

J Mulholland
7th October 2011

**LEVESON INQUIRY INTO THE CULTURE, PRACTICES AND ETHICS OF
THE PRESS**

WITNESS STATEMENT OF JOHN MULHOLLAND

I, John Mulholland, of Guardian News and Media Limited, Kings Place, 90 York Way London, N1 9GU, SAY as follows:

1. I am the editor of The Observer and have been in that role since 2008. Prior to that, I was Deputy Editor (Features) from 1998 – 2007 and from 1994 – 1998 I was Media Editor of The Guardian. Unless stated otherwise, the facts stated in this witness statement are within my own knowledge and belief. In this witness statement I refer to documents that are exhibited to this statement in an exhibit marked JM1.
2. I make this statement in response to a Notice dated 5 August 2011 served on me under section 21(2) of the Inquiries Act 2005 and the Inquiry Rules 2006, by Lord Justice Leveson, as Chairman of the Inquiry. These require me to provide evidence to the Inquiry Panel in the form of a written statement and/or to provide documents as requested in the Notice.
3. I do not waive privilege. Accordingly anything I say in this witness statement is not intended to waive privilege and should not be read as doing so. In this context I refer to paragraph 3 of Mr Rusbridger's witness statement.
4. **Q (2) How you understand the system of corporate governance to work in practice at the newspaper where you were/are employed with particular emphasis on systems to ensure lawful, professional and ethical conduct.**

The system of corporate governance at Guardian News and Media Limited ("GNM"), the publisher of the Observer, to ensure lawful, professional and ethical conduct is one based on accountability and openness. Journalists are contractually bound by the Press Complaints

Commission code as a term of their contracts of employment. There are regular briefings from the legal department including training sessions, emailed notices about complaints and reporting restrictions and a weekly newsletter. All contributors are also expected to comply with the PCC Code of Conduct. Journalists and contributors are also expected to comply with the GNM Editorial Code which imposes some significant additional requirements to those in the PCC Code.

Corporate governance takes place within a framework of the Codes, editorial meetings at different levels, responses to readers' complaints (see below), and reports to the GNM Executive Committee.

Readers have access to several channels if they have any complaints or concerns. The Observer Readers' Editor, Stephen Pritchard, deals with any concerns raised by readers about the quality of our reporting or any failure to meet ethical and professional standards. Stephen Pritchard is a board member and former President of the Organization of News Ombudsman, an international body (<http://newsombudsmen.org/>).

He has been Observer Readers' Editor since 2001, when the Observer decided to follow its sister paper the Guardian and appoint an ombudsman with the freedom to act independently of the editor. Pritchard operates within the newsroom, listening to readers' complaints and the concerns of those who appear in the paper, correcting errors in print and online and writing a column discussing and criticising the Observer's journalism. His contact details are published in every edition of the paper and are found on the front page of the Observer site.
<http://www.guardian.co.uk/observer-readers-editor>

Editorial Legal Services handles any legal complaints including those concerning breaches of privacy and defamation. Readers may also contact the editor direct.

There are a number of other GNM policy documents that set out our corporate standards, such as the Editorial Code and the annual "Living our values" report and the Anti Bribery and Corruption Policy/Bribery Act Guidance. In that regard, I have had the benefit of seeing a final draft of the statement of Alan Rusbridger, which refers to the relevant GNM editorial procedures and policies. I agree and have nothing further to add.

5. **Q (3) What your role is/was in ensuring that the corporate governance documents and all relevant policies are adhered to in**

practice. If you do not consider yourself to have been/be responsible for this, please tell us who you consider to hold that responsibility.

My role as editor is to ensure that editorial staff on the Observer know about corporate governance documents and policies and apply these principles. For example, when the latest editorial guidelines were being finalised in August 2011, Stephen Pritchard addressed the Observer news conference to introduce the new guidelines to everyone. Every reporter has an opportunity to speak with him directly. Journalists are all familiar with the Readers' Editor, whose role is described above.

As well as highlighting editorial guidelines and codes of conduct, the editor's office is also responsible for ensuring that Observer staff are aware of briefings and training given by the GNM Editorial legal department.

On a practical level, the weekly process of putting together stories for the Observer involves editorial scrutiny of journalists' reports and discussions with individuals and in news conference, as well as taking legal advice. The more delicate a story is, the more likely it will be that I or my editorial deputy will be involved in the decision making. According to circumstances this may relate both to how information is obtained as well as how it is published. More delicate stories will be referred to the legal department. There is also a broader structure of regular meetings – such as news conferences attended by senior editors - to flag up any issues that might arise in investigations and to discuss editorial practice.

