

IN THE MATTER OF:

AN INQUIRY UNDER THE INQUIRIES ACT 2005

INTO THE CULTURE, PRACTICES AND ETHICS OF THE PRESS

CHAired BY THE RT HON LORD JUSTICE LEVESON

FIRST WITNESS STATEMENT OF DAVID JOHN BROOKES

I, **DAVID JOHN BROOKES**, of the Birmingham Mail, Floor 6, Fort Dunlop, Fort Parkway, Birmingham, B24 9FF **WILL SAY** as follows:

1. I am the Editor of the Birmingham Mail and Editor-in-Chief of Bpm Media, which publishes the Birmingham Mail. Bpm Media is owned by Trinity Mirror plc (**'Trinity Mirror'**).
2. I am making this statement in response to a notice dated 29 September 2011 pursuant to section 21(2) of the Inquiries Act 2005 (the **'Notice'**) addressed to me at the Birmingham Mail.
3. I understand that the Notice has been sent to me in connection with Part 1 of the Inquiry chaired by The Right Honourable Lord Justice Leveson into the culture, practices and ethics of the press (the **'Inquiry'**), the Terms of Reference for which were published by The Right Honourable Mr David Cameron MP, Prime Minister on 20 July 2011 (the **'Terms of Reference'**). The Notice requires me to provide evidence to the Inquiry panel in the form of a witness statement and to provide any documents in my custody or under my control as specified in the Notice.
4. Where the contents of this statement are within my own knowledge they are true and where the contents are not within my own knowledge I indicate the source of my belief and believe them to be true.
5. I am not authorised to waive any privilege on behalf of Trinity Mirror or Bpm Media and nothing in this statement is intended to constitute a waiver of privilege on behalf of either of them.
6. I understand that the Birmingham Mail has been asked to produce certain documents, in response to a section 21(2) notice addressed to Mr S. Anderson-Dixon dated 4 October 2011 (the **'Documents Notice'**). I also understand that Trinity Mirror has already produced a number of documents to the Inquiry in response to a section 21(2) notice. Insofar as I refer to additional documents in this witness statement, these are included in the paginated bundle of documents which I produce and refer to as Exhibit DJB1. A copy of the Notice and the Documents Notice are annexed hereto at pages 1-9 of Exhibit DJB1.
7. I deal with the matters asked of me in the Notice in the order set out in the Notice, referring to them as 'Matter 1', 'Matter 2' and so on, using the Inquiry's numbering.

Matter 1: Who I am and my career history

8. Matter 1 asks me to cover who I am and to provide a brief summary of my career history in the media.
9. My name is David Brookes and I am editor of the Birmingham Mail and editor-in-chief at Bpm media. I have been in journalism for over 35 years and during that time I have worked in a number of roles including that of reporter, sub-editor, chief sub-editor, assistant editor and editor. In 2000 I was appointed editor of the Sunday Mercury, a regional newspaper based in the West Midlands, and eight years later became editor of the Coventry Telegraph. I took up my current position in January 2010.
10. The Birmingham Mail has an average daily circulation sale of 47,217 (source: ABC Jan-Jun 11) and 124,267 readers (source JICREG May 11). Online, the Birminghammail.net website has 624,028 unique users per month and generates over 3.6 million page impressions per month.
11. My role as editor takes on both journalistic and managerial responsibilities. I give the Birmingham Mail its editorial direction and have ultimate responsibility for all the content of the paper and the website, ensuring we publish fair, accurate and balanced articles that provide readers with informative and entertaining material. I also have responsibility for my staff and for managing the Birmingham Mail's budget. My role also requires building relationships with key individuals and organisations, both internally and externally.
12. In addition to my duties for the Birmingham Mail, as editor-in-chief I also have managerial and strategic responsibilities for the Birmingham Post (a weekly publication aimed at the business community), the Sunday Mercury (a paid-for weekly regional publication) and a number of free, local publications.

Matter 2: Corporate governance and systems to ensure lawful, professional and ethical conduct

13. Matter 2 asks me to cover how I understand the system of corporate governance to work in practice at the Birmingham Mail, with particular emphasis on systems to ensure lawful, professional and ethical conduct.
14. Ultimately, responsibility for ensuring the system of corporate governance works in practice lies with the editor. At the Birmingham Mail, we have a number of processes, checks and controls in place to ensure we conduct our business lawfully, professionally and ethically. All our journalists adhere to the Press Complaints Commission's Editors' Code

of Practice (the "Code"). Indeed, their contract of employment includes a requirement to work within the Code and it is the responsibility of the editor to ensure it is observed rigorously by all editorial staff and external contributors, including non-journalists.

