

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

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WITNESS STATEMENT OF MANISH MALHOTRA

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I, MANISH MALHOTRA of Independent Print Limited, 2 Derry Street, London W8 5HF, WILL SAY:

1. I am the Finance Director and Company Secretary of Independent Print Limited ("IPL"). I confirm that the contents of this witness statement are true insofar as they are matters of my own knowledge, observation and impression. Insofar as this statement covers matters not within my own knowledge, I believe them to be true.
2. There is now produced and shown to me the paginated exhibit marked "MM1" to which I will make reference in this witness statement.
3. I make this witness statement in response to the two letters sent to me in my capacity as Finance Director and as Company Secretary of IPL dated 8 August 2011 from Kim Brudenell, Solicitor to the Leveson Inquiry into the culture, practices and ethics of the press (the "Inquiry"). For ease, I have set out the questions in Ms Brudenell's letter below and respond to each question in turn. The questions broadly relate to financial governance, private investigators and external providers of information (letter to me in my capacity as Finance Director) and company documents and procedures (letter to me in my capacity as Company Secretary).
4. Nothing in this witness statement amounts to, or shall be taken to amount to, a waiver of privilege in any legal advice given.

**Summary**

5. As you will see from paragraph 8 below, I was appointed Finance Director of IPL on 29 September 2010 and Company Secretary on 30 September 2010. As such, I have no knowledge of matters prior to those dates save for in relation to documents, policies and procedures which were inherited from my predecessor. In addition, IPL purchased The Independent and the Independent on Sunday from Independent News and Media Limited ("INML") on 30 April 2010 (the "Purchase Date"). As such, my answers are limited to events, information and procedures after the Purchase Date, except where I expressly say otherwise.

6. It is not the policy or the intention of the newspapers published by IPL (The Independent, the Independent on Sunday and i, together the "Titles") to publish the types of articles which require information obtained by illegal means. They do not publish articles which seek to invade a person's privacy, nor do they make payments for information to public officials or private investigators. As such, some of the questions below are not relevant to IPL. Nonetheless, I have endeavoured to answer all of the questions to the best of my knowledge.

#### **RESPONSE IN MY CAPACITY AS FINANCE DIRECTOR**

***Question (1): Who you are and a brief summary of your career history in finance and in the media.***

7. My full name is Manish Malhotra. I qualified as a Chartered Accountant in July 1995 after training at Cansdale & Co.
8. I am currently the Finance Director and Company Secretary of IPL, positions which I have held since 29 and 30 September 2010 respectively.
9. At the present time (and since March 2009), I am also the Finance Director and Company Secretary of Evening Standard Limited, which is controlled by IPL's owners (the Lebedev family). Prior to my current roles, I was the Finance Director of the Evening Standard Division of Daily Mail & General Trust plc (between January 2006 and February 2009), Group Financial Controller of Associated Newspapers Limited (between November 2001 and December 2005), Financial Controller Investments of Associated Newspapers Limited (between June 2001 and November 2001) and Finance Manager, Group Finance at Associated Newspapers Limited (between March 1999 and May 2001). Before joining the media industry, I worked at Baker Tilly as a Business Services Manager (between January 1997 and March 1998) and as an Audit Senior (between December 1995 and January 1997).

***Question (2): How you understand the system of financial governance to work in principle and in practice at the newspapers owned by your company with particular emphasis on systems to ensure that the newspaper's funds are not used to pay bribes or to fund the gathering of information by illegal methods.***

10. Financial governance is the framework within which IPL's staff work. The framework sets out IPL's policies and its staff's responsibilities concerning the financial affairs of IPL.
11. Financial governance is extremely important to IPL and we have strict procedures in place for authorising payments, expenses and so forth. In addition, each editorial area or desk works to a tight budget which is monitored on a weekly basis and thoroughly reviewed in detail on a monthly basis. The combination of these procedures and

budgets, and the constant financial scrutiny, ensures that it would be very difficult for employees to use IPL funds to pay bribes or to fund the gathering of information by illegal methods.

