

<p>1 2 (2.00 pm) 3 MR JAY: Mr Chapman, were you involved in the settlement of 4 Mr Mulcaire's case? 5 A. Yes, I was. 6 Q. Could you help us, please, with what the amounts 7 involved were there? According to Mr James Murdoch's 8 letter to the Select Committee, approximately £246,000 9 was paid to Mr Mulcaire's lawyers; is that correct? 10 A. I don't have any first-hand knowledge of that. That 11 would be a matter for Mr Crone. 12 Q. But the letter suggests that there those were payments 13 paid on a continual basis until 20 July 2011, when they 14 ceased. Are you aware of that? 15 A. May I just perhaps say that that looks to me, but 16 I can't be definitive, like this issue of payment of his 17 legal fees by News Group Newspapers. His legal fees, 18 I understand, were paid by News Group Newspapers Limited 19 during the litigation, and that has ceased relatively 20 recently, but I don't have any details of that 21 arrangement. 22 LORD JUSTICE LEVESON: It's subject to argument if not 23 today, certainly yesterday. 24 A. Yes, it was, sir. 25 To go back to the employment position, I understand</p> <p style="text-align: center;">Page 1</p>	<p>1 Farrers took that view as well. 2 Q. Yes. Was the reasoning process which led to alighting 3 upon a settlement figure for Mulcaire more or less the 4 same as that which applied to Mr Goodman? 5 A. Yes. 6 Q. Namely: we need to limit the reputational harm? 7 A. Yes. And I think to have done one without the other 8 would have been strange, given the circumstances 9 surrounding both of them. 10 Q. Thank you. In relation to another case, 11 Mr Max Clifford's case, were you involved in some of the 12 internal discussions concerning his case? 13 A. I was, yes. 14 Q. Were you made aware of Mr Silverleaf Queen's Counsel's 15 opinion of 3 June 2008? 16 A. No, not that I'm aware of, no. 17 Q. Can I ask you, please, a little bit more about 18 discussions you may have had with Mr Crone, that when 19 you were investigating Mr Goodman's assertions, as put 20 forward in his letter of 2 March 2007 -- 21 A. Yes. 22 Q. -- I think you told us that Mr Crone and/or Mr Myler had 23 carried out, in your words, "extensive interviews" of 24 the other journalists involved; is that correct? 25 A. I think it was Mr Cloke, the head of human resources, to</p> <p style="text-align: center;">Page 3</p>
<p>1 that the question -- sorry, but it's -- I think the 2 aggregate amount paid to him by way of settlement was in 3 the order of £80,000. 4 MR JAY: And does that break down 70,000 compensation, about 5 10,000 costs, more or less? 6 A. I think it breaks down, really, to a mixture of notice 7 under his contract and the usual compensatory award 8 equivalent. 9 Q. Mr Mulcaire was an independent contractor, wasn't he? 10 A. Not in my view, Mr Jay, no. 11 Q. You thought, is this right, that there was a risk that 12 the employment tribunal would say that he was employed 13 rather than self-employed; is that correct? 14 A. When the matter first came to my attention, which was 15 probably April 2007, I hadn't realised what the 16 relationship with Mulcaire was. Mr Crone passed me some 17 papers which he had received from Mr Mulcaire's lawyers, 18 an exchange of emails and correspondence, which 19 indicated that it was rapidly becoming an employment 20 claim, and that a claim of employment status was to be 21 made. 22 When I analysed the position, based on the usual 23 parameters, mutuality of obligation, control, right of 24 substitution, it looked very much to me like Mr Mulcaire 25 was an employee, and I understand that subsequently</p> <p style="text-align: center;">Page 2</p>	<p>1 whom the appeal letter of 2 March was addressed, who 2 carried out those interviews accompanied by Mr Myler. 3 Q. Was Mr Crone, though, involved in those interviews? 4 A. I'm not aware that he was, but that would be a question 5 for Mr Myler or Mr Cloke. 6 Q. Did you have discussions with Mr Crone about the merits 7 of Mr Goodman's claim? 8 A. I do not recall having any discussions about the merits 9 of his claim, no. 10 Q. Did you have any, to be more precise, discussions about 11 the one rogue reporter defence, which was 12 News International's public line? 13 A. No, I did not. 14 Q. May I ask you whether you had a view as to whether that 15 public line was correct? 16 A. I wasn't as closely involved, obviously, because of my 17 role on the corporate commercial side, so I didn't 18 really know about what had been happening. When the 19 arrests were made in August 2007, it was a complete 20 surprise to me. I have to say that my own view is 21 I knew there was rumours and I'm obviously aware of what 22 was said in sentencing. When it came to my attention 23 subsequently, that would be some time later, years 24 later, that there were allegations that it went beyond 25 them, I was very disappointed and a bit surprised,</p> <p style="text-align: center;">Page 4</p>

<p>1 I have to say.</p> <p>2 Q. Are you able to assist the Inquiry as to the culture</p> <p>3 within News International, in particular the news desk,</p> <p>4 in any way which might assist?</p> <p>5 A. I would love to be able to help the Inquiry, but I'm</p> <p>6 afraid to say it was outside my area of experience.</p> <p>7 LORD JUSTICE LEVESON: If you were thinking about</p> <p>8 employment-related issues, were you concerned by "What</p> <p>9 price privacy?"?</p> <p>10 A. I looked at "What price privacy?" after I arrived there,</p> <p>11 and I think it was because it was mentioned in CMS</p> <p>12 Select Committee proceedings in 2009. I didn't have</p> <p>13 anything to do with it at the time. But I did look at</p> <p>14 it then but I didn't have any -- I wasn't asked to</p> <p>15 advise on it or anything. I looked at it for my own</p> <p>16 edification, really, because it had been mentioned and</p> <p>17 it was obviously a very interesting investigation.</p> <p>18 MR JAY: Were there any compliance issues which you felt</p> <p>19 arose from the Information Commissioner's reports?</p> <p>20 A. Not that I was aware of in my particular sphere of</p> <p>21 responsibility.</p> <p>22 LORD JUSTICE LEVESON: Well, you've made it clear that you</p> <p>23 were only concerned with the commercial and not the</p> <p>24 editorial.