15. Generally, there is a clear route for all stories before they appear in the newspaper. Ideas or 'sourced' items are evaluated by journalists for interest and news value. Depending on the specific story, this analysis will include evaluation by one or more senior editorial executives including the news or features editor, deputy editor and editor. Once written and processed, a story for publication will also be reviewed by content and production editors.
16. On the Birmingham Mail we also hold editorial conferences at least twice a day with input from the editor, senior editorial executives and desk heads. These conferences are where the initial content of the next edition of the paper is first discussed and later enables the editor and senior executives to review the progress of ideas and stories as they develop. Issues as to provenance are integral to these conferences. In regional titles such as the Birmingham Mail, the number of stories where provenance might be an issue is relatively small which means that any questionable stories are quickly identified and brought to the editor's attention. Potentially contentious stories are usually flagged up at an early stage by the reporter or the news desk, or later at the editorial conference. Advice from our legal team at Trinity Mirror is often sought where a decision is needed on whether to publish a potentially contentious story.
17. I also comply with (1) Trinity Mirror's Code of Business Conduct which gives guidance on conflicts of interest, the acceptance of gifts and entertainment, confidential information, insider information, and political and civic activities; (2) Trinity Mirror's Regional Editorial Policy which outlines responsibilities and fundamental values by which we expect staff to operate; and (3) Trinity Mirror's Financial Dealings for Journalists Policy which gives guidance to avoid conflicts of interest between personal financial dealings and the carrying out of professional duties (a copy of the latter is attached at pages 10-11 of Exhibit DJB1).
18. In addition, following the News of the World disclosures, Trinity Mirror has undertaken a review of editorial control processes and procedures within the Group and recommended a number of improvements. These recommendations have been accepted by the Trinity Mirror Board and are currently in the process of being implemented. They include the introduction of a weekly review of any legal issues that have come to light in the past

seven days and seeking assurances from agencies that they check the provenance of stories with the same diligence as our in-house journalists.

Matter 3: My role in ensuring policies are adhered to

19. Matter 3 asks what my role is in ensuring that the corporate governance documents and all relevant policies are adhered to in practice and, if I do not consider myself to be responsible for this, to tell the Inquiry who I consider to hold that responsibility.
20. It is the editor's responsibility to ensure corporate governance is adhered to in practice. Senior editorial executives are also aware of their own responsibilities in ensuring we conduct our businesses lawfully, professionally and ethically, and to satisfy themselves that stories have been appropriately obtained. I consider that knowledge of media law is good among editorial staff and law refresher courses are delivered regularly as part of our contract with Press Association Training. In addition, law training is given to trainee reporters as part of their preparation for the Certificate of Journalism exams. I also consider that news desk staff and other senior executives are alert to legal issues and accelerate potential issues through the chain of command as necessary. I also complete a monthly risk register for the Trinity Mirror Board which details potential legal issues and other risks to the company.

Matter 4: Adherence to policies in practice

21. Matter 4 asks me whether the documents and policies referred to above are adhered to in practice, to the best of my knowledge.
22. To the best of my knowledge, the system of corporate governance is adhered to in practice in the Birmingham Mail newsroom.

Matter 5: Recent change in policies

23. Matter 5 asks me whether the practices referred to above have changed, either recently as a result of the phone hacking media interest or prior to that point and, if so, what the reasons for the change were.
24. Following the recent disclosures of activities at the News of the World, I have ensured that members of staff are fully aware of the importance of continuing to work lawfully, professionally and ethically. I have not introduced changes to any practices as I consider the controls we currently have in place are robust. Our finance department did introduce

further safeguards with regard to payments made to external contributors (see further my response to Matter 16 below). In addition to claims for payments being signed off by the head of department and the editor, all claims must now be accompanied by a copy of the article or photograph which appeared in the paper or on the website.

