

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

1. I am Francis George Boden Aldhouse.
2. I am a solicitor and my training and early experience was in local government.
3. In late December 1984 I was recruited by Eric Howe, the first Data Protection Registrar, to be his Deputy and I joined the newly established office in March 1985. I served as Deputy to Mr Howe, to his successors, Elizabeth France and Richard Thomas, until my retirement on 13th January 2006. In that period of almost twenty one years, during which the Registrar's post was first renamed Data Protection Commissioner and subsequently Information Commissioner, I held a variety of responsibilities, but my work came to concentrate principally on policy development, particularly at a European level.
4. I have had produced to me a copy of a statement made by Alec Owens who was formerly a Senior Investigating Officer in the employment of the Information Commissioner. I have been asked to respond to Mr Owens's statement and in particular to explain: first, my involvement in and recollection of decisions taken as a result of Operation Motorman and in particular why no criminal proceedings were brought against members of the press; secondly, my recollection of the events which Mr Owens recounts in relation to Operation Motorman and the exploitation of the evidence gained as a result of that operation.
5. I do not have in my possession or control, so far as I am aware, any documents relating to the Operation Motorman inquiry or prosecution. Since my retirement I do not have access to the records kept by the Information Commissioner.
6. I have the following remarks on Mr Owen's statement. It is correct that following the retirement of the Head of Operations and Second Deputy Commissioner in about 2001, there was a reorganisation of responsibilities in the office and the Head of Investigations subsequently reported to me. My principal task in that role was to direct the Head of Investigations in clearing up the backlog of investigations.
7. Mr Owens refers to me as Deputy Commissioner and Head of Operations. This is not correct; I never held the title of Head of Operations and the focus of my work at the time was on policy rather than operations. Perhaps he has confused me with the previous reporting arrangement to the Head of Operations who was also the second Deputy Commissioner.
8. Mr Owens refers to an informal meeting to update the Commissioner and myself on Operation Motorman. I have no recollection of that meeting although it is possible that there was such a meeting which I attended. I certainly have no recollection of the colourful intervention attributed to me, namely that I said that, "We can't take the press on they are too big for us." I do not believe I ever said anything remotely corresponding to this quotation. It does not represent my view then or now.
9. My approach to taking formal action against the media is as follows. The Commissioner has strong powers which should be used in relation to the

media with particular discretion. The Office although originally established to protect the rights of individuals to the proper processing of their personal data (rights ultimately derivable at least in part from article 8(1) of the European Convention of Human Rights) was and has to be also aware of the importance of the right to freedom of expression and consequently of the freedom of the press. The pursuit of individual journalists could have a chilling effect on those rights.

10. The criminal offences now found in section 55 of the Data Protection Act 1998 give the Commissioner the opportunity to seek criminal sanction for the knowing or reckless obtaining or disclosing of personal data. There are practical challenges in the investigation of the involvement of individual journalists in such cases in demonstrating first the degree of knowledge on the part of the individual journalist, secondly in addressing the public interest defence available to the media and thirdly, in the absence of a power of arrest, securing any co-operation from a journalist who would undoubtedly say that he does not reveal anything about his sources.

11. However, none of those considerations of principle and practicality should stand in the way of proper enforcement of the criminal law against the media particularly in relation to section 55 of the 1998 Act, the predecessor of which was enacted largely as a reaction to the intrusive behaviour of the press and the market in personal information, to which Eric Howe drew attention in his 1993 annual report to Parliament.

12. I am unable to comment on the detailed history of the Operation Motorman inquiry in the direction of which I was not involved. I believe that the investigators conducted the matter together with the Commissioner's lawyers. Mr Owens states that he and Roy Politt were informed that they were not to make contact with newspapers or journalists identified in the investigation and that this was the decision of the Commissioner. I am not aware of such a decision; I took no part in the decisions on this prosecution. I regret that because of my limited role in the Operation I am unable to help the inquiry further.

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

Francis Aldhouse

18th November 2011