</p> <p>25 A. That's correct, yes.</p> <p style="text-align: center;">Page 5</p>	<p>1 assumed it was Mulcaire-related concerns.</p> <p>2 MR DAVIES: Yes. As I say, there's no doubt that they were</p> <p>3 subject to enquiries by Mr Mulcaire.</p> <p>4 LORD JUSTICE LEVESON: Thank you. I have no further</p> <p>5 interest in the names. Thank you.</p> <p>6 MR COLIN MYLER (sworn)</p> <p>7 Questions by MR JAY</p> <p>8 MR JAY: Mr Myler, please sit down and make yourself</p> <p>9 comfortable. We have provided you, I'm afraid, with</p> <p>10 quite a lot of material. Could you provide us, please,</p> <p>11 with your full name?</p> <p>12 A. Colin Joseph Thomas Myler.</p> <p>13 Q. Thank you. You've given us or provided us with three</p> <p>14 witness statements. If I could ask you to open up your</p> <p>15 first file, can we just identify those statements?</p> <p>16 A. I don't appear to have file 1, unless this is file 1.</p> <p>17 It's not marked.</p> <p>18 Q. It's not big enough to be file one. We might have to</p> <p>19 provide you with another one.</p> <p>20 A. I have two 3s. Unless this is 3 inside and 3 on the</p> <p>21 outside and 3 on the inside.</p> <p>22 Q. It's a different 3, I can see that. We might have to</p> <p>23 provide you with a separate file 1.</p> <p>24 LORD JUSTICE LEVESON: For the purpose of the present</p> <p>25 exercise and to make progress, let Mr Myler use mine.</p> <p style="text-align: center;">Page 7</p>
<p>1 MR JAY: Thank you very much, Mr Chapman.</p> <p>2 A. Thank you, Mr Jay. Thank you, sir.</p> <p>3 LORD JUSTICE LEVESON: Thank you.</p> <p>4 MR JAY: The next witness is Mr Colin Myler.</p> <p>5 LORD JUSTICE LEVESON: Very good. When are we going to hear</p> <p>6 back or have we heard back from Mr Pike?</p> <p>7 MR JAY: We haven't yet. We are chasing it.</p> <p>8 LORD JUSTICE LEVESON: Thank you.</p> <p>9 MR JAY: Maybe before Mr Myler arrives, Mr Rhodri Davies can</p> <p>10 help us with Mr Silverleaf's advice.</p> <p>11 LORD JUSTICE LEVESON: Yes, Mr Rhodri Davies.</p> <p>12 MR DAVIES: It was the point on paragraph 6, sir. As</p> <p>13 I said, the redacted part refers to the names of two</p> <p>14 individuals. Those individuals were undoubtedly the</p> <p>15 subject of enquiries by Mr Mulcaire.</p> <p>16 LORD JUSTICE LEVESON: Thank you. That's what</p> <p>17 I anticipated. Thank you.</p> <p>18 MR DAVIES: Their surnames, it's fair to say, also appear in</p> <p>19 the Motorman database.</p> <p>20 LORD JUSTICE LEVESON: That doesn't surprise me either.</p> <p>21 MR DAVIES: But we believe that those references are in fact</p> <p>22 to different people with the same name.</p> <p>23 LORD JUSTICE LEVESON: Oh, I see. All right. But the</p> <p>24 important thing was, as Mr Jay and indeed I read the</p> <p>25 advice, without knowing the bracketed part, I had also</p> <p style="text-align: center;">Page 6</p>	<p>1 I don't think it's marked. The only flags you'll find</p> <p>2 are the flags to the other two statements which don't</p> <p>3 follow on, they're at different parts of the file.</p> <p>4 A. Thank you very much.</p> <p>5 LORD JUSTICE LEVESON: You'll see quite clearly where they</p> <p>6 all are.</p> <p>7 A. Thank you.</p> <p>8 LORD JUSTICE LEVESON: Right.</p> <p>9 MR JAY: Mr Myler, under tab 1 --</p> <p>10 A. Sorry, hang on. No, this is volume 1, I'm sorry. Yes?</p> <p>11 Q. -- you'll see, I hope, your first witness statement,</p> <p>12 which is dated 30 September 2011. There's a statement</p> <p>13 of truth at the end and you signed it, so is this your</p> <p>14 truthful evidence?</p> <p>15 A. Yes.</p> <p>16 Q. Under tab 3 --</p> <p>17 LORD JUSTICE LEVESON: They're not tabbed, but by the first</p> <p>18 yellow tab.</p> <p>19 A. Yes.</p> <p>20 MR JAY: -- you'll see your second statement. I don't know</p> <p>21 why I'm blessed with tabs and others are not. I'm in</p> <p>22 a highly privileged position, I can see.</p> <p>23 A. This doesn't appear to be signed, but I'm sorry if I</p> <p>24 didn't sign --</p> <p>25 Q. Don't worry about that. Subject to that, is that your</p> <p style="text-align: center;">Page 8</p>

<p>1 second statement with a statement of truth, which you 2 will adopt as your evidence? 3 A. Yes. 4 Q. And then there is a third statement, which probably has 5 another yellow sticker, a little bit later on, dated 6 2 December; is that right? 7 A. Yes. 8 Q. Thank you. I'm going to ask you some questions on your 9 first statement first, a good place to start, and with 10 your history in journalism, you tell us that you have 11 been or you've had a career in journalism for 40 years; 12 is that right? 13 A. Yes. 14 Q. You have been editors of at least one newspaper before 15 going to the News of the World in 2007; is that correct? 16 The Daily Mirror and then the Sunday Mirror? 17 A. Yes. 18 Q. And then you went to the News of the World from the 19 New York Post in January 2007 to replace 20 Mr Andy Coulson; is that correct? 21 A. That's correct. 22 Q. Can I ask you, please, about your leaving the 23 Daily Mirror, which I think was in 2001? 24 A. Sunday Mirror. 25 Q. Pardon me?</p> <p style="text-align: center;">Page 9</p>	<p>1 LORD JUSTICE LEVESON: Yes. 2 A. When the story was first presented to me, I said 3 I didn't want to see it, because I didn't believe we'd 4 be able to publish it. And I sent my deputy and the 5 news editor away to make sure lawyers had seen it. 6 I said I don't even want to read the story because 7 I don't believe we'd be in a position to publish this. 8 The jury had already been sent out by the judge, and 9 that was, I think, the Friday. 10 So on the Saturday at conference it was presented to 11 me, where the in-house lawyer at the time had said he 12 found the story okay to publish, which I still found -- 13 I was unsure of. I got a view from two further lawyers, 14 and indeed on the Saturday afternoon, as I sat giving an 15 idea about how I wanted to display the story, I called 16 the duty lawyer over and sat him next to me and said, 17 "This is what I'm planning to do, this is roughly what 18 it will say; are you absolutely sure that this is not 19 going to prejudice or affect or impact the case?" and 20 I was given a very strict assurance that I couldn't and 21 wouldn't. 22 So I took responsibility and the rest is history. 23 LORD JUSTICE LEVESON: Yes. That wasn't my point. My point 24 was the extent to which that entire experience impacted 25 upon your view of propriety and ethics and the approach</p> <p style="text-align: center;">Page 11</p>