Matter 6: Responsibility for checking sources

25. Matter 6 asks me where the responsibility for checking sources of information (including the method by which the information was obtained) lies: from reporter to sub-editor to editor and how this is done in practice (with some representative examples to add clarity).
26. Staff reporters will obtain ideas for stories from a number of sources. These include agency wires, such as PA and Reuters, tip-offs, personal contacts, press releases, UGC (user generated content, such as forums, review sites and social networking), events, briefings and the internet. It is initially the reporter's responsibility to check the authenticity of the information he or she has received and that they have received the information in good faith. The reporter would then normally inform the news desk of his story idea. Again, the news editor would need to be satisfied as to the source of the information. As referred to above, the Birmingham Mail holds editorial conferences at least twice a day. Issues as to sources of information are often raised at these conferences. Once a story has been processed, it would be reviewed by the content and production editors and, once again, they have a responsibility to ensure the authenticity of the source of information. It is a requirement at the Birmingham Mail to verify any potentially contentious stories with at least two independent sources.
27. Example 1: A reporter recently received information from a confidential source that Tariq Jahan, the father who was widely acclaimed as the man who helped end the Birmingham riots with his emotive speech following the death of his own son, had been charged with an offence relating to an alleged road rage incident. Although the reporter knew her contact was a reliable source and had never let her down previously, she had to verify the information through a second, independent source. This she eventually did through the courts and police and an article was then published in the Birmingham Mail on 7 October 2011 (see pages 12-13 of Exhibit DJB1)
28. Example 2: A confidential source tipped us off that Birmingham City Council was looking at closing five children's homes and about to serve a notice of redundancies to staff as part of new budget plans. This meant 170 jobs were under threat. The Council press office

initially said it had no knowledge of these claims, so we needed to verify the information from another source. Using contacts from a local union, we gained access to an official letter as evidence. The letter had been sent to a union official from the Council and stated that 188 notices of redundancies would be going out regarding five Birmingham Children's Homes and the Children's Escort Service. It also outlined that proposals were looking at reducing numbers of children in care placements and expanding work with the private sector instead. With the official documents giving weight to the story, the Council press office then released more information and confirmed that these plans had been proposed and would be consulted on. We then published an article in the Birmingham Mail on 12 October 2011 (see page 14 of Exhibit DJB1).

Matter 7: Awareness of an editor of sources of information

29. Matter 7 asks me to cover to what extent an editor is aware, and should be aware, of the sources of the information which make up the central stories featured in the Birmingham Mail each day (including the method by which the information was obtained).
30. Simply by the nature of the content, an editor would generally be aware of the sources of information forming the main stories of the newspaper. Court reports, council meetings, police briefings, press releases are all easily identifiable. On stories I consider contentious, or flagged up by a senior editorial executive, I will seek assurance from the reporter and/or news editor as to the authenticity of the source of information. On occasions, a reporter would wish to protect confidential sources of information and, indeed, has a moral obligation to do so within the Code. It then becomes my responsibility to make a judgement on whether to publish and I will often seek legal advice. There are rare occasions where information is received anonymously. Again, it is the editor's responsibility to take this into account when deciding whether to publish and to seek legal advice where necessary. Sometimes, in these situations, publication will be determined on whether public interest can be demonstrated.

Matter 8: Role of ethics in print media

31. Matter 8 asks me to cover the extent to which I consider that ethics can and should play a role in the print media, and what I consider 'ethics' to mean in this context.
32. Ethics can and should play a role in the print media. They are the foundation on which journalists operate and by which newspapers earn the respect of their readers. Indeed, our reputation relies on the trust we have with the public, achieved through reliability, high

standards and accountability. Articles must be fair, accurate and balanced. Journalists must operate truthfully, objectively, impartially and with integrity. There must be no discrimination on grounds of race, religion, sexual orientation or disability. They must respect the right to privacy of individuals (both private and public figures), act with sensitivity and compassion to those affected by tragedy or grief and always have regard to taste and decency.

Matter 9: Financial and/or commercial pressure

33. Matter 9 asks me to cover the extent to which I, as an editor, felt any financial and/or commercial pressure from the proprietors of the Birmingham Mail or anyone else, and whether any such pressure affected any of the decisions I made as editor (such evidence to be limited to matters covered by the Terms of Reference).
34. I have never felt any financial and/or commercial pressure from the proprietors of the Birmingham Mail or anyone else.

Matter 10: Financial incentives to print exclusives

35. Matter 10 asks me to cover the extent to which I, as an editor, had a financial incentive to print exclusive stories. I am not required to state my precise earnings.
36. I have not had a direct financial incentive to print exclusive stories. I am part of Trinity Mirror's annual Management Bonus Scheme which is dependent on a number of criteria including company profit performance, newspaper sales performance and achieving key tasks locally. As such, newspaper sales increases as a result of exclusive content could indirectly, but not solely, play a part in meeting those criteria.

Matter 11: Connection with private investigators or external information providers

37. Matter 11 asks me to cover whether, to the best of my knowledge, the Birmingham Mail used, paid or had any connection with private investigators in order to source stories or information and/or paid or received payments in kind for such information from the police, public officials, or others with access to the same. If so, I am asked to provide details of the numbers of occasions on which such investigators or other external providers of information were used and of the amounts paid to them. I am not required to identify individuals, either within the Birmingham Mail or otherwise.
38. To the best of my knowledge, the Birmingham Mail has never used, paid or had any connection with private investigators in order to source stories or information and/or paid

or received payments in kind for such information from police, public officials or others with access to the same.