12. As a rule, all payments at IPL are made by cheque, BACS or other electronic means. There are no facilities available to make cash payments and there are no petty cash floats in operation at IPL. In addition, payments must go through the authorisation procedures set out below. For reasons of brevity, please note that the procedures I have set out below are limited to the type which might fall within the scope of the Inquiry):
- (a) Casual staff payments (i.e. to those who work for IPL on an irregular basis and are not employees) – payment requests are authorised by Heads of Departments (e.g. the News Editor, Foreign News Editor, Business Editor, Sports Editor, Features Editor, Comment Editor, Picture Editor) and then forwarded to the Finance Department for further authorisation. Payments are checked and authorised by either the Financial Controller or the Senior Management Accountant to ensure that anything unusual or untoward is picked up.
  - (b) Contributions system (used for payments to freelancers, for other content such as photographs and illustrations and for tips for the Diary column) – individual payment requests are entered on to the contributions system and checked by the Finance Department. There is a sliding scale of authorisations depending on amount.
  - (c) Payments are later authorised by both the Financial Controller and the Senior Management Accountant ensuring two separate layers of authorisation.
  - (d) Expenses – expenses are reimbursed where employees incur costs in the course of their normal business activities. Expenses must be supported by valid receipts. All expenses have to be authorised by Heads of Department and all Editorial expenses (e.g. day to day costs incurred in the course of editorial activities) are authorised by the Managing Editor. They are then forwarded to the Finance Department and further authorised on a sliding scale according to value.

Currency advances are given in foreign denomination currency for trips outside of the UK but no advances are made for UK based expenses. Requests for advances must be authorised by either the Managing Editor or the Editor. When the person returns from the trip, they submit their receipts and either

claim expenses if they have spent more than the sum allocated to them or they return any unused currency. All spending has to be substantiated with receipts.

- (e) Purchase invoices – all purchase invoices (save for routine invoices such as for stationery) are authorised by the relevant Heads of Department or the Managing Editor over a certain limit. Invoices are further authorised according to value.
13. As can be seen from the above, IPL operates a series of checks and balances which ensure that its financial affairs are closely monitored. It would be very difficult for employees to use company funds without authorisation, as all expenditure has to be authorised in the manner set out above, whereby every payment is checked and authorised by at least two members of staff.

**Question (3): What your role is in ensuring that financial governance 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 and why.**

14. There are various senior staff at IPL who are responsible for ensuring that financial governance and all relevant procedures are adhered to. Those people include myself, the Financial Controller, the Senior Management Accountant, the Managing Editor, the Editor and the Heads of Department. Compliance with the procedures outlined above is ensured by all payments being pre-authorised at the appropriate level before payment is sanctioned by the Finance department. As far as I'm aware, no payments are made without the requisite level of approval.

**Question (4): Whether financial governance policies and practice (to the extent that they relate to anti-bribery measures and the prevention of funding illegal information gathering activities) are adhered to in practice, to the best of your knowledge.**

15. To the best of my knowledge, all of IPL's financial governance policies and practices are strictly adhered to in practice.
16. We are extremely rigid about compliance with IPL's financial governance policies and practices. In addition, an external audit and review of the company's books and records is carried out every year to ensure that the company complies with the existing statutory framework and accounting regulations. The last annual audit was carried out in November 2010 and a clean audit report was issued. The company's auditors also recently carried out an interim audit for 2011 and advised that there were no issues of concern to report.

**Question (5): Whether these practices or policies have changed, either recently as a result of anti-bribery laws, phone hacking media interest, or prior to that point, and if so, what the changes were and the reasons for them.**

17. The company's practices and policies have been reviewed as a result of the phone hacking revelations to ensure that the company's policies were sufficiently robust and were being adhered to in practice. No changes were found to be required as a result of the review and consequently, I would not say that anything has changed directly as a result of the media interest or the Inquiry itself.
18. Changes to our policies and procedures may happen in the near future for other reasons, such as the fact that a new Group Managing Editor has recently been appointed to work across the Titles and the London Evening Standard. The Group Managing Editor previously worked exclusively for Evening Standard Limited and he may choose to replicate some of its practices so it is possible there may be changes following his appointment. A Code of Conduct (which I mention in more detail below in my response to the letter to the Company Secretary) has recently been introduced and distributed to all staff and those working on behalf of IPL. The Code addresses the obligations of staff to comply with the requirements of The Bribery Act and has codified practices and policies, which were already in place, into one unified document.

**Question (6): The extent to which you, as a Finance Director, felt any financial and/or commercial pressure from the proprietors of your newspapers, the editor or anyone else, and whether any such pressure affected any of the decisions you made in relation to the use of the newspaper's funds to secure information for news stories.**

19. I have never felt any financial or commercial pressure from the proprietors of IPL, the editors of the Titles or anyone else in respect of any decisions in relation to the use of the Titles' funds to secure information for news stories.