<p>1 A. The Sunday Mirror. 2 Q. The Sunday Mirror. Did that follow issues which arose 3 in a criminal trial involving two footballers, Mr Bowyer 4 and Mr Woodgate? 5 A. It did. 6 Q. Can you tell us about the circumstances? 7 A. We had an exclusive interview with the father of the 8 young man who had been attacked, and we published the 9 interview, which resulted in the judge basically 10 cancelling the trial. As a result of that, I left the 11 company. 12 Q. Thank you. Can I take you, please, to the 13 News of the World in January 2007. 14 A. Yes. 15 Q. You tell us in paragraph 5 of your statement that: 16 "Strict compliance procedures were in place at the 17 newspaper to cover almost every aspect of our 18 business" -- 19 LORD JUSTICE LEVESON: Just before we pass on from that, 20 I just wonder whether it's worthwhile thinking for 21 a little moment about that exercise. The problem was 22 material entered the public domain which had not been 23 part of the trial, and therefore may have caused 24 potential prejudice? That was the issue? 25 A. Yes. May I explain the circumstances?</p> <p style="text-align: center;">Page 10</p>	<p>1 that should be taken by a newspaper in relation to 2 publication? 3 A. Sorry, yes. I mean, it had a significant impact. 4 I lost my job. And there was a feeling amongst certain 5 legal quarters that the judge was wrong and that he 6 perhaps made the wrong decision. It doesn't really 7 matter, the judge made the decision that he made. And 8 yes, I mean the very fact that I didn't believe that 9 I could publish the story in the first instance meant 10 that my experience put an issue over it. I was 11 surprised that the lawyers approved it, but, you know, 12 I took responsibility because I had to. It was my 13 decision to publish it. 14 LORD JUSTICE LEVESON: I understand that entirely. But the 15 reason I asked the question is because it might be 16 relevant to the issues that you later had to consider 17 when we come on to the News of the World. 18 A. Being an editor is all about learning, and you learn 19 from experience, and sometimes you make the wrong 20 decision. The impact of making the wrong decision as an 21 editor can be severe. 22 LORD JUSTICE LEVESON: Yes. So it means you probably have 23 to give yourself a fair amount of leeway, just in case 24 a different view is taken. Your level of assurance has 25 to be that much higher?</p> <p style="text-align: center;">Page 12</p>

<p>1 A. Oh yes.</p> <p>2 LORD JUSTICE LEVESON: Not least because of your experience</p> <p>3 with the story that we've just discussed?</p> <p>4 A. Yes. And it doesn't mean to say that you just take one</p> <p>5 legal view, if it's a legal view that you're seeking.</p> <p>6 And certainly in the environment that we're producing</p> <p>7 and editing newspapers today, pretty well safe to say</p> <p>8 that I have almost leading counsel on speed dial. Or</p> <p>9 did.</p> <p>10 LORD JUSTICE LEVESON: Lucky for leading counsel. All</p> <p>11 right.</p> <p>12 A. That's what I used to say.</p> <p>13 MR JAY: Paragraph 5, please, the reference to "strict</p> <p>14 compliance procedures were in place at the newspaper",</p> <p>15 were most of those the procedures which you introduced,</p> <p>16 Mr Myler?</p> <p>17 A. No. I'm trying to make a distinction about -- that</p> <p>18 there was an existing set of protocols and systems when</p> <p>19 I came into the paper. And I began to review them and</p> <p>20 introduced more.</p> <p>21 Q. So are these the existing protocols which you're</p> <p>22 referring to specifically at paragraph 6 of your first</p> <p>23 witness statement, page 02504?</p> <p>24 A. Yes, they were sort of the News Corporation global</p> <p>25 standards of business conduct that would be in for every</p> <p style="text-align: center;">Page 13</p>	<p>1 A. Yes.</p> <p>2 Q. Which is obviously particular to the United Kingdom?</p> <p>3 A. Yes.</p> <p>4 Q. There's general reference to data protection at</p> <p>5 page 02582.</p> <p>6 A. Sorry, where am I looking?</p> <p>7 Q. It might be a little bit difficult without tabs. It's</p> <p>8 probably going to come up nicely on the screen in front</p> <p>9 of you.</p> <p>10 A. Oh, thank you.</p> <p>11 Q. This is --</p> <p>12 A. This is NI, actually, yes.</p> <p>13 Q. This is in the -- which document is it in? Well,</p> <p>14 I know --</p> <p>15 A. It starts off "The News International Group ...", so</p> <p>16 that's not News Corporation, News Corporation being the</p> <p>17 global controlling body of the business. NI was</p> <p>18 a subsidiary of News Corp.</p> <p>19 Q. Yes. Again this, is admittedly specific advice about</p> <p>20 data protection, but it might be quite difficult for</p> <p>21 a lay person to understand, would you agree?</p> <p>22 A. Yes.</p> <p>23 Q. But you weren't responsible for this, this was</p> <p>24 a document which was already in place when you arrived?</p> <p>25 A. No. I suspect that News Corp actually are updating the</p> <p style="text-align: center;">Page 15</p>
<p>1 division within News Corporation as a business. As far</p> <p>2 as -- obviously the PCC code was in practice already,</p> <p>3 and the criminal law.</p> <p>4 Q. So that we can be clear about this, as you rightly point</p> <p>5 out, News Corporation's standard of business conduct</p> <p>6 which we can see at the top of this page, this is giving</p> <p>7 very general global advice to everybody within the</p> <p>8 corporation, is that right?</p> <p>9 A. I think everybody who joins the company gets a very</p> <p>10 large document showing the standards and ethics that the</p> <p>11 company expects individual employees to adhere to, and</p> <p>12 I think it is in one of the bundles.</p> <p>13 Q. It is, at page 02520.</p> <p>14 A. In fact I think it fills up mainly one of the bundles.</p> <p>15 Q. I think the only point I was seeking to make on it is</p> <p>16 that having read it, it's very general indeed. It</p> <p>17 doesn't really advise journalists or editors --</p> <p>18 A. No.