39. The practice at the Birmingham Mail is not to use private investigators but to use our own journalists to investigate potential stories.

Police and politicians

40. I understand that the Inquiry is also considering the contacts and relationships between the press and the police and politicians respectively.

41. As a respected local newspaper, it is only natural that the Birmingham Mail has professional, working relationships with police and politicians and, indeed, they are the source of many stories for our journalists. On occasions, the police will ask for assistance on particular crimes and initiatives and we regularly publish Crimewatch-style photographs of suspects police want to question in relation to crimes. On a personal level, I meet police officers, police press officers and local and national politicians at functions regularly and try to maintain those relationships at follow-up meetings or events, usually at places of work. We currently have a Birmingham city councillor (who is also manager of one of the city centre's bustling areas, Broad Street) writing a regular column for the paper. He does not receive any payment. On occasions, politicians will offer to write a column or article on a particular subject and, again, they would not receive payment.

Matter 12: Protocols for private investigators and external providers

42. Matter 12 asks me, if such investigators or other external providers of information were used, what policy/protocol, if any, was used to facilitate the use of such investigators or other external providers of information (for example, in relation to how they were identified, how they were chosen, how they were paid, their remit, how they were told to check sources, what methods they were told to or permitted to employ in order to obtain the information and so on).

43. Not applicable.

Matter 13: Following protocols for external providers

44. Matter 13 asks me to cover, if there was such a policy/protocol, whether it was followed and, if not, what practice was followed in respect of all these matters.

45. Not applicable.

Matter 14: Situations where the protocol was not followed

46. Matter 14 asks me whether there are any situations in which neither the existing protocol/policy nor the practice were followed and what precisely happened/failed to happen in those situations. I am also asked what factors were in play in deciding to depart from the protocol or practice.
47. Not applicable.

Matter 15: Protocols in relation to payment of expenses/remuneration to external sources

48. Matter 15 asks me to cover the extent to which I am aware of protocols or policies operating at the Birmingham Mail in relation to expenses or remuneration paid to other external sources of information (whether actually commissioned by the Birmingham Mail or not). I am asked not to cover 'official' sources, such as the Press Association.
49. All editorial departments have an agreed budget. Actual spend compared to the budget is monitored on a weekly basis. Trinity Mirror maintains an 'Authority Listing' setting out those employees who are able to approve payments and the limit to which they can do so. It is the responsibility of the finance department to ensure that the payment has been appropriately authorised and that there is adequate supporting information.
50. Trinity Mirror's Business Expense policy details what can be claimed through expenses. It cannot be used for payment of editorial content received from external contributors, but can only be used for the reimbursement of personal expenditure incurred wholly, necessarily and exclusively in the performance of a journalist's duties.
51. On occasion, it may be necessary both to give and receive hospitality. Again, the internal policy and procedures in respect of this is set out in Trinity Mirror's Business Expense Policy. Any hospitality offered or accepted has to be modest and proportional to the occasion and of the type and scale we would offer if the situation was reversed. Client entertainment and gifts are only allowed in particular circumstances. When they are, they first need clearance from the editor. No cash gifts are allowed, gifts are generally flowers or other inexpensive items. In order for an expenses claim to be valid, the cost must be essential to the business, must be within budget, in line with cost-per-head guidelines (typically £25 per head maximum), fully receipted and include full details of people and purpose of the entertainment.

Matter 16: Payment of expenses/remuneration to external sources

52. Matter 16 asks me to cover the practice of the Birmingham Mail in relation to payment of expenses and/or remuneration paid to other external sources of information (whether actually commissioned by the Birmingham Mail or not). I am asked not to cover 'official' sources, such as the Press Association.
53. Heads of department in editorial can request payments to external sources of information for words, pictures, research, tip-offs and aspects of newspaper production, such as subbing and page planning. In addition to the head of department's authorisation, valid claims must also have the authorisation of the editor. All relevant supporting information, such as copies of published stories and pictures, also have to be included as part of the claim. The finance department will then give final approval.

Matter 17: Balancing private and public interest

54. Matter 17 asks me to cover, in respect of editorial decisions I have made to publish stories, the factors I have taken into account in balancing the private interests of individuals (including the fact that information may have been obtained from paid sources in the circumstances outlined under Matter 11 above) against the public interest in a free Press. I have been asked to provide a number of examples of these and to explain how I have interpreted and applied the foregoing public interest.
55. In balancing the private interests of individuals against the public interest, the overriding factor in my decision on whether to publish is the public's need to know. I observe the Code rigorously and interpret 'public interest' as including exposing crime or serious wrongdoing, protecting public safety and correcting or challenging misleading statements or actions of individuals and/or organisations. As the Code also points out, there is public interest in freedom of expression itself. I have set out below two examples of how this works in practice.
56. Example 1: A complaint was made to the Press Complaints Commission by Ms Sue Turner, Chief Executive of the Birmingham and Solihull Mental Health NHS Trust over an article in the Birmingham Mail and Birmingham Mail Extra headlined 'Suicide Pact' and 'Our Suicide Pact'. This is a good example of where the over-riding public interest played a significant part in my decision to publish a highly contentious story and pictures. I have attached a copy of the PCC adjudication at pages 15-18 of Exhibit DJB1. The complaint was not upheld by the PCC, which found that we had managed to balance our duty to

behave responsibly towards vulnerable individuals with the need to cover a story of important public interest.

57. Example 2: The Birmingham Mail published an article (a copy of which is attached at page 19 of Exhibit DJB1) about a homeowner who was alleged to have breached planning regulations by making alterations to an historic building without permission. The article included a photograph of the work being carried out at the property.
58. The owner complained to the PCC claiming breach of Clause 1 (Accuracy) and Clause 3 (Privacy) of the Editors' Code.
59. I have attached a copy of the PCC adjudication at pages 20-21 of Exhibit DJB1. The complaint was not upheld and the Commission decided that the remedial action offered by the newspaper was a sufficient response to the complainant. The ruling on the alleged breach of privacy was particularly interesting. Although gated, the property was visible from a public road, the complainant was not engaging in a private activity and there was a public interest in publishing.

Matter 18

60. Matter 18 asks me to cover anything else that I consider will assist the Chairman to arrive at considered conclusions on any aspect of the Terms of Reference, set out above.
61. The action of certain individuals within News International has rightly brought shame on our industry. Like many people within the newspaper industry, I was shocked by the extent of wrongdoing and disregard for public decency. I have always believed that regional newspapers are the backbone of the British press. We ride the waves of everyday life with the communities we serve. Because we live and work in these communities, we are keenly aware of our duty to them. We champion the region we serve and the people within it. We are the only media who regularly cover courts, councils, criminal investigations, who report on schools, help raise the profile of charities and campaign on issues which matter to our readers. There are times when we have to be tenacious. No newspaper exists to make life cosy for those who deserve scrutiny and we will work tirelessly to expose those that threaten to harm our community – and will continue to do so. Far from being a 'soft' option, the regional press respects and adheres rigorously to the Code. No editor wants to be rebuked by the PCC or breach the Code. And on the few occasions we do, we take steps to try to ensure we do not do so again. I believe a self-regulatory body can work, freedom of speech and expression must be preserved and censorship avoided at all costs.

Matter 19

62. Matter 19 states that, if I cannot answer these questions or take the view that they could be more fully answered by someone else, I must nonetheless provide answers to the extent that I can, and to the extent that I cannot I am asked to provide the Inquiry as soon as possible with names of those who would be able to assist the Inquiry further.
63. I have provided answers to these questions to the extent that I can. I do not believe there is anyone else within Bpm Media who can assist the Inquiry further.

Documents

64. The Notice includes a request to me to provide any policies or protocols to which I have referred above and any details or documents relating to 'expenses' paid to private investigators and/or other external sources of information.
65. As set out above, I understand that the Birmingham Mail is producing certain documents in response to a Documents Notice and that Trinity Mirror has already produced a number of documents to the Inquiry.
66. I have referred above to the following documents, each of which I understand has been or is being produced to the Inquiry by Trinity Mirror or the Birmingham Mail at the following references respectively: the Code (Category A, Tab 1: disclosed on 14/10/11); the Trinity Mirror Business Expense Policy (Category A, Tab 4: disclosed on 14/10/11); the Trinity Mirror Code of Business Conduct (Category A, Tab 2: disclosed on 14/10/11); the Trinity Mirror Regional Editorial Policy (Category A, Tab 1, due to be disclosed on 11/11/11); and the Editorials Controls and Procedures Review (Additional Documents, Tab 2, disclosed on 14/10/11).
67. I have also included in Exhibit DJB1 the Trinity Mirror Financial Dealings for Journalists Policy; copies of two published articles and documentation relating to two PCC adjudications referred to earlier in this statement.

Signed.



David John Brookes

Dated: 11th November 2011