

*LEGALLY PRIVILEGED - DRAFT*

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

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**WITNESS STATEMENT OF COLIN JOSEPH THOMAS MYLER**

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I, Colin Joseph Thomas Myler of  will say as follows:-

1. I was the Editor of the News of the World ("the newspaper") between the end of January 2007 and July 2011. My career in Fleet Street spans nearly 40 years as a reporter, News Editor, Assistant Editor, Deputy Editor, Managing Director, and Editor of four national newspapers, including the News of the World. I was also the Editor of the Sunday Mirror (twice) and the Daily Mirror, and was Executive Editor of the New York Post from December 2001 to January 2007.
2. Save where otherwise appears, I am able to make this statement on the basis of facts and matters within my own knowledge and which I know to be true. This statement relates to my time at the newspaper. Where I refer to some other source of information, I believe that information to be true. I have been assisted by Bill Akass, the newspaper's Managing Editor, via Linklaters, lawyers for the Management and Standards Committee of News Corporation, to refresh my memory on certain procedures.
3. There is now produced to me a paginated bundle of documents marked Exhibit "CJTM1" to which I shall refer in the course of this statement.

**Leveson Inquiry**

4. I received a letter, dated 10 August 2011, from the Solicitor to the Leveson Inquiry into the Culture, Practices and Ethics of the Press ("the Leveson Inquiry"). A copy of the letter is exhibited at pages [ ] of CJTM1. I have been asked to provide a witness statement to the Leveson Inquiry covering a number of topics. My comments on these topics are set out below.

**The system of corporate governance at the News of the World<sup>1</sup>**

5. Strict compliance procedures were in place at the newspaper to cover almost every aspect of our business, including expenses, payments, staffing issues, HR and complaints.
6. Newspaper staff were required to comply with a number of policies which were put in place and managed by News International Group Limited ("News International"), such as

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<sup>1</sup> This section deals with topic (2) of the Leveson Inquiry letter.

News Corporation's Standards of Business Conduct and the Global Anti-Bribery and Anti-Corruption Policy (these documents are exhibited respectively at pages [ ] of CJTM1). There were also guidance documents for journalists on matters such as data protection and freedom of information (these documents are exhibited respectively at pages [ ] of CJTM1)). However, in terms of the day to day practice of staff working on the newspaper, the Press Complaints Commission's Editors' Code of Practice ("the PCC Code") and the provisions of the law on areas such as privacy and defamation were the essential rules. A copy of the current version of the PCC Code is exhibited at page [ ] of CJTM1. All members of staff were therefore required as part of their terms and conditions of employment to adhere to the PCC Code and the law.

7. Staff were also required to attend mandatory seminars on the PCC Code and on privacy and the law. The sessions were originally led by Robert Warren (now deceased), a vastly experienced Editorial Executive, the senior executives from the Managing Editor's office, Tom Crone, a barrister and Legal Manager of News International, or in his absence his colleague, Justin Walford, also a barrister. The then Director of the PCC, Tim Toulmin, also took part.
8. The Managing Editor's office sent staff regular email reminders of significant PCC Code cases and circulated any amendments to the PCC Code.
9. I raised concerns with executives during daily editorial conferences, when individuals had failed properly to consider ethical or PCC Code related issues around a story before submitting their ideas, for example, where an intrusive photograph had been taken without a public interest justification. I would reject material if I felt it was intrusive or unfair, even when publication could have been justified within the PCC Code.
10. As far as I recall, during my time at the newspaper, there were four adjudications by the PCC against the newspaper, two of which related to the English and Welsh edition of the newspaper. The first of these, concerned a complaint by Paul Burrell about the accuracy of a story in June 2008, and the second concerned a complaint by Julian Lewis MP, also about the accuracy of a story which was printed in March 2009. The remaining two related to the Scottish edition, which I did not edit.
11. When a journalist failed to meet PCC Code standards he would receive a written reprimand. This also occurred in some cases where the conduct did not lead to a PCC complaint or adjudication. For example, on one occasion a senior journalist was given a written warning for accidentally transposing the names of two interviewees. Another executive was admonished formally for failing to double-check a story that had been written by a junior employee who was the victim of an elaborate hoax.
12. The newspaper was in constant contact with the PCC, who would offer guidance, advice or act as a mediator with a third party concerned about imminent publication. Stories would routinely be amended, rejected or delayed as a result of those discussions. The Managing Editor's office had the principal contact with the PCC, but contact usually occurred following a consultation with me.
13. Staff would automatically discuss issues with the in-house legal team, who would provide assistance to journalists, such as reviewing draft articles for compliance with libel law or advising on an ad hoc basis. Department Heads and journalists would frequently discuss articles with the legal team, and would discuss the background to the story with them before I saw the final version of an article. These discussions could take place over several days. It was a tried and tested process.
14. In addition to this, I would often have conference calls with outside counsel along with relevant executives, in-house lawyers, and the Managing Editor to discuss whether we should print a particular story.