</p> <p>19 Q. -- as to how they might comport themselves in individual</p> <p>20 situations, do you agree with that?</p> <p>21 A. I would, yes.</p> <p>22 Q. The global anti-bribery and anti-corruption policy is</p> <p>23 similarly wide, although it is right to say in the</p> <p>24 edition we see that there's reference to the Bribery Act</p> <p>25 2010?</p> <p style="text-align: center;">Page 14</p>	<p>1 global policy as well as whatever is happening at</p> <p>2 News International, I suspect, in view of what's</p> <p>3 happening.</p> <p>4 Q. In terms of the standards which might govern the conduct</p> <p>5 and behaviour of journalists and editors, you rightly</p> <p>6 point to the PCC code. At the time you arrived, was it</p> <p>7 an express term of journalists' employment contracts</p> <p>8 that they abide by the code?</p> <p>9 A. It was. I think if you look at paragraph 26, the</p> <p>10 original reference in contracts just stated:</p> <p>11 "The employer endorses the Press Complaints</p> <p>12 Commission code of practice and requires the employee to</p> <p>13 observe the terms of the code as a condition of his</p> <p>14 employment."</p> <p>15 I didn't feel that that was strong enough or direct</p> <p>16 enough to cover what I think they needed to observe, be</p> <p>17 aware of, and apply themselves to.</p> <p>18 Q. So you endorsed an amendment, which we see under</p> <p>19 paragraph 27; is that correct?</p> <p>20 A. That's correct. And the significant difference was that</p> <p>21 it made it abundantly clear that the employee</p> <p>22 understands and accepts that failure to comply with the</p> <p>23 requirement, which was PCC, criminal law, will lead to</p> <p>24 disciplinary proceedings, which may result in summary</p> <p>25 dismissal.</p> <p style="text-align: center;">Page 16</p>

<p>1 In other words, it made it abundantly clear that if 2 you fell foul of it, that you could be dismissed. 3 Q. I've been asked to ask you this question: do you agree 4 that a journalist who is asked to breach the code should 5 have the right to refuse? 6 A. Yes. 7 Q. Was that made clear to your journalists? 8 A. Probably -- probably then, I don't know the honest 9 answer to that. But you may have noticed in the course 10 of my statements that one of the things that I addressed 11 was in 2008/9, I believe, for the first time the company 12 introduced surveys, questionnaires, where individual 13 employees were allowed to say what sort of an 14 environment it was to work in, did I have permission to 15 challenge my line manager, was communication good, 16 social responsibility, ethics, legal aspects, HR issues, 17 and it became very clear that we had a long way to go to 18 meet the aspirations that they were looking for. 19 As a consequence of that, a lot of things were done 20 to improve communication, to change an attitude that 21 said that an individual within a department didn't have 22 the ability to challenge the person who was running that 23 department. And we sent -- it was done two ways, 24 really. First of all, we took heads of department away 25 and made them aware, by having seminars, you know, how</p> <p style="text-align: center;">Page 17</p>	<p>1 complaints, are you? 2 A. No, no, no. You mean complaints that were agreed? 3 Q. Yes. 4 A. No, they were adjudications against the paper. 5 Q. Approximately how many mediated complaints were there? 6 A. Gosh. I'm sure we can get the answer but I don't know. 7 Q. Just a ballpark figure? 8 A. Honestly, I wouldn't know. In the course of four years? 9 Gosh. I'm guessing between maybe 20 and 30. I don't 10 know. It may be more, but ... 11 Q. One of the matters gave rise to a letter of rebuke from 12 the PCC. It's at page 39506. 13 A. I'm just waiting for it to come up here. 14 Q. It's going to be difficult for you to find it in the 15 bundle, I'm afraid. 16 A. Yes. 17 Q. You'd only just started at -- 18 A. Yes, I was trying to -- I was trying to remind myself 19 what it was. I don't remember what the adjudication was 20 about. I suspect there clearly was an adjudication that 21 had been laid down possibly before I joined. I joined 22 at the end of January. But, you know, Sir Christopher 23 was right. There were very clear guidelines about how 24 adjudications had to be presented in the paper and for 25 the life of me, I don't know why it wasn't done.</p> <p style="text-align: center;">Page 19</p>
<p>1 to be a better executive, how to understand why it's 2 a good thing to be challenged, how you deal with being 3 challenged. No sort of bullying, as it were. You know, 4 you should, if you're a good boss and you're secure, you 5 shouldn't feel threatened by a challenge. 6 I have to say that the result of that was pretty 7 amazing, really. By the time the next survey was done, 8 which was I think earlier this year, the advancement in 9 scores was such that the News of the World came top in 10 every division, not just within NI, but within every 11 division of News Corporation globally, which was a great 12 testimony to everybody who took part in it. 13 Q. May I ask you this question: were there any cases 14 between 2007 and 2011 where failure to comply with the 15 code led to disciplinary proceedings? 16 A. Um ... there were cases where people were spoken to but 17 it didn't lead to disciplinary proceedings as such and 18 it didn't lead to dismissal. 19 Q. Obviously I'm going to come back to the code and the 20 issues arising in connection with it, but paragraph 10, 21 please, of your witness statement, Mr Myler, you tell us 22 that there were four adjudications by the PCC against 23 your newspaper during your time at the paper. 24 A. Yes. 25 Q. You are not, of course, covering their mediated</p> <p style="text-align: center;">Page 18</p>	<p>1 Q. Yes. We believe it to be an adjudication which was 2 promulgated by the PCC on 29 January. It led to 3 publication of the adjudication in the News of the World 4 on 18 February. Sir Christopher was saying that you 5 hadn't accorded due prominence to it. How did you 6 respond to -- 7 A. I think I called him. I was pretty mortified, because 8 my relationship with the PCC throughout my career has 9 been very close. I've never had any issues. We might 10 not agree with some of their adjudications, but I've 11 always respected and agreed that this is how you deal 12 with them. I certainly know that from my time at the 13 News of the World the relationship with the PCC was 14 exemplary, so I'm at a loss to understand what happened. 