and legal consideration of the investigation and sourcing of journalistic material prior to its publication. Editors, journalists and editorial lawyers alike should always strive to abide by moral concepts, as well as strictly professional codes of conduct such as the PCC Code and (in the case of the editorial lawyers in my Department) the Bar Council's Code of Conduct. The newspaper industry conducts its business in a complex and competitive world and yet one in which moral concepts play an important part. In my own experience, the

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Telegraph always strove to achieve high standards of integrity in that its newspapers and the Department always aimed to secure moral outcomes in given situations.

54. The Journalist's Creed (USA 1906) declared that "*a public journal is a public trust and all concerned with it are trustees for the public benefit; that clarity, accuracy and fairness are fundamental to good journalism and that journalists should only write about what they honestly believe to be true.*" It added that "*the suppression of news other than for the good of society is indefensible.*"

55. I believe that the Creed and our own more recent PCC Code encapsulate the essence of responsible journalism in any democratic country. By responsible journalism I mean properly serving the public interest - the public's right to know about matters of legitimate interest or concern without harming the rights, reputations or privacy of others unless there is some justification for doing so. The Telegraph has always valued its reputation and right to freedom of expression - the right to inform, educate and entertain its readers - and the Department made every effort to defend that right and to give sound legal advice to ensure that it was not abused.

Question 15: The extent to which you, as a legal adviser, felt any financial and/or commercial pressure from the proprietors of [the Daily Telegraph and Sunday Telegraph], and whether any such pressure affected any of the decisions you made as legal adviser (such evidence to be limited to matters covered by the Terms of Reference)

56. I did not at any time during my tenure at TMG feel that I was under any financial and/or commercial pressure either from TMG's proprietors - with whom I never had any contact in my role as legal adviser - or from anyone else at TMG.

57. This is not to suggest that in my advisory role I was not under pressure to give the best advice possible regarding (for example) the risks associated with publishing an article or whether to defend a particular legal action that

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had been brought against TMG – poorly considered advice could impact on the financial health of the newspaper, as well as its reputation. Nor does this mean that my advice would not occasionally be questioned by journalists and editors. However, my job and that of the Department was to provide the editorial team with sound and objective advice so as to ensure that they were fully apprised of the legal constraints and were placed in a position to make informed and appropriate editorial decisions.

Question 16: The extent (if any) to which you, as a legal adviser, had a financial incentive in [The Daily Telegraph and The Sunday Telegraph] printing exclusive stories

58. I had no direct financial incentive in assisting any of TMG's titles to publish exclusive stories. I worked on several major exclusives during my tenure, including securing significant serialisation deals and the Telegraph's coverage of its investigation of MPs' expenses in 2009, but I was never promised in advance any financial reward for my efforts. To the best of my recollection and belief, the only bonus I was awarded was unexpected and paid by TMG *ex gratia* several months after the start of the Telegraph's coverage of the MPs' expenses investigation. To be perfectly frank, the payment was in reality compensation for having worked exceptionally long hours on the project over several weeks including four weekends in succession.

59. Any other financial bonus was annual and performance related; it was a percentage of salary calculated according to a formula that took into account the extent to which my Department had come within the budget set for its running costs at the start of the relevant financial year and had nothing whatever to do with any of TMG's titles publishing exclusive stories.

Question 17 to 22: Whether, to the best of your knowledge, [The Daily Telegraph and The Sunday Telegraph] used, paid or had any connection with private investigators in order to source stories or information

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and/or paid or received payments in kind for such access from the police, public officials, mobile phone companies or others with access to the same;

What your role was in instructing, paying, advising on, or having any other contact with such private investigators;

...what policy/protocol, if any, was used to facilitate the use of such investigators or other external providers of information;

If there was such a policy/protocol, whether it was followed, and if not, what practice was followed in respect of all these matters.

[Were] there any situation in which neither the existing protocol/policy nor the practice were followed and precisely what happened/failed to happen in this situations?

The extent to which you were aware of protocols or policies operating at the above newspapers in relation to expenses or remuneration paid to other external sources of information.

60. I have already referred to TMG's purchase of the MPs' expenses disk.

The disk was purchased through the intermediary John Wick (and his company, ISSL) – who described himself as being in the security business when he subsequently broke cover.

61. I recall one matter, dealt with by Adam Cannon (and I understand addressed in Adam Cannon's statement), where the source of a witness' address became of peripheral relevance to a court hearing. I also recall one occasion on which TMG's solicitors used an agency to identify and locate potential Defence witnesses in a libel case proceeding before the Irish courts. I had no reason to believe that any illegitimate means were used for locating those witnesses.

62. Except as set out above, to the best of my knowledge neither the Daily Telegraph nor the Sunday Telegraph has used or paid private investigators to source stories or information, and I have had no role in paying, advising on, or having any other contact with any such private investigators.

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63. I similarly have no knowledge of the Daily Telegraph or the Sunday Telegraph having paid police, public officials, mobile phone companies or their intermediaries for information, and nor do I recall having been asked to advise in respect of making payments to such individuals. With regard to payments in kind, I have already addressed (see paragraph 40 above) my understanding that on occasions, politicians or police officials might be entertained (although I am not aware of any payments in kind having been made to mobile phone companies). However, I cannot remember ever having been asked to advise in relation to the payments in kind, or having been involved in any other way with such payments.
64. Regarding any policy or protocol which might have applied to any such entertainment, I was aware that the Telegraph had an expenses policy, and in the course of preparing this witness statement I have reminded myself of the Expenses & Business Travel Policy section of the Staff Handbook⁷. However, I was never involved with administering that policy, and have no knowledge of the extent to which it was followed or otherwise.
65. Regarding other external sources of information, TMG's titles sometimes entered into contractual arrangements in order to secure exclusive rights to serialise books (often coupled with exclusive interview/photographic access to the author), and in this regard an Editorial Directive on the procedures to be followed was revised and re-issued from time-to-time. In my experience, the Editorial Directive was generally followed. There were also occasional buy-ups of interviews with persons with a personal story to tell, for example, the exclusive story of multiple birth parents. However, in my experience these buy-ups were rare and the level of payments comparatively modest and commensurate with the amount of time spent by the story subjects in assisting the newspapers. The Department had the responsibility for drawing up the terms for each serialisation contract and exclusive interview buy-up, negotiating any amendments requested by the contributing party and ensuring compliance with the terms finally agreed. Otherwise, except for the payment to various freelance

⁷ Tab 15. See in particular sub-section 4, 'Entertaining'.

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contributors, news and picture agencies for their services, TMG titles did not in my experience generally purchase information for editorial purposes.

Question 23: Whether you, or the above newspapers (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?

66. I did not at any time during my tenure at TMG and nor, to the best of my knowledge, did any of TMG's newspaper titles, employ anyone to use computer hacking in order to source stories or for any other reason.

I believe the facts stated in this witness statement are true

...

Arthur Geraint Wynn Davies

13 October 2011