My role in ensuring adherence to the corporate governance documents<sup>2</sup>

15. The heads of the News, Features, Production, Pictures and Sports departments were all journalists with considerable national newspaper experience. I also relied heavily on my Deputy, initially Jane Johnson then Victoria Newton, and my Managing Editor, Bill Akass, and his Deputy, Paul Nicholas. As a team, we worked to police the controls and effectiveness of the systems and protocols in place.
16. The workings of a national newspaper are complex and fast-moving. It is not possible to have a direct handle on all the moving parts, whether it is story gathering, sourcing, writing, payments, PCC matters, legal issues, readers' complaints, staffing issues, budgets and the day-to-day issues relating to the production of a Sunday newspaper.
17. As Editor, I was happy to delegate to my senior team; I had absolute confidence in their ability and professionalism.
18. I had regular meetings with the Managing Editor and his Deputy, normally once a week, or more if they needed to see me about anything they felt should be brought to my attention. The Managing Editor's office and his team supported the Editor in ensuring that systems and protocols were adhered to. They, in essence, performed a compliance function at the newspaper, and were responsible for coordinating budgets, expenses, staff and HR issues, liaising with the PCC, dealing with legal issues and complaints, overseeing payments to casual journalists and contributors, and dealing with contracts with freelance journalists or columnists. They also coordinated staffing and budgetary issues in the regional offices in Scotland and Ireland.
19. Although I had ultimate responsibility, there was a culture of individual and collective responsibility for ensuring compliance with the PCC Code and the law.
20. To the best of my knowledge, during my time as Editor of the newspaper, save for the breaches of the PCC Code referred to in paragraphs 10 and 11 above, the company's policies and procedures were adhered to in practice.

**Changes to corporate governance in light of the Goodman/Mulcaire case<sup>3</sup>**

21. When I arrived at the newspaper I took a number of steps, in light of the Clive Goodman and Glenn Mulcaire convictions for phone hacking, to review governance issues and to determine whether any enhancements could be made.
22. I recall sending an email in early February 2007, to every member of staff and all casual/contract workers at the newspaper, attaching a copy of the PCC Code in full.
23. On 7 February 2007, I wrote to every member of staff to draw attention to the requirements, inter alia, to obey the law and PCC Code. A copy of the letter is exhibited at pages [ ] of CJTM1. In that letter, I drew attention to the unacceptability of commissioning private investigators or freelancers to undertake, at arm's-length, "improper" inquiries.
24. The letter made clear that the newspaper conducted ongoing, in-house training programmes for its journalists, with the PCC Code and legal issues at their core. Following the Goodman and Mulcaire case, these seminars, more than ever before, focused on legal, PCC Code and ethical matters applying to journalism at the newspaper. Attendance was mandatory for all staff.

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<sup>2</sup> This section deals with topics (3) and (4) of the Leveson Inquiry letter.

<sup>3</sup> This section deals with topic (5) of the Leveson Inquiry letter.

25. Heavy emphasis was placed during the seminars on:

- (1) PCC guidelines regarding privacy, intrusion and use of clandestine devices or subterfuge;
- (2) The criminal and civil law provisions relating to privacy, interception and eavesdropping, and data protection; and
- (3) The disciplinary consequences for reporters found to be in breach of these provisions.

26. On 16 February 2007, I wrote to every member of staff, to notify them of an amendment to their contract of employment. A copy of the letter is exhibited at pages [ ] of CJTM1. Clause 5.7 of the contract in its original form stated:

*"The Employer endorses the Press Complaints Commission Code of Practice and requires the Employee to observe the terms of the Code as a condition of his employment."*

27. This was replaced with an emphatically stronger and broader clause which contained a greater emphasis on adherence to the Standards of Business Conduct, the PCC Code and the law. The amended clause stated:

*"The Employee agrees to comply in full with the News Corporation Standards of Business Conduct (the "Standards") and all other applicable rules, policies and procedures of the Company and its Associated Companies including News Group Newspapers, and the Press Complaints Commission Code of Practice (the "Code of Practice") which are included herewith and are available on the News International intranet and on the PCC website.*

*The Employee agrees that it is the Employee's responsibility to review the Standards, details of applicable rules, policies and procedures and the Code of Practice.*