15 Q. Did you take any steps though to republish the 16 adjudication in a manner which would meet PCC 17 requirements? 18 A. I can't remember. If that was asked, I'm sure we would 19 have done it. I don't know how it was resolved, to be 20 honest. I'm sorry. And in the absence of not having 21 access to my files, I'm afraid I don't know, but there 22 will be a file note in the managing editor's office, I'm 23 sure about this. And, of course, within the PCC. 24 Q. In paragraph 11 of your statement, you say: 25 "When a journalist failed to meet PCC code</p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

<p>1 standards, he would receive a written reprimand." 2 Were there any instances of written reprimands, to 3 your knowledge, or are you speaking hypothetically as to 4 what the system was? 5 A. Well, that was the system. There was certainly one 6 verbal reprimand that I can remember. Whether or not 7 that was followed up with a written warning, I don't 8 know. Again, I don't know the specific answer to that. 9 Q. You do refer in the third line of paragraph 11 to one 10 occasion when a senior journalist -- 11 A. Was hoaxed. 12 Q. -- was given a written warning? 13 A. He was, yes. 14 Q. Can you remember about when that was? 15 A. Gosh. Approximately 2009, 2010. Time goes so quickly. 16 Sorry. 17 Q. The next section of this first statement at page 02505, 18 "My role in ensuring adherence to the corporate 19 governance documents", in terms of the documents, the 20 key documents we're talking about, is this right, 21 Mr Myler, is the PCC code and there's also an editor's 22 handbook which explains the code; is that correct? 23 A. Yes. 24 Q. And of course a contract of employment, which we see 25 amended. Were there any other documents which comprised</p> <p style="text-align: center;">Page 21</p>	<p>1 for ensuring compliance with the PCC code and the law." 2 First of all, was that a culture which you thought 3 existed when you arrived in January 2007? 4 A. It's difficult to try to explain what the culture was, 5 because there was so much going on and there were quite 6 a lot of changes. I think it's safe to say that, you 7 know, the trauma of what had happened with the 8 Goodman/Mulcaire trial left a very deep, as I say, 9 trauma within the newspaper and the morale of the staff. 10 So I think it was more important to improve the 11 standards and the protocols and the systems that 12 existed, rather than dwell on what was. I think it was 13 more important to say, "From now on, this is how we're 14 going to work and this is what it is". 15 Q. Mr Myler, I see that in terms of the management style 16 you were seeking to introduce in January 2007 and going 17 onwards. One fully understands that. But I think my 18 question was more directed to: what do you think the 19 culture was when you arrived, please? 20 A. Culture in what way? 21 Q. Well, you tell us here "there was a culture of 22 individual and collective responsibility for ensuring 23 compliance with the PCC code and the law". That's quite 24 a sweeping statement, if you don't mind me saying so. 25 A. But Mr Jay, I think that's about -- that was a culture</p> <p style="text-align: center;">Page 23</p>
<p>1 a system of corporate governance? 2 A. Not really. You know, journalists were by and large 3 very experienced who worked at the News of the World and 4 they'd done their journalist training, they'd done law. 5 They were aware of the very basic rules. We extended 6 seminars that were a rolling programme when I joined, 7 but we upgraded them, because it seemed to me that they 8 needed to focus more on issues that were more relevant 9 in 2007 than maybe they had been, and they were 10 mandatory for all staff to attend. 11 Q. But insofar as we're looking at a system, a direction 12 from above, that would depend on the quality, 13 initiatives and judgment of those in senior managerial 14 and executive positions; is that correct? 15 A. Yes. 16 Q. Is this also correct, that journalists were given 17 a broad range of discretion as to how to conduct 18 themselves according to whatever training you gave them 19 and their own best judgment? 20 A. Yes, as long as they worked within the parameters of the 21 law and the publication code and their own contract of 22 employment. 23 Q. In paragraph 19 of your statement you say: 24 "Although I had ultimate responsibility, there was 25 a culture of individual and collective responsibility</p> <p style="text-align: center;">Page 22</p>	<p>1 that I also generated. It's impossible, as an editor, 2 to be across every aspect of every part of the job. 3 I was very much for delegating responsibility. I tried 4 to ensure and make sure that departmental heads knew 5 their responsibility and more importantly had 6 accountability for their actions and the actions of 7 their staff, so, if I'm not following your question, 8 forgive me, but, you know, the culture of individual and 9 collective responsibility is something that 10 I encouraged. 11 Q. Yes. 12 A. Whether it was there before, I don't know. 13 Q. This is the culture which it was your mission, as it 14 were, to instill as best you could within the company; 15 is that what you're saying in paragraph 19? 16 A. Yes. And it would be wrong and unfair, I think, to 17 suggest that, you know, the paper before I arrived 18 didn't have protocols and systems in place, because they 19 did, and that the members of senior staff clearly 20 understood their roles and responsibilities. 21 Q. In terms of what you did, I think I can take paragraphs 22 22 to 27 quite swiftly, if I may. 23 A. Yes. 24 Q. You wrote to everyone on 7 February 2007 drawing 25 attention to the law and to the code, and the letter is</p> <p style="text-align: center;">Page 24</p>