6. **Q (4) Whether the documents and policies referred to above are adhered to in practice, to the best of your knowledge and Q (5) Whether these practices 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**

Yes, the documents and policies are adhered to, to the best of my knowledge. Roger Alton was the editor during the period before the Information Commissioner published his "What Price Privacy Now?" report in December 2006. Under the GNM Editorial Code, there is a procedure which reporters should follow if they intend to go undercover or use any form subterfuge (approval of a senior editor).

The Observer has had few complaints made against it to the PCC. I am aware of only one complaint that has been upheld – which was back in 1998 where there was a complaint that a journalist had lied

unnecessarily to get access to a individual. The PCC agreed that the story was in the public interest but held that the material could have been obtained without the use of subterfuge.

Another balance in the system is the Role of the Observer's Reader's Editor. Any complaints about breaches of the Editorial Code are referred to him. His role is to correct or clarify any inaccuracies in the paper in a prominent weekly column and he also writes a weekly column on any matters raised by readers or on issues raised by complaints. There is also an external ombudsman to whom matters can be referred.

7. **Q (6) Where the responsibility for checking sources of information (including the method by which the information was obtained) lies: from reporter to news editor/showbiz editor/royal editor to editor, and how this is done in practice (with some representative examples to add clarity)**

We expect reporters to have well-sourced stories based on honest and accurate information. The news editor will discuss with the journalist and will have a good sense of the nature of sources for any story which is not basic news coverage from public sources. Senior editors will regularly raise questions if there is any ambiguity or controversy about a source. If the story and its sources raise important ethical and / or legal issues then it is likely to be discussed in a roundtable meeting involving me, the Deputy Editor together with the reporter and the lawyer who is on duty at the time.

8. **Q (7) 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 your newspaper each day (including the method by which the information was obtained)**

Most straightforward news reporting raises no issues about sources. What I say below relates to stories which are more exclusive in nature and may well depend on the private sources of the reporter.

There is a relationship of trust between editor and reporter and also between the reporter and the reporter's private source, so these are sensitive matters both professionally and ethically. I would not routinely ask, and usually do not need to know, the name of a source in order to decide on whether or not to run a story. However, I will often want to know more about a source, as this is a crucial factor in determining whether or not we should run a story, and how seriously we should treat information from an anonymous source.

An editor should use his judgment on a story-by-story basis. At least, and fairly routinely, the editor (either myself or the deputy editor / news editor) would want to know about the nature of the source (eg first or second hand, position, experience) and the context within which any information was given (e.g. Might the source have an axe to grind? Is there another way to verify the source's information?) Questions of this kind are relevant in considering the story's merit and how fairly to describe an anonymous source to readers (see the GNM Code on anonymous sources). The nature and quality of the source may also be highly relevant to the prospects of a defence of Reynolds qualified privilege in a libel action.

The method of obtaining the information is important both ethically and legally. On the extremely rare occasions where undercover reporting is being considered senior editors and lawyers would discuss the ethical and legal issues. The GNM Editorial Code states that if subterfuge was to be used, it requires the approval of head of department. We would be anxious to assess the authenticity of any information and to verify any documents, as well as to determine the accuracy of the contents and how strong the public interest is in publishing any allegations. If information was given to us by a third party that had been obtained by subterfuge we would need to assess whether publication was in the public interest.

9. **Q (8) 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.**

Ethics can and should play a role in the print media. There are pressures on journalists as they prepare stories for publication - professional and competitive imperatives to place powerful and agenda-setting stories into the public domain as quickly as possible. But a good journalist should be able to produce stories under this pressure in a way that also meets high standards. The press plays a vital role in the free flow of information in a democracy, and in holding individuals and institutions to account. However with that position comes responsibilities. Failure to observe those responsibilities would rightly cause anxiety, and even disillusion, amongst our readers, who expect us to abide by appropriate ethical and moral standards.

The reputation of the Observer depends on its stories being accurate. The purpose of journalism is to report the truth, as well as to comment on it, and the trust our readers have for the Observer would soon disappear if we regularly failed to meet those standards. As with all professional standards, we occasionally fail to meet. The Readers Editor

can draw our attention to readers' complaints and criticisms, and any failures so that we can improve our journalism. There are also moral and ethical concerns that go far wider than questions of accuracy as is apparent from the PCC Code (see, for example, its provisions about children and the treatment of the bereaved). It should not be forgotten that the protection of confidential sources is also an important ethical obligation (see the GNM Code under 'Sources'). Without that safeguard, whistleblowers would not feel able to talk to journalists and the public would be deprived of important information. These professional, moral and ethical standards are set out in various codes, including the NUJ's Code of Conduct. <http://www.nuj.org.uk/innerPagenuj.html?docid=174>.