*The Employee acknowledges that the Standards, such rules, policies and procedures and the Code of Practice may change or be updated from time to time and further agrees that it is the Employee's absolute responsibility to ensure that he or she is aware of any such changes or updates. The Employer is responsible for notifying the Employee of any such changes and/or updates.*

*The Employee agrees that having been notified by the Employer it is the Employee's absolute responsibility to ensure that he or she is conversant with any such changes and updates and undertakes to observe them fully.*

*The Employee understands and accepts that failure to comply with the requirements of this clause will lead to Disciplinary Proceedings which may result in summary dismissal."*

28. During the same period, I also instigated a review of cash payments to contributors, freelancers, and tipsters and adopted more rigorous procedures. Before any cash payment was processed and agreed, Department Heads had to satisfy themselves that the payments were lawful and legitimate, and that the person receiving them existed on an electoral roll.

29. As a result of these new tighter controls, cash payments reduced by up to 89% between the financial years of July 2004/June 2005 and July 2007/June 2008.
30. The results of an internal survey conducted during 2008 or 2009 showed that some staff had expressed concerns about Department Heads' managing styles. This was raised in their individual performance reviews and it was made clear that their future career development and performance related bonuses were directly linked to their success in improving their management skills. Those findings encouraged the senior executive team to invest in coaching skills for Department Heads, and in some cases, one-on-one sessions.
31. I approved an external consultant to assist in advising senior executives on cultural and leadership issues. Senior executives were taught the importance of teamwork and creating an atmosphere within their departments where junior staff felt that they had permission to challenge how things were done, including issues around ethical conduct. Two full-day workshops were conducted off-site in late 2009 and early 2010. Department Heads were then tasked with organising "away-days" with their teams where their subordinates were invited to speak freely and suggest changes to their department's style or methodology.
32. Senior executives were also encouraged by me to participate in specialist workshops, discussions and seminars on such areas as reporting of suicide, mental health issues and drug dependency, to ensure appropriate terminology was used when reporting on these issues but also to help in establishing a culture where staff understood the importance attached to acting responsibly, fairly and sensitively.
33. In the most recent global company-wide staff survey, conducted in June 2011, the newspaper came top in all eleven categories of management, including leadership and corporate social responsibility.

#### Sources of information<sup>4</sup>

34. When a journalist independently sourced a story he would discuss the source of his information with the relevant Department Head, and he would seek to satisfy his Department Head about any issues raised in that regard. Department Heads were responsible for corroborating information obtained from sources. On top of that, there would be cases where definitive evidence was available, in either a tape recording, video recording or, for example, an affidavit, which supported information provided by a source. If a story was generated via the News Desk and given to a reporter, it would be the responsibility of the News Desk executives to be satisfied with the information provided by a source.
35. Department Heads were not generally required to discuss the sources who provided information for central stories with me. They were all aware of the manner in which I wanted to conduct the newspaper's business i.e. in accordance with the law and the PCC Code. I worked on the basis that I could trust the ability of the Department Heads and I was satisfied that the system worked. I also took comfort from the fact that the in-house legal team reviewed stories and raised any concerns with the relevant reporter, the Department Head, or me.
36. In addition, the Managing Editor would raise any concerns he had about requests to make payments to sources with the relevant reporter. A check was therefore in place to ensure improper payments were not being made. The payments process was transparent. If the amount of the payment to a particular source was considerable, this would be raised with

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<sup>4</sup> This section deals with topics (6) and (7) of the Leveson Inquiry letter.

me and I would discuss the basis for the payment with the Managing Editor, and relevant Department Head. In these cases, the source of information would be disclosed to me.

#### **Ethics in the media<sup>5</sup>**

37. Acting ethically is fundamental to establishing and maintaining trust between a newspaper and its readers. As the PCC Code states, all members of the press have a duty to conduct themselves ethically by maintaining the highest professional standards. I consider this to cover such issues as acting honestly and decently, whilst ensuring accuracy and maintaining appropriate levels of privacy.
38. I never felt under any financial or commercial pressure from the proprietors of the newspaper, or anyone else, in relation to any of the decisions that I made as Editor. I was not under a financial incentive to print exclusive stories. Along with all senior executives of the company and the newspaper, I was rewarded by News International in respect of the overall performance of the newspaper over the preceding year, and not for individual stories.