<p>1 at 02065, but I don't think we need turn it up. 2 A. Yes. 3 Q. And the amendment was then on 16 February 2007, which we 4 have already discussed. Can I ask you, please, to look 5 at paragraph 28 of your first witness statement. 6 A. Yes. 7 Q. "During the same period [so this is early on], I also 8 instigated a review of cash payments to contributors, 9 freelancers, and tipsters and adopted more rigorous 10 procedures. Before any cash payment was processed and 11 agreed, department heads had to satisfy themselves that 12 the payments were lawful and legitimate, and that the 13 person receiving them existed on an electoral roll." 14 Can you explain what you mean there by "lawful and 15 legitimate"? 16 A. Meaning that the people existed that were being paid and 17 that they were being paid for lawful and legitimate 18 means. 19 Q. Yes, but I think you're just repeating what paragraph 28 20 means. What could you mean by lawful and legitimate? 21 A. That the payments were going to the person that had 22 provided either the resource of a story, or they'd taken 23 part in that story, and they were being paid for 24 something that they'd actually done for the paper. 25 Q. Right. I think I understand, Mr Myler.</p> <p style="text-align: center;">Page 25</p>	<p>1 their expenses to thousands and thousands of pounds, was 2 one of which you approved? 3 A. No, no. I didn't quite recognise a lot of Mr McMullan's 4 testimony, I'm afraid. In terms of -- the answer to 5 your question, sir, is no, I don't recognise that. 6 LORD JUSTICE LEVESON: To be fair to you, he wasn't at the 7 News of the World while you were. 8 A. No, he wasn't. But -- well. I think the views of those 9 journalists that I've worked with for a lot of time, 10 a lot of years, both as a journalist on the road at the 11 time when Mr McMullan was working as a journalist, 12 I don't recognise that landscape at all. 13 LORD JUSTICE LEVESON: I'm slightly surprised, given what 14 you know happened at News of the World before you 15 arrived. 16 A. Well, any journalist that -- not -- the criminality that 17 took place, if it did take place at the News of the 18 World, is one thing. And whatever acts that individuals 19 took part in, the full force of the law should take care 20 of them. I'm sure it will. 21 Mr McMullan often drifted off into a world of car 22 chases, hacking phones, blagging, doing rather 23 disagreeable things, and that's no world that 24 I recognise. Notwithstanding that core of people, 25 whoever they may be, who did conduct themselves in an</p> <p style="text-align: center;">Page 27</p>
<p>1 A. In other words -- well, it's very simple. If you come 2 to me with a tip that works, and it appears in the 3 paper, you should get paid for it. 4 Q. But you're not suggesting there that there's any further 5 exploration into the legitimacy, for example, of how the 6 story's obtained or how the tip is obtained? 7 A. No, no, no. 8 Q. Fair enough. 9 A. This is purely and simply about how money is being taken 10 out in cash and given to an individual. 11 LORD JUSTICE LEVESON: So the important word in this 12 sentence is cash? 13 A. Well, cash goes to the person that has done something to 14 earn the cash, not to somebody who hasn't. 15 MR JAY: Yes. Was this response to a perception on your 16 part that cash payments were going out to people who 17 simply hadn't done the work? 18 A. I was more concerned about perhaps a lax system that 19 allowed quite a lot of cash payments to be operated and 20 I didn't feel that that was necessary. 21 LORD JUSTICE LEVESON: This is all a question in part about 22 accountability? 23 A. Yes. 24 LORD JUSTICE LEVESON: So you would not agree that the 25 concept described by Mr McMullan, of everybody padding</p> <p style="text-align: center;">Page 26</p>	<p>1 illegal way. 2 LORD JUSTICE LEVESON: It's not just the phone hacking. One 3 has to consider Motorman as well. 4 A. Yes. 5 LORD JUSTICE LEVESON: I'm sorry, Mr Jay, I've taken you 6 away from your approach. I apologise. 7 MR JAY: Paragraph 29, please, Mr Myler. "Tighter 8 controls". You say: 9 "... cash payments reduced by up to 89 per cent 10 between the financial years of July 2004/June 2005 and 11 July 2007/June 2008." 12 A. Yes. 13 Q. Why have you said "up to 89 per cent"? Are you 14 suggesting that they're divided between different 15 categories of payment? 16 A. No, that was in total. So they added up the cash 17 payments over that period earlier compared to the cash 18 payments over the later period and did a comparison. 19 Q. Can we just try and see what the cash payments were for, 20 as it were? They were for payment to sources and tips; 21 is that right? 22 A. In the main, yes. 23 Q. Does that account for most of them? 24 A. Yes. In certain areas and certain cases you would have 25 sources of information that didn't want any kind of</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 paper trail. They perhaps were whistle blowing in some 2 cases. A lot of them would be, it's safe to say, in the 3 celebrity world.</p> <p>4 Q. You say in the celebrity world. Are these people 5 connected with or close to celebrities --</p> <p>6 A. Yes.</p> <p>7 Q. -- who would wish to, as it were, keep under cover? 8 A. Yes.</p> <p>9 Q. That's one way of putting it. So that accounts for the 10 majority of --</p> <p>11 A. I would say that was the majority.</p> <p>12 Q. Yes. There are also payments for quite expensive sting 13 operations people such as Mazher Mahmood were carrying 14 out; is that right?</p> <p>15 A. Yes, but that would be a different budget. It would -- 16 you know, Mazher's operation was sort of almost -- not 17 necessarily ring-fenced, because you didn't know from 18 one year to the next what kind of operations he would be 19 working on, but in my view it didn't cater for that.</p> <p>20 I think you heard from his testimony a lot of the 21 time sources for his information were longstanding 22 sources that he'd known for a long time. With the 23 exception, for example, of the spot fixing cricket 24 scandal, where we had an outlay of a significant sum to 25 the fixer, his operation was again agreed with whoever</p> <p style="text-align: center;">Page 29</p>	<p>1 applicable and would they be paid.</p> <p>2 Q. So instead of being paid in cash, were they being paid 3 by some other means in the later financial year?</p> <p>4 A. No.</p> <p>5 Q. Or were they just not being paid at all?</p> <p>6 A. They weren't paid at all.</p> <p>7 Q. So you were getting the same use of sources, but without 8 having to pay as much; is that the position?</p> <p>9 A. Well, I think it's fair to say that the main area where 10 the cash payments were going out, the area ceased to 11 operate the same way. That department ceased to operate 12 in the way it was operating after I arrived.</p> <p>13 Q. Which department are you referring to?</p> <p>14 A. It was features. And that's not to have any aspersions 15 against the features editor and the executive staff that 16 were there and continued to be there while I was there, 17 but it was that area where that cash payment area was 18 mainly affected.</p> <p>19 Q. What was the change in their modus operandi which caused 20 the reduction?</p> <p>21 A. Primarily, there was a change in staff.</p> <p>22 Q. What was the consequence of that there, Mr Myler?</p> <p>23 A. I might need a bit of help here, sir. I don't want to 24 be casting serious allegations against individuals, and 25 it's difficult --</p> <p style="text-align: center;">Page 31</p>
<p>1 he was working to and with for the source of the 2 information and what it made.</p> <p>3 Q. Thank you. Then kiss-and-tell stories, we know that 4 those receded in significance over recent years. Is 5 that a separate category one should be accounting for?</p> <p>6 A. No. Each department would just have their own budget, 7 news had their budget, features had theirs, and they 8 were just paid for accordingly, depending on, you know, 9 how and where they fell.</p> <p>10 Q. Are there any other component parts of cash payments, 11 any other categories I may have missed out, which you 12 could help us with?</p> <p>13 A. I don't think so, no.</p> <p>14 Q. Why did the payment to sources fall so dramatically 15 between these years?</p> <p>16 A. They just did. I thought it was interesting that 17 I didn't have anybody hammering my door down saying that 18 "If we cease paying cash, we won't get stories". It 19 didn't happen, and I would have expected it to happen.</p> <p>20 Q. I just wonder how the controls were exercised. What 21 did --</p> <p>22 A. Before or after?</p> <p>23 Q. After. What did you do precisely to reduce the levels 24 of cash payments by up to 89 per cent?</p> <p>25 A. I said that only in extreme circumstances would they be</p> <p style="text-align: center;">Page 30</p>	<p>1 Q. If you don't name them, it's not a problem.</p> <p>2 A. Well, it gets close to that area.</p> <p>3 Q. Maybe we can take it shortly. Were funds disappearing 4 in a way --</p> <p>5 A. No, funds weren't disappearing. Funds weren't 6 disappearing. Cash payments were being made on a very 7 regular basis and there was certain issues that were 8 addressed and changed.</p> <p>9 LORD JUSTICE LEVESON: Well, the inference is pretty clear, 10 isn't it? Even if you don't say it.</p> <p>11 A. I think so.</p> <p>12 MR JAY: Did you try and keep a handle on expenses as well, 13 or was that Mr Kuttner's domain?</p> <p>14 A. That was the managing editor's office, yes, primarily.</p> <p>15 Q. Were there any discussions with Mr Kuttner about those 16 matters? Expenses?</p> <p>17 A. Well, he was one of the toughest managing editors 18 I think that had ever waved a pen at an expenses sheet, 19 and that followed with his successor, Mr Akass, and they 20 were respected for it and the manner in which they 21 conducted themselves.</p> <p>22 Q. Thank you. The section "Sources of information", 23 Mr Myler, we can deal with fairly economically. The 24 evidence you're giving, which we've read, is similar to 25 evidence others have given. But in the section "Ethics</p> <p style="text-align: center;">Page 32</p>

8 (Pages 29 to 32)

<p>1 in the media", you rightly point out in paragraph 37 2 that: 3 "Acting ethically is fundamental to establishing and 4 maintaining trust between a newspaper and its readers." 5 You say in the last sentence: 6 "I consider this to cover such issues [that's the 7 code] as acting honestly and decently, whilst ensuring 8 accuracy and maintaining appropriate levels of privacy." 9 As a matter of generality, I'm sure we'd all agree 10 with that as sensible and condign standards. Again, 11 what do you mean by "appropriate levels of privacy"? 12 A. Well, working within the code. 13 Q. So weighing up the interests of the individual against 14 any wider or overriding public interest; is that right? 15 A. As I say later on in the statement, you know, it's 16 understanding whether or not a set of pictures invade an 17 individual's reasonable expectation of privacy. Whether 18 somebody goes on a holiday and goes on a public beach, 19 or whether they choose an island where they believe that 20 it's a private beach. That kind of privacy. 21 Q. By the time you've been a year in the job in 2008, and 22 of course you had vast experience before then, did you 23 have a certain perception of where privacy law was at, 24 in particular the way in which judges were interpreting 25 the law?</p> <p style="text-align: center;">Page 33</p>	<p>1 MR JAY: If we put together two factors, one, the changing 2 landscape of the common law, particularly in relation to 3 privacy, which would induce a measure of caution on the 4 editors' behalf, and secondly your own experience you 5 were telling us frankly about in 2001, certainly by 6 2008, is this right, you were in a very circumspect and 7 cautious frame of mind? 8 A. As much as an editor at the News of the World can be in 9 a cautious state of mind, yes. 10 Q. Okay. That leads us to Mr Mosley's case. Your 11 involvement in that case is set out in a witness 12 statement you furnished the High Court in the privacy 13 action. I think it's going to be in your file 3. The 14 reason I hesitate -- 15 A. No, I have a 3. 16 Q. If it does have tabs, it's under tab 29, and it's 17 page 31328. If there is a tab 29, it's going to be 18 a good hundred or so pages into that tab. 19 A. 31328? 20 Q. Yes. 21 LORD JUSTICE LEVESON: You had two copies of bundle 3, 22 didn't you? 23 A. Well, it said on one -- this is the file 3. 24 MR JAY: That's a different file 3. 25 LORD JUSTICE LEVESON: All right, don't worry about it.</p> <p style="text-align: center;">Page 35</p>
<p>1 A. I was away in New York for five years, so I went in 2 December 2001, I came back in January 2007, and I have 3 to say that when I came back, I hardly recognised the 4 landscape regarding privacy than it was before I left. 5 Q. Yes, so in terms of the changing landscape, in your own 6 words could you describe it to us, or at least your 7 perception of it? 8 A. I think it was more not just perception, but the 9 reality. Whereas before you would get a set of 10 pictures, you know, they would just almost automatically 11 go in the paper. As a result of challenges and the 12 change in the law, as it were, and verdicts, it was 13 becoming very challenging to meet the requirements that 14 the courts had laid down. And the almost explosion of 15 celebrity lawyers, as it were, who just dealt with this 16 issue time after time after time, case after case. It 17 was almost as if they were fire-chasing and contacting 18 the celebrities, saying, "Do you realise that the 19 photograph that's been published here is in breach of 20 your privacy and maybe we should do something about it". 21 LORD JUSTICE LEVESON: That might be a bit unfair. It might 22 also be simply that they've seen the success that others 23 have had. 24 A. Yes, that's what I'm saying, as a result of the verdicts 25 and the courts.</p> <p style="text-align: center;">Page 34</p>	<p>1 Carry on. 2 A. Sorry, 313? 3 MR JAY: 28. I just want to see whether I can summarise 4 most of this because this is, as it were, the sworn 5 evidence you gave to the High Court and you, of course, 6 gave oral testimony to Mr Justice Eady, did you not, 7 Mr Myler? 8 A. Yes, I did. I have it, thank you. 9 Q. We know from paragraph 3 that the first you became aware 10 of this story was on Friday, 28 March. Are you with me? 11 A. Yes. 12 Q. The story is published on 30 March, of course. 13 Paragraph 4, you make it clear that you didn't want the 14 story to be mentioned at an editorial conference later 15 that evening. You didn't want to risk the story being 16 leaked either to Mr Mosley or a rival newspaper. Am 17 I right in saying there were two factors in play here. 18 There was an understandable commercial reason, and there 19 was also a fear that Mr Mosley would immediately take 20 out a claim for an interim injunction? Is that right? 21 A. Yes. And there was also another factor, that the 22 newspaper had a very serious problem with security. 23 Stuff from the newspaper was being leaked outside of the 24 newsroom. 25 Q. To other rival papers; is that right?</p> <p style="text-align: center;">Page 36</p>

<p>1 A. Yes. That was something that I inherited and it was 2 a serious problem.</p> <p>3 Q. Was it your belief, Mr Myler, that had Mr Mosley got 4 wind of the story, not merely would he apply for an 5 injunction but his application was likely to be 6 successful?</p> <p>7 A. Yes.</p> <p>8 Q. So what you did was take steps to ensure that the risk 9 of that happening was reduced to as low a level as 10 possible; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. And that entailed, amongst other things, not putting the 13 story in the first edition, but putting it in a later 14 edition; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Am I right in saying that you looked at the whole of the 17 video?</p> <p>18 A. Yes.</p> <p>19 Q. Can I ask you, please, why the video was ever placed on 20 your website?</p> <p>21 A. That was custom and practice at the time within limits 22 of explicitness and sexual content. I mean, that's 23 what -- that was the policy of the paper and the website 24 at that time.</p> <p>25 Q. So in other words, that's what you systematically did;</p> <p style="text-align: center;">Page 37</p>	<p>1 of the whole story.</p> <p>2 LORD JUSTICE LEVESON: Was it? Or was it just evidence --</p> <p>3 A. It was evidence.</p> <p>4 LORD JUSTICE LEVESON: -- on which you could rely?</p> <p>5 A. It was evidence, yes, but if you have --</p> <p>6 LORD JUSTICE LEVESON: He didn't know he was being videoed.</p> <p>7 A. That's right.</p> <p>8 LORD JUSTICE LEVESON: So it was merely so that you could 9 let the story stand up.</p> <p>10 A. Yes.</p> <p>11 LORD JUSTICE LEVESON: But --</p> <p>12 A. It was evidence of what took place took place.</p> <p>13 LORD JUSTICE LEVESON: I've got -- sorry.</p> <p>14 A. Sorry?</p> <p>15 LORD JUSTICE LEVESON: You carry on.</p> <p>16 A. No, well, that's it. It was evidence of what took 17 place.</p> <p>18 LORD JUSTICE LEVESON: I have a slightly antecedent 19 question. Do I gather from your answer that it was 20 custom and practice to put videos up, that no 21 independent thought was given to the propriety of 22 publishing online a video which you knew that had the 23 person who was the subject of the story known about it, 24 he would probably have been successful in preventing you 25 doing any of it by obtaining an injunction?</p> <p style="text-align: center;">Page 39</p>
<p>1 is that right?</p> <p>2 A. It was an extension of the paper, yes. At the same 3 time, there was often more on the website than actually 4 was contained in the newspaper, but that was something 5 that was developing all the time.</p> <p>6 Q. Just without, I hope, expressing a prurient interest, 7 you say that inappropriately sexually explicit material 8 shouldn't be placed on the website, but a lot of this 9 material was, wasn't it?</p> <p>10 A. Well, it was not as explicit as most of the stuff on it. 11 It was very difficult to find clips that were 12 appropriate to put up, actually.</p> <p>13 Q. I think my question is rather: was any of it appropriate 14 to be put up, apart from to pander to people's prurient 15 interest?</p> <p>16 A. I don't think it was pandering to prurient interest. It 17 was an extension of the story. Online is very much 18 video, and it was very difficult to edit that material.</p> <p>19 Q. If you're being proportionate, though, and confining 20 yourself to what you say was where the public interest 21 lay, you would meet both of those criteria simply by 22 putting in an appropriately worded piece in the paper, 23 rather than displaying lewd or other images, wouldn't 24 you agree?</p> <p>25 A. Yes, but the video was, if you