10. **Q (9) The extent to which you, as an editor, felt any financial and/or commercial pressure from the proprietors of your newspaper or anyone else, and whether any such pressure affected any of the decisions you made as editor (such evidence to be limited to matters covered by the Terms of Reference).**

I can't recall a single conversation where I have felt that commercial or financial pressure was put on me as editor, to influence editorial decisions.

Like all newspaper editors, I am keenly aware of the normal pressures of operating in a competitive market, the economic environment in which newspapers operate and the need to protect our market share. I have read the witness statement of Dame Elizabeth Forgan setting out the role of the Scott Trust and there is nothing more I can usefully add to this.

11. **Q (10) The extent to which you, as an editor, had a financial incentive to print exclusive stories (NB. it is not necessary to state your precise earnings).**

None. There is no personal financial 'reward' for publishing an exclusive story.

12. **Q (11) Whether, to the best of your knowledge, your newspaper 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, mobile phone companies or others with access to the same: if so, please 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 (NB. You are not required to identify individuals, either within your newspaper or otherwise).**

As reported in the Information Commissioner's report "What Price Privacy Now?", December 2006, the Observer had used the services of private investigator, Stephen Whittamore (JJ Services). At that time Roger Alton was editor, and I was deputy editor (features). I was not aware of the practice at the time. A copy of the press release issued by Roger Alton in response to the ICO's report has been attached by Alan Rusbridger. My understanding is that this reflects a fair summary of the position at the time. I also refer to the statement of Alan Rusbridger as to the steps then taken. No journalist has used a private investigator while I have been editor of the Observer, to the best of my knowledge. Any such use should now be cleared with me (or my deputy) in advance. To the best of my knowledge, Observer journalists have not paid or made payments in kind to the police, public officials or mobile phone companies for stories or information. I also refer the inquiry to my answer to Question 17.

13. **Q (12) What your role was in instructing, paying or having any other contact with such private investigators and/or other external providers of information.**

None.

14. **Q (13) 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).**

See my answer to Question 11 above. It will be noted that there are now relevant provisions in the GNM Code (under 'Payment') and the Anti-Bribery and Corruption Policy as attached to Mr Singer's witness statement.

15. **Q (14) If there was such a policy/protocol, whether it was followed, and if not, what practice was followed in respect of all these matters.**

See my answer to Question 11 above.

16. **Q (15) 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. What factors were in play in deciding to depart from the protocol or practice?

See my answer to Question 11 above: this does not apply.

17. **Q (16) The extent to which you are aware of protocols or policies operating at your newspaper in relation to expenses or remuneration paid to other external sources of information (whether actually commissioned by your newspaper or not). There is no need for you to cover 'official' sources, such as the Press Association.**

Yes I am aware of GNM's policy in relation to the payment of expenses and the recent Anti-Bribery and Corruption Policy. This is accessible to all staff via the intranet.

18. **Q (17) The practice of your newspaper in relation to payment of expenses and/or remuneration paid to other external sources of information (whether actually commissioned by your newspaper or not). There is no need to cover 'official' sources such as the Press Association.**

There is an expenses policy published on the intranet. Substantial Expenses would be cleared with the managing editor.

We do distinctly use non-staff contributors and freelances from time to time and whom we would pay either per article or under a contract. There is a system known as the GNM Rights Commissioning System which is used for editorial content such as for commissioned articles. We also pay the expenses of these freelances through the same system.

As well as the RCS system, we also use the Procure to Pay (P2P) system which allows us to retain the payment details for regular suppliers of external services - such as travel - who are given a unique purchase order number which allows invoices submitted by them to be paid.

We do pay small amounts known as "tip" fees for stories, generally from freelance journalists and occasionally members of the public whom we are not going to commission to write a story but who have given us an idea or information. Any such payments by staff would be reclaimed by

them using our expenses procedure, where the payee would normally be identified.

Journalists can buy drinks or meals for their contacts and they would reclaim any such expenditure through the expenses system. There are occasions where we have paid the expenses of bona fide sources, for example, hotel expenses if they are required to visit London to speak to a journalist, or travel expenses. Depending on the amount, these expenses would be checked and approved by an administrator or by the Managing Editor.

19. **Q (18) In respect of editorial decisions you have made to publish stories, the factors you 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 paragraph 11 above) against the public interest in a free Press. You should provide a number of examples of these, and explain how you have interpreted and applied the foregoing public interest.**

The reality is that we don't tend to publish stories where this issue arises. The nature of the Observer's journalism today indicates that when it does investigations, they are into matters of high public interest, but they rarely involve the private interests of individuals. Indeed no recent examples come to mind. In making editorial decisions about running stories, should they involve issues of personal privacy, we would always balance the right to privacy against the public interest and would only consider breaching someone's privacy where the public interest was high enough to justify it.

20. **Q (19) Whether you, or your newspaper (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.**

No.

I believe that the contents of this witness statement are true.


John Mulholland


Date