**Question (7): Whether, to the best of your knowledge, the newspapers owned by your company 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 the newspapers owned by your company or otherwise).**

20. To the best of my knowledge, the Titles have not used, paid or had any connection with private investigators in order to source information or stories, nor have they paid for or received payments in kind for such information from the police, public officials or mobile phone companies. The only payments made to mobile phone companies are for ordinary usage of mobile telephones in the course of IPL's business.

21. With regards to others with access to private investigators and so forth, IPL does engage freelancers who theoretically may have access to such sources. However, for the reasons set out above in paragraph 6, I have no reason to believe that IPL's newspapers have paid freelancers for stories based on information from private investigators, the police, public officials, mobile phone companies or others with access to the same. In addition, I would expect a freelancer to claim back any money spent on obtaining information for stories as an expense (e.g. for private investigator's fees). Any such expenses would have to be approved in line with the authorisation procedures outlined above at paragraph 12 and, to the best of my knowledge, no such expenses have ever been authorised by IPL.

**Question (8): What your role was in instructing, paying or having any other contact with such private investigators and/or other external providers of information.**

22. In light of my answer to question 7 above, this question is not applicable.

**Question (9): 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).**

23. In light of my answer to question 7 above, this question is not applicable.

**Question (10): If there was such a policy/protocol, whether it was followed, and if not, what practice was followed in respect of all these matters.**

24. In light of my answer to question 7 above, this question is not applicable.

**Question (11): 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?**

25. In light of my answer to question 7 above, this question is not applicable.

**Question (12): The extent to which you are aware of protocols or policies operating at your newspapers in relation to expenses or remuneration paid to other external sources of information (whether actually commissioned by the newspapers owned by your company or not). There is no need for you to cover 'official' sources, such as the Press Association.**

26. The only policies operating at IPL which relate to the payment of expenses or remuneration to external sources of information relate to the payment of freelancers and news agencies which are already set out in response to Question (2) above. The procedures described concern authorisation and procedure for making payments.

27. There are no policies relating to other sources of information because, as set out above, IPL does not use such sources for any of its newspapers.
28. I understand that the Titles do sometimes pay for tips for stories in the diary columns (for example as to whom has been seen at what events). However, it is not IPL's policy or intention to use private information and is therefore not of the sort envisaged by the Terms of Reference.

**Question (13): The practice of the newspapers owned by your company in relation to payment of expenses and/or remuneration paid to other external sources of information (whether actually commissioned by the newspapers owned by your company or not). There is no need to cover 'official' sources such as the Press Association.**

29. Payments to freelancers, news agencies and those who provide tips for the diary column are made in accordance with the procedures outlined in relation to Question (2) above. To the best of my knowledge, no other payments to external sources of information have been or are made.

**Question (14): If you cannot answer these questions, or take the view that they could be more fully answered by someone else, you must nonetheless provide answers to the extent that you can, and to the extent that you cannot you must provide the Inquiry as soon as possible with names of those who would be able to assist us further.**

30. As mentioned above, IPL acquired The Independent and the Independent on Sunday from INML on the Purchase Date and my predecessor (who has since left IPL's employment) held the role of Finance Director of IPL between that date and my appointment on 29 September 2010. I can disclose my predecessor's identity if the Inquiry Panel considers it helpful or necessary.

#### **RESPONSE IN MY CAPACITY AS COMPANY SECRETARY**

31. All documents referred to below are enclosed at Exhibit MM1. Where commercially sensitive information is included in those documents, it has been redacted. Save for publicly available documents such as IPL's "Terms for freelance contributions" and the PCC Code, these documents are confidential and should not be disclosed to anyone outside of the Inquiry Panel without IPL's consent. I also include a brief explanation in relation to some of the materials below.
32. As mentioned at paragraph 5 above, IPL only purchased The Independent and the Independent on Sunday from INML on the Purchase Date. As such, my answers below are limited to the period since that date, save where policies and so forth that were put in place by INML are still in place.

**Request (a) – Any current training materials, guidance, practices, codes of practice, code of conduct, handbooks or policies on, or bearing upon, any of the following:**

- (a) **Sources;**
  - (b) **Use of sources**
  - (c) **Use of private detectives;**
  - (d) **Checking of sources;**
  - (e) **Payment of sources;**
  - (f) **Regulation of Investigatory Powers Act 2000;**
  - (g) **Data Protection Act 1998;**
  - (h) **Computer Misuse Act 1990;**
  - (i) **Editorial policy (limited to matters within the scope of the inquiry);**
  - (j) **Oversight of editorial policy (limited to matters within the scope of the inquiry);**
  - (k) **Editorial guidance (limited to matters within the scope of the inquiry);**
  - (l) **Editorial decision making (limited to matters within the scope of the inquiry);**
  - (m) **Compliance (limited to matters within the scope of the inquiry);**
  - (n) **Risk register (limited to matters within the scope of the inquiry);**
  - (o) **Internal Inquiries into phone hacking and/or computer hacking and/or "blagging" and/or bribery and/or corruption.**
33. I enclose at pages 1 to 9 of Exhibit MM1 a copy of relevant extracts from our Code of Conduct. This came into force in September 2011 and covers the following issues data protection, anti-bribery, standards of behaviour, payments to sources, illegal activities and compliance with the law and the PCC Code.
34. I also enclose at pages 10 to 12 of Exhibit MM1 an extract from IPL's Staff Handbook. This includes information about IPL's Data Protection and Disciplinary Policies. IPL's Disciplinary Policy provides that employees who are found to have committed acts of gross misconduct are liable to dismissal without notice and that acts of gross misconduct include "theft, dishonesty or deliberate falsification of documents"; "deliberate disobedience or persistent refusal to obey a lawful or reasonable instruction, or a serious act of insubordination"; "unauthorised use or disclosure of confidential information"; and "a serious act which breaks mutual trust and confidence or which brings or is likely to bring [IPL] into disrepute".
35. I also enclose at page 13 of Exhibit MM1 a copy of the PCC Code. The PCC Code forms an integral part of editorial practice at IPL. Our approach to the issues at the centre of the Inquiry is that our journalists are required to work within the criminal law and the PCC Code. As can be seen from the extracts from IPL's employment terms and contributor/freelance terms (see further below), non-compliance with the law and the PCC Code are taken extremely seriously by IPL. Without in any way waiving privilege in respect of legal advice given, I note that the legal team at IPL circulate copies of the PCC Code on a regular basis and are available to provide guidance and advice on Code issues and any relevant complaints/adjudications. The legal team also encourage staff to attend training sessions and organise round-table discussions and other events with the PCC, to ensure that IPL employees are fully briefed as to the requirements of the PCC Code.

36. I also enclose at page 14 of Exhibit MM1 an extract from IPL's Contributor Agreement which is signed by those of our columnists who are self-employed as opposed to being employees of IPL. Clause 14 of the Agreement covers the warranties that IPL requires each contributor to provide in relation to their work for IPL. Under clause 14.1, columnists are required to warrant that they will not breach any criminal laws (including but not limited to improper processing/disclosure of data, surveillance, harassment, trespass, bribery and any other law or regulation). Under clause 14.2, columnists must also warrant that they will comply both with the letter and spirit of the PCC Code and under clause 14.3 they must warrant that they will comply with the Data Protection Act 1998.
37. I also enclose at pages 15 to 18 of Exhibit MM1 extracts from IPL's standard Employment Contracts for editorial and commercial employees, the relevant clauses of which relate to compliance with the PCC Code and Data Protection Act, protecting IPL's interests, confidential information and performance standards.
38. I also enclose at pages 19 to 20 of Exhibit MM1 a copy of our "Terms for freelance contributions", which are also available on our website at [www.independent.co.uk/service/terms-for-freelance-contributions-759578.html](http://www.independent.co.uk/service/terms-for-freelance-contributions-759578.html). The terms provide that "Anyone who supplies material to any of our publications must ensure that their conduct and the material they submit are ethical, legal and proper". The terms also state that freelancers must comply with the PCC Code and the Data Protection Act 1998.
39. One of IPL's Non-Executive Directors, Andreas Whittam-Smith (who was a founder and former editor of The Independent), has carried out an internal review of IPL's practices which looked at some of the issues listed at sub-paragraphs (a) to (o) of requests (a) above and (b) below. This was concluded recently and Mr Whittam-Smith was satisfied that the Titles have not been involved in telephone hacking, blagging, employing private detectives or any other types of improper journalistic practices

***Request (b) – Any past training materials, guidance, practices, codes of practice, codes of conduct, handbooks or policies on, or bearing upon, any of the following (you need not go back before 1 January 2005):***

- (a) ***Sources;***
- (b) ***Use of sources;***
- (c) ***Use of private detectives;***
- (d) ***Checking of sources;***
- (e) ***Payment of sources;***
- (f) ***Regulation of Investigatory Powers Act 2000;***
- (g) ***Data Protection Act 1998;***
- (h) ***Computer Misuse Act 1990;***

- (i) *Editorial policy (limited to matters within the scope of the inquiry);*
  - (j) *Oversight of editorial policy (limited to matters within the scope of the inquiry);*
  - (k) *Editorial guidance (limited to matters within the scope of the inquiry);*
  - (l) *Editorial decision making (limited to matters within the scope of the inquiry);*
  - (m) *Compliance (limited to matters within the scope of the inquiry);*
  - (n) *Risk register (limited to matters within the scope of the inquiry).*
  - (o) *Internal Inquiries into phone hacking and/or computer hacking and/or "blagging" and/or bribery and/or corruption.*
40. IPL has no past training materials, guidance, practices, codes of practice, codes of conduct, handbooks or policies in relation to the issues set out at (a) to (o) above. The only materials which bear any relevance to those issues are the current materials referred to at paragraphs 33 to 38 above which have been in place since the Purchase Date. Any past training materials, guidance, practices, codes of practice, codes of conduct, handbooks or policies in relation to the issues set out at (a) to (o) above in place prior to the Purchase Date (which are not still used by IPL) would be in the possession and control of INML.

***Request (c) – Any disciplinary action taken by or on behalf of the company in the period 1 January 2005 to the date of this notice to enforce the company's ethical and/or professional standards in relation to journalism and/or editing and/or use of sources of information.***

41. The only action taken under IPL's procedures since the Purchase Date to enforce the company's ethical and professional standards in relation to journalism relates to the suspension of a journalist, Johann Hari, pending the outcome of an internal investigation into accusations of plagiarism against him. A statement has recently been published in relation to this, which is exhibited at page 21 of Exhibit MM1.
42. All other disciplinary actions taken relate to matters outside of the scope of the Inquiry.
43. IPL does not have access to any documents or information relating to such matters prior to the Purchase Date (save for where employees have transferred over to IPL by virtue of the Transfer of Undertakings (Protection of Employment) Regulations and there is nothing of relevance in relation to such employees). Such documents would be in the possession of INML.

***Request (d) – Any documents recording or relating to fees or expenses paid to private investigators, police, public officials, mobile phone companies or others with access to the same (you may exclude official sources such as the Associated Press but must state which official sources you are excluding) in the period from 1 January 2005 up to the date of this notice.***

44. As set out at paragraph 20 above, I am not aware of any fees or expenses having been paid to private investigators, police, public officials, mobile phone companies

(save for normal usage) or others with access to the same (save for payments for stories from freelancers whom, to the best of my knowledge, have not made payments for information to sources such as private investigators and the police etc) by IPL. As such, to the best of my knowledge, there are no documents relating to such fees or expenses. IPL does not have access to any documents relating to such matters prior to the Purchase Date (if any exist), which would be in the possession of INML.

***Request (e) – Any documents recording or relating to the payment of bonuses or other performance incentives to editors, sub-editors or journalists and/or the qualifying requirement/s for such payments.***

45. IPL does not pay performance related bonuses or other performance incentives to its editorial staff except in the rare instances of there being an obligation arising from the employment contract of a senior editorial executive. Such payments have either been guaranteed by the employment contract or have been entirely discretionary in nature and were not expressly related in size, timing or frequency to a specific performance goal or detailed indicators such as circulation, prizes or numbers of exclusive scoops for instance.

***Request (f) – Any minutes of board meetings at which matters within the scope of this inquiry were discussed in the period from 1 January 2005 up to the date of this notice.***

46. Matters within the scope of this inquiry were discussed at a board meeting of IPL on 21 July 2011. I enclose at page 22 of Exhibit MM1 an extract from the board minutes of that board meeting. Matters within the scope of the Inquiry have not been discussed at any other board meetings of IPL.

**STATEMENT OF TRUTH**

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

Signed .....

MANISH MALHOTRA

Dated 15 September 2011

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

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**WITNESS STATEMENT OF  
MANISH MALHOTRA**

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