#### **Use of private investigators and other external providers of information<sup>6</sup>**

39. 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 criminal proceedings was known. The case eventually collapsed and I believe that the investigator did work for the newspaper again but only once he had been cleared of any wrongdoing and he became a member of the National Union of Journalists.
40. Apart from this, I had no role in instructing, paying or having any other contact with private investigators and other external providers of information.
41. I do 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 enquiries. The Managing Editor's office would have been responsible for authorising payments to private investigators.
42. To the best of my knowledge, during my time as Editor at the newspaper, I was not aware of it paying or receiving payments in kind for information from the police, public officials, mobile phone companies or others with access to the same. I have since seen references in the press to payments made to Neil Wallis in late 2009 and 2010 whilst he was employed by the Metropolitan Police. I was not aware of any payments being made to Neil Wallis after he left the newspaper.
43. I am not aware of any specific policies or protocols which facilitated the use of investigators or other external providers of information. However, if journalists did use private investigators, they would have known that they were required to check the source of any information provided by those investigators. If a story was published in a reporter's name, and it came to light that the information on which the story was based was incorrect or the means of sourcing information were contrary to law or the PCC Code, it would have

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<sup>5</sup> This section deals with topics (8) to (10) of the Leveson Inquiry letter.

<sup>6</sup> This section deals with topic (11) to (15) of the Leveson Inquiry letter.

led to the reporter's reputation being called into question. It might also have led to a PCC adjudication, internal disciplinary proceedings and potentially dismissal.

**Remuneration of other external sources<sup>7</sup>**

44. I am not aware of any formal written policy operating at the newspaper in relation to expenses or remuneration paid to other external sources of information. It was, however, common place for the newspaper to pay individuals for stories or interviews.
45. Department Heads would decide how much to pay a source for information. If a particular payment was beyond their weekly budget, they would discuss the proposed payment with me. We would discuss whether the payment was at an appropriate level based on the value of the story, the newspaper's overall weekly budget, and also whether any rivals were bidding for the story.
46. There were tight controls on each department's spending. Each department had a weekly budget, and the Managing Editor's office would monitor any instances of overspend. I believe the standard practice was for payments to be processed and checked by Department Heads through the Electronic Contributions System. Payments were then submitted by Department Heads to the Managing Editor's office for budgetary sign-off. If necessary, the Managing Editor's office would ask for particular payments to be justified, if they were concerned that an amount was too high. I received weekly breakdowns of the newspaper's spending from the Managing Editor's office.

**Factors taken into account when deciding whether to publish a story<sup>8</sup>**

47. The overriding factor in deciding whether to publish a story was ensuring that the article was within the parameters of the PCC Code and the law. The consequences of failing to meet these standards were significant and decisions on balancing the public interest in a free press and the private interests of individuals were not made lightly.
48. I will refer to two examples where a decision was taken to publish stories which impacted on the privacy of individuals.
49. In 2009, the newspaper published a story about Michael Phelps, the Olympic swimmer, who had been photographed smoking cannabis at a private party. The story was sourced from a contact of the Features Editor. The Features Editor contacted Mr Phelps' agent about the story in advance of publication, and it was argued on behalf of Mr Phelps that publishing the story would breach Mr Phelps' privacy. We decided to publish the story because we felt that there was a clear interest in notifying the public that Mr Phelps, who was a role model to young people, had not acted in an appropriate way. Following publication of the story, Mr Phelps made a public apology for his behaviour. He was suspended from competing for three months and also lost some sponsorship deals.
50. Earlier this year, the newspaper published a story about the UK's youngest grandparents. A young couple (aged approximately 14 or 15) were going to have a baby. The couple and their parents were very keen to be interviewed, but, along with senior executives, I had concerns about violating the privacy of the children involved and felt that we owed a duty of care to the baby. We discussed the story with the PCC, and the PCC thought it was appropriate for the story to be published, but wanted to ensure that the families were happy with the proposed story. We then worked with the PCC to obtain confirmation from the family to ensure that the story was factually correct. We also appointed a solicitor local to the families to set up a trust fund for the baby. The newspaper paid its fee for the

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<sup>7</sup> This section deals with topics (16) and (17) of the Leveson Inquiry letter.

<sup>8</sup> This section deals with topic (18) of the Leveson Inquiry letter.

story into that trust fund. There was a clear public interest in publishing this story because the baby's parents wanted the story to be told and wanted to convey that they were proud of their responsibility.

**"Computer hacking"<sup>9</sup>**

51. I did not use or commission anyone who used "computer hacking" in order to source stories, or for any other reason. As far as I am aware, and to the best of my knowledge, no one else at the newspaper did so.

**Statement of Truth**

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

Signed



Full name

Colin Joseph Thomas Myler

Dated

30 September 2011

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<sup>9</sup> This section deals with topic (19) of the Leveson Inquiry letter.