

NI Group Limited
P. Sarma
First Statement
"PS1"
14 October 2011

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

WITNESS STATEMENT OF

PIA SARMA

(1) State who you are and provide a brief summary of your career history in the media and as a lawyer.

1 I am the Editorial Legal Director to Times Newspapers Limited ("TNL"), the publisher of The Times and The Sunday Times. I was appointed head of the editorial legal department in September 2010 and joined the department as Senior Legal Adviser in July 2009. I qualified in the jurisdiction in November 2000 and hold a current practising certificate. Prior to my joining the in-house legal department at TNL, between 2006-2009 I was a senior associate in the law firm Finers Stephens Innocent, advising and conducting media litigation on behalf of media clients including newspapers and publishers. I was an associate in the commercial litigation and arbitration department of the law firm White & Case in the period 2003 - 2006, specialising in regulatory and investigatory work, and also media work. I trained at Slaughter and May, London between 1998 and 2000, qualifying into the litigation department where I continued until 2003.

(2) What are your responsibilities as in-house legal adviser?

2 I am responsible for the in-house legal team at TNL which comprises (including me) three full time lawyers and two support staff, and employs a team of approximately 16 'night lawyers' who libel-read the two newspapers out of office hours on a freelance shift-basis. The night lawyers, who also work at other newspapers, check articles to be published in the newspapers to ensure that risk is minimised in relation to contempt, libel, privacy and other issues such as copyright.

3 The legal department advises: the Editors of the two papers, individual section editors (e.g. the editors of sections such as Business, Sport, Travel, Style etc), and individual journalists on matters relating to the content of the newspapers including the law on libel, privacy, contempt, reporting restrictions, the Data Protection Act and other statutory regulation,

including on methods of obtaining information (sometimes called "newsgathering") and the Freedom of Information Act. It also discusses application of the PCC Editor's Code of Practice with editors and journalists.

- 4 With stories which involve investigation and research (as opposed to daily reports of news such as a court report) and which are conducted over any period of time, journalists will often consult with the editorial legal department at an early stage, to advise on whether the methods used to obtain information are within the bounds of the law, whether obtaining the information or its publication will be likely to result in an invasion of privacy, a contempt, libel, or a breach of laws relating to the media including the Contempt of Court Act, the Data Protection Act, the Official Secrets Act, the Fraud Act, the Bribery Act, the Protection from Harassment Act, the Regulation of Investigatory Powers Act or the Computer Misuse Act, or of a contractual obligation to which the publisher is party (e.g. as a result of a book serialisation contract). The editorial lawyers will also be concerned with a potential breach of copyright on trademark, although in most cases these matters are referred to a dedicated in-house intellectual property team. Where an issue arises which may require a second opinion or is outside the expertise of an editorial lawyer, the department has long-standing relationships with external solicitors and barristers and will obtain advice on the matter.
- 5 The editorial lawyers will advise throughout the day on these matters and are 'on call' outside office hours to deal with issues which may arise as the paper goes to press, or immediately following publication. In addition to advising on detailed investigations which may take place over a number of days or even weeks, the lawyers are consulted on a daily basis on a variety of issues. Some examples include whether a draft of an article needs to be reworded to minimise the risk of a libel action; whether a court hearing is being held in open or closed session and whether an application can be made to attend it; whether an application can be made to vary or discharge an injunction; whether an application can be made to access court documents, whether approaching an individual for comment may put a journalist in breach of an order of the court; whether a photographer can take a photograph of an individual from a particular part of a street; whether a particular line of a story is likely to encounter significant difficulties in relation to libel and privacy and may not therefore be sensible to pursue; whether documents which have been received from a source can be used to support a story and whether extracts from them can be published; and whether the subject of a story should be contacted for comment and if so on what matters and when.
- 6 The legal department handles correspondence with solicitors who have been instructed by individuals contacted in connection with a story ahead of publication and who are concerned that there may be a legal issue. The department also deals with TNL's response to legal or other complaints made by readers or subjects of a story via solicitors. Where

possible, the legal department tries to reach a resolution of complaints without the parties resorting to litigation.

- 7 If complaints are not resolved and proceedings are issued, the legal department manages litigation if it chooses to instruct outside solicitors, or on occasion, where litigation is likely to be 'document light' and resources allow, conducts litigation by instructing counsel directly. The legal department takes its instructions from journalists and editors, with the Managing Editor and Editor having final say, having been advised, over the line that TNL wishes to take. TNL has long-standing relationships with the leading sets of specialist media chambers.
- 8 Editorial lawyers also assist with communications with the police or other authorities if the police approach the newspapers requesting evidence supporting a publication which has led to the police pursuing an investigation, or considering whether to do so - for example, when The Sunday Times published a story alleging corruption at FIFA in 2010 or the cash for amendments story, which led to the suspension of two peers. I also will deal with applications for production orders under PACE.
- 9 TNL may also become involved in court proceedings as interveners relating to the ambit of reporting restrictions or matters of open justice where the newspapers wish to ensure access to the courts or that restrictions on reporting are acceptable. Often, TNL will join with other publishers or broadcasters to do so, as in the cases of *R (Binyam Mohamed) v Secretary of State for Foreign and Commonwealth Affairs*, *Al Rawi & Ors v The Security Service*, *Joseph v Spiller*, *London Borough of Hillingdon v MN and SN* (in the Court of Protection), and *R v A (the person formerly known as Jon Venables)*.
- 10 The Times this year has, for example, also applied to the court for copies of documents relating to the story of the Foreign Office's late discovery of documents about the oppression of the Mau Mau in Kenya in the 1950s, applied to vary an order in the Court of Protection which was in its first form unnecessarily broad and insufficiently certain in its terms, and was the first media organisation to request that it could 'tweet' live from court (during a bail hearing). The interventions and engagement with the Courts are a function of the press in challenging the Courts and the Executive to ensure that the public have as much access to information as is possible, once competing interests have been considered in full and without bias. The press in this role acts as 'watchdog'.
- 11 The legal team engages with the editorial teams in dealing with and responding to PCC complaints and the lawyers are in regular close contact with the PCC for this purpose. Each of the lawyers in the team is on the distribution list for the Press Association, the Attorney General's advisory warnings list, the Scottish Courts Service, and the PCC notifications which are sent from the PCC about members of the public expressing concerns about media attention. The Press Association also circulates notices about

applications for Family Division or Court of Protection injunctions which will be made or orders which have been made, through its 'CopyDirect' service.

- 12 The department communicates notices received, including of injunctions, to all staff and freelancers. The purpose of this is to ensure that court orders are abided by and to encourage journalists to seek legal advice if they are aware that an injunction is continuing or that guidelines have been issued, for example concerning a forthcoming trial and a section 4 order under the Contempt of Court Act.
- 13 The legal department organises training for the newsrooms on changes to the laws governing content of newspapers. These are scheduled in response to requests from journalists for updates in the law, as refreshers, or to communicate new legislation or guidelines. I am also responsible for ensuring that the members of the editorial legal department attend external training. Examples of training sessions include a workshop on the law affecting bloggers, the use of social media by journalists to obtain information, updates on the law relating to bribery, the law relating to undercover journalism, and a workshop on the application of the Freedom of Information Act.
- 14 The legal team also monitors changes and developments in the law affecting publication and responds to Government or industry-led consultations on proposals for reform. I sat on the Jack Straw working group for libel reform on behalf of the Editor of The Sunday Times, and took part in the consultation by the Ministry of Justice on the draft Defamation Bill. I also sit on the steering committee of the Media Lawyers' Association (the MLA), the industry body comprising in-house lawyers of publishers and broadcasters.
- 15 Finally, I provide information on risk management and finance and cost arising from the conduct of litigation to the finance department and the Chief Financial Officer of NI Group Limited ("NI"), as appropriate. I also keep the NI Director of Legal Affairs informed as to progress in litigation and any issues which management should be aware of, such as an imminent trial or settlement. Before July 2011 I provided updates on ongoing litigation and financial provisions to the NI Legal Manager, to pass upwards to management.
- (3) **Have you ever been asked to advise upon the legality of methods of obtaining information including (but not limited to) phone hacking, computer hacking and "blagging"? If so, please give the best particulars that you can about who sought the advice, when, in what context and the advice that you gave.**
- 16 I have never been asked to advise on the legality of phone hacking or computer hacking, i.e. whether or not it is illegal to access voicemails or intercept telecommunications or to access computer material without authorisation.
- 17 I have been asked to advise on matters including:

- (i) whether accessing information contained in links or emails provided to journalists on a confidential basis would be an offence under the Computer Misuse Act;
 - (ii) methods of obtaining information by subterfuge and/or going undercover, including the use of false names in undercover investigations;
 - (iii) whether covert recording or filming is permitted and the difference between recording communications and intercepting;
 - (iv) the use of information obtained from confidential sources;
 - (v) the obtaining and disclosure (by publication) of private information and issues of breach of confidence and the Data Protection Act; and
 - (vi) whether it is appropriate to make payments for information.
- (4) **What training, guidance and policies have been provided to you by your employer in order to enable you accurately to advise upon the legality of methods of obtaining information (including keeping up to date)? Do you consider that it has been adequate?**
- 18 I hold a current practising certificate and satisfy the requirements for continuing professional development. As the head of department I am expected to attend conferences and training seminars which provide suitable updates in the law pertaining to my practice. I frequently present at conferences on the laws regulating the media and publications. I am also responsible for the training given to newsrooms on changes in the law, and to ensure that members of my department are up to date with their training. I provide updates to the Editors on the law directly. I am expected to be a specialist in the area of law I practise in and ensure that I receive updates by email from law firms with whom the department has working relationships, and from relevant websites and publications. I consider that my continuing training is adequate. I also am able to and do instruct external solicitors and counsel in relation to matters on which specialist advice is required, which have not been encountered before or which relate to a complex matrix of facts.
- (5) **Have you ever been asked to advise upon the legality of paying public servants (including police constables) for information either in cash or kind? If so, please give the best particulars that you can about who sought the advice, when, in what context and the advice that you gave.**
- 19 I have never been asked to advise on the legality of paying public servants including police constables for information, either in cash or kind.
- (6) **What training, guidance and policies have been provided to you by your employer in order to enable you accurately to advise on issues of bribery and corruption? Do you consider that it has been adequate?**

- 20 Part of my role as head of department is to ensure that I am trained on laws and guidance which impact on the workings of the newsroom, that my colleagues in the department are trained and that any changes or development in the law are communicated to journalists by way of in-house seminars or updates. Preparation for rolling out that training requires me to ensure that I am fully informed about new legislation such as the Bribery Act 2010. I consider that my access to information about the new Act has been adequate and will continue. I also have access to specialist advice by way of solicitors in the criminal field and specialist counsel in relation to any matters relating to bribery or corruption. I have given workshop seminars to both newsrooms on the Bribery Act 2010.
- (7) **Have you had input into any internal inquiry into phone hacking, computer hacking, "blagging" or bribery or corruption? If so, please describe the same, setting out your role and the outcome.**
- 21 I have had no input into any internal inquiry into phone hacking, computer hacking, "blagging" or bribery or corruption.
- (8) **Explain how you understand the system of corporate governance to work in practice at The Times and The Sunday Times with particular emphasis on systems to ensure lawful, professional and ethical conduct.**
- 22 The newsroom is headed by the Editor who has ultimate responsibility for the content of the newspaper, how stories are obtained and what is published. Decisions made as to the stories that are pursued, the manner in which they are presented and the way they are defended should they be challenged in law, through the PCC or by a reader ultimately rest with the Editor. The Editor is assisted by his Managing Editor and the Deputy Editor. On individual stories, journalists discuss the subject matter of a story and as far as I am aware, update their head of desk as to the progress in pursuing a story and on the methods obtained. Journalists on the home newsdesk will report to the Managing Editor (Home News) and the News Editor on The Sunday Times and to the Head of News or Deputy Editor on The Times. On other sections of the papers (such as Business or Sport) a similar structure is in place. Regular meetings take place to discuss the development of stories. The discussions and the reporting lines are the key ways in which checks are made on how the journalists conduct themselves. Section editors are experienced journalists who expect high levels of professionalism in their staff.
- 23 Journalists are expected to consult the in-house lawyers where legal issues come into focus. They will often do so of their own accord, or on the advice of a section editor. I or another editorial lawyer will discuss the issues raised with the journalist (see my answer to question 9 below). If I am of the view that the risk in the story is significant, I will notify the section editor and we will discuss the matter further, often with the Editor in the case of an important article or particularly contentious issue.

- (9) What is your role in ensuring that the corporate governance documents referred to above and all the relevant policies are adhered to in practice? If you do not consider yourself to be responsible for this, please tell us who you consider to hold that responsibility.
- 24 My role as legal adviser is to ensure that the newsroom is trained and advised as to the risk of breaking the law in newsgathering, prevention from publication by an injunction in the run-up to publication, or being sued or reprimanded after publication. Both the PCC Code and the law are taken very seriously. Ensuring that these checks are in place contributes to the high standard of articles which the titles publish and is part of the system of checks and balances which the journalists have to work with. The law states that "responsible journalism is the point at which a fair balance is held between freedom of expression on matters of public concern and the reputations of individuals. Maintenance of this standard is in the public interest and in the interest of those whose reputations are involved. It can be regarded as the price journalists pay in return for the privilege" (*Bonnick v Morris* [2003] 1 AC 300).
- 25 The libel, privacy and contempt laws themselves are all a form of regulation of the press. European jurisprudence has repeatedly emphasised the protection of freedom of the press, as speech which is directed to inform public debate. The main defences available in defamation are of proving the truth of an article, defending the article by qualified privilege or by fair comment. Review of the article before publication can involve discussions with a journalist as to whether he/she can prove its truth, and if so on what basis. With many stories, the truth of a matter may be in doubt because of conflicting evidence, but a decision to publish will be taken on the basis that the questions raised are in the public interest and a responsible report can - and should - be made. In particular, with a public interest story I will have in mind the availability of a *Reynolds* defence in libel and would question the journalist as to how he has tested the credibility of his sources, searched for corroboration of evidence, obtained documents and assessed whether they are genuine, and approached the subject for comment and taken the response into account. This contributes to the rigour with which a journalist's conduct is scrutinised at the newspapers. Editorial judgement is constantly exercised and debated and "weight should ordinarily be given to the professional judgment of an editor or journalist in the absence of some indication that it was made in a casual, cavalier, slipshod or careless manner" (Lord Bingham in *Jameel v WJSJ*).
- 26 Reviewing the risk of a privacy action or an application before publication for an injunction restraining publication includes a review of breach of confidence, the balancing of articles 8 and 10 of the European Convention on Human Rights, and discussion of the public interest. Review of images or audio visual material will also require discussion of consent, access, terms and conditions of interview and - if the image has not been taken by a staff photographer or agency - of who has provided the image and how it has been obtained.

- 27 In many instances contentious stories will be challenged post publication either through solicitors or via the PCC. If the journalists have been thorough in their work before publication there is a greater chance that those complaints may come to nothing although highly contentious stories may result in litigation even if an article is accurate, true and on a subject matter which is in the public interest. All legal complaints received after publication of a story are notified to the relevant head of section and the Editor as well as the journalist who has written the article. If an article is defamatory, the journalist, section editor and the Editor will discuss with me whether a defence can and should be made out. There is thus considerable pressure for reports to be accurate and legal and PCC complaints are taken very seriously. The Editors of both newspapers will stand by their journalists and the journalism if a complaint has been made, there are no inaccuracies in the article and there is a defence available which has a reasonable prospect of success. However, if inaccuracies are found, a decision is taken as quickly as possible to apologise, correct the article online and often to publish a correction where appropriate. Journalists working for both titles understand that inaccuracies must be avoided. There have been instances where corrections published in relation to articles provided by commissioned freelancers have resulted in a decision being made that the freelancer will not be used in the future.
- 28 Neither The Times nor The Sunday Times has had a privacy action issued against them since 2007. There have been two adverse adjudications by the PCC in the last two years at The Sunday Times, and none against The Times. PCC complaints are dealt with by senior editorial staff - the Corrections Editor on The Times, and the Ombudsman on The Sunday Times, sometimes together with the legal team.
- 29 Advising on investigative journalism requires a sharp focus on the many factors which might be considered by the Courts in the event of a legal action. Reporting wrongdoing - legal or ethical- in public figures, those vested with the power of the State, or those simply with money and what they may see as a high profile reputation to be zealously guarded, inevitably carries with it high risk of legal action. Ensuring that investigative journalists are able to carry out a "searchlight" function in society involves advice on use of subterfuge, and careful consideration of a public interest defence. "The press discharges vital functions as a bloodhound as well as watchdog" (*Reynolds v Times Newspapers Ltd* [2001] AC 127).
- 30 Part of my role is also to ensure that the standards which are required by law but which require a subjective judgement, are not enforced to the extent that publication is fettered. Newspapers fight a constant battle with those who have the financial resources to retain lawyers and who wish for information on wrongdoing to be suppressed and not brought into the public domain.
- (10) Are the documents and policies referred to above adhered to in practice, to the best of your knowledge?

- 31 The PCC Code is regularly referred to and the system of constant checking, discussions, and reporting to senior editorial staff is adhered to and the newspapers would not be able to function without it.
- (11) **Have these practices changed, either recently as a result of the phone hacking media interest or prior to that point, and if so, what were the reasons for the change?**
- 32 Following the media interest, there has been a move to noting discussions where possible on the use of subterfuge and consideration of the public interest and any decision to make a payment for information. While these discussions have in my time as a lawyer at TNL always taken place, in many cases they were not documented, partly because of the pressure of time. Now, the proposal is recorded along with a minute of the decision and, where taken, the legal advice given.
- (12) **Where does the responsibility for checking sources of information (including the method by which the information was obtained) lie: from reporter to news editor/showbiz editor/royal editor to Editor, and how is this done in practice (with some representative examples to add clarity)?**
- 33 Journalists are expected to check that their sources are credible by seeking documentary and other evidence to support the evidence of the principal source. Journalists are also expected to be able to justify why their sources are credible and what has been done to test that credibility to their head of section and if necessary to the lawyers (in the circumstances above) and the Editor. The right to protect the identity of a confidential source is always respected, but the nature of the source will be tested by the lawyers and heads of section. In some cases the Editor will discuss the nature of the source with a journalist. Knowing the exact identity (i.e. name) of a source is often not necessary or important in order to assess its strength. Instead, a lawyer or editor will discuss the source's role and function in the factual matrix, whether the source may be conflicted, may have an axe to grind, may have a motive to come forward, or any other matter which would affect his or her credibility. Discussions will not go so far as to reveal matters which by way of jig-saw identification will tend to identify a confidential source. Protection of the identity of a confidential source is important as otherwise sources may not contact the press. In some cases the security or safety of a source may be at risk if their identity becomes known. Sometimes a journalist or the newspaper might agree with a source not to divulge his or her identity other than if ordered by the court. Section 10 of the Contempt of Court Act is designed to protect the freedom of the press by protecting sources unless disclosure is "necessary in the interests of justice or national security or for the prevention of disorder or crime". In the case *Financial Times v UK*, the ECHR said, "...protection of journalistic sources is one of the basic conditions for press freedom. Without such protection, sources may be deterred from assisting the press in informing the public on matters of public

interest. As a result, the vital "public watchdog" role of the press may be undermined and the ability of the press to provide accurate and reliable reporting may be adversely affected".

34 The section editor or Editor will make a decision as to whether or not naming a source in an article is likely to undermine the credibility of an article. Clearly, the more people who are aware of a source, the more likely it is that, in the atmosphere of a newsroom, where information is key, confidentiality may be breached. If I am uncertain as to how a story has been obtained, I will ask a journalist, although I do not expect that journalist to share the identity of the source with me. If I have concerns about the credibility of a source I will raise this with the section editor and if necessary the Editor.

(13) **To what extent is and should an editor be aware of the sources of information which make up the central stories featured in The Times and The Sunday Times (including the method by which the information was obtained)?**

35 Section editors are expected to be able to explain to the Editor if asked why a story is reliable. To that extent, the Editor may be aware of the type of source in major stories. I understand that in some cases the identity of a source will be disclosed to the Editor although I have never been present at such a discussion where this has happened. To achieve accuracy the method by which the information is obtained will often be discussed with a section editor as it can impact on whether a story will stand up to scrutiny.

(14) **To what extent do you consider that ethics can and should play a role in the print media? What do you consider "ethics" to mean in this context?**

36 Ethics can, should and do play a role in the print media. Ethics underpin the moral standard of behaviour and conduct of the journalist, the Editor and the newspaper in finding, researching and publishing information to the public and they require a constant re-evaluation of the purpose for which a story is being pursued, its impact, and its veracity. As laws reflect society and therefore change to do so, so must the press re-evaluate itself. Newspapers are accountable to the public, the Courts and the authorities. The interplay between these powers clearly is essential to a democracy and the undermining of the ethics of any part of that system is a threat to society. If a newspaper's ethical standards fall below that which the public expects, its credibility is undermined and it would no longer be able to serve its purpose. A newspaper would be unable to defend a libellous story on a matter of significance as any defence requiring responsible conduct (such as that considered under the *Reynolds* defence) would be undermined. Linked to this is the need to assess whether the newsgathering techniques employed are lawful. The titles would find it difficult to defend a report which is challenged by an individual if the techniques are likely to be scrutinised and found to be unlawful. There is no gain in engaging in illegal methods if the result of such conduct may not be published or its publication defended, and there is no public interest in misinformation. Ethics also play a role in the decision made

as to what is in the public interest. That this decision is the ultimate responsibility and judgement of the Editor of a newspaper is fundamental to the freedom of the press, as has been recognised in case law.

(15) To what extent do you, as a legal adviser, feel or have you felt any financial and/or commercial pressure from the proprietors of your newspapers or anyone else? Has any such pressure affected any of the decisions you made as legal adviser?

37 Part of my role is to minimise risk to the newspapers. Defending legal actions is an expensive process whether in libel or otherwise. If the risk of legal action is minimised, costs to the business are reduced. It is therefore imperative that a pragmatic approach is taken to the risk of running a story which cannot be defended. The decision to risk expensive legal action is one which is taken by the Editor on my advice. If a defence can be raised, then the newspaper will strive to defend its journalism and to develop the law affecting the press where possible, and will not be thwarted simply by the threat of cost. However there are occasions where the cost of a trial may mean that early settlement is considered. In libel actions TNL has for some years supported the use of a process by which a dispute over the meaning of an article is resolved early – often before proceedings are issued - in order to avoid the cost of engaging in litigation if possible. The use of conditional fee arrangements in libel actions has increasingly put additional pressures on editors in considering whether to settle matters early.

(16) To what extent do you have a financial incentive for The Sunday Times or The Times to print exclusive stories?

38 There is no financial incentive to me in the newspapers printing exclusive stories and my salary is fixed. I am eligible for an annual standard bonus under a company wide scheme, which is unrelated to the content of the newspapers.

(17) To the best of your knowledge, have The Sunday Times or The Times, 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 number of occasions on which such investigators or other external providers of information were used and of the amounts paid to them.

39 I understand that The Sunday Times has used and paid external researchers who might be termed private investigators to obtain information but I have never been involved in the decision making process to do so. I am not aware of any recent use of the same type of providers at The Times, which I believe only uses search agents with access to publicly available databases occasionally. I am not aware of any payments to police, public officials, mobile phone companies or others with access to the same, whether in kind or otherwise.

- (18) What was your role in instructing, paying, advising on or having any other contact with such private investigators and/or other external providers of information, including advising on any of these activities?**
- 40** I have never had any role in paying or advising on the activities of private investigators and/or other external providers of information. I have recently been asked to review the contractual terms on which external providers of information are retained to ensure that compliance with the PCC Code and lawful and ethical conduct are terms of contract.
- (19) If such investigators or other external providers of information were used, what policy or 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)?**
- 41** My understanding is that such private investigators and/or other external providers of information have been used on the clear understanding between them and the reporters who had primary contact with them that they should act within the confines of the law and in accordance with the PCC Code. However, I do not have first hand knowledge of the arrangements.
- (20) If there was such a policy or protocol, was it followed, and if not, what practice was followed in respect of all these matters?**
- 42** To the best of my knowledge the expectation that external providers of information must act within the confines of the law and in accordance with the PCC Code has always been followed but I do not have first hand knowledge of the arrangements.
- (21) Are there any situations in which neither the existing protocol/policy nor the practice were followed and if so, what precisely happened or failed to happen in those situations? What factors were at play in deciding to depart from the protocol or practice?**
- 43** I am not aware of instances where the usual practice has not been followed.
- (22) To what extent are you aware of protocols or policies operating at The Sunday Times and The Times in relation to expenses or remuneration paid to other external sources of information (whether actually commissioned by those newspapers or not)?**
- 44** I am not involved in the process by which expenses or remuneration are paid to external sources of information. The process is, I understand, overseen by the Managing Editor's office via the newsdesk. I am aware that expenses are signed off by section heads and then passed on to the Managing Editor's office for approval. Since the implementation of

the Bribery Act 2010 this system has been reviewed to ensure that the decisions for payment are documented.

(23) Have you, or The Sunday Times or The Times (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?

45 Neither I nor to the best of my knowledge the newspapers have ever used or commissioned anyone who used computer hacking in order to source stories or for any other reason. I am aware of one incident shortly before I joined the legal department at The Times where there was a concern that a journalist on the paper had accessed information on a third party's computer without authorisation. I understand that the individual received a formal written warning and was subsequently dismissed for an unrelated issue. It is quite clear to me that this conduct is considered unacceptable at both newspapers.

(24) Documents

46 I deal with the document requests that were made in my section 21 notice below:

(i) *Any in-house training documents, policies, protocols, handbooks, guidance, code of conduct, or practice relating to your role as an in-house adviser*

There are no such documents specifically relating to my role as in house legal adviser. I understand that copies of a number of policies have been included in a bundle provided to the inquiry on behalf of NI.

(ii) *My job description and/or the person specification for my role*

A copy of my job description is attached to this statement as exhibit "PS1".

(iii) *Any document containing communications between me and private investigators in the course of my employment*

There are no such documents.

(iv) *Any document containing communications between me and the editor, sub-editor or any journalist concerning the legality of any method of obtaining information including (but not limited to) phone hacking, computer hacking and "blagging"*

There are no documents containing communications between me and editorial staff (including journalists) concerning the legality of obtaining information by phone or computer hacking. I have outlined in paragraph [17] above the types of circumstances in which I have advised on newsgathering methods. The substance of the advice given by me is privileged and TNL does not wish to waive that privilege at this time.

- (v) *Any document requesting my advice or containing advice from me concerning the payment in cash or kind of public officials (including police officers) for information*

There are no such documents.

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

Signed

Dated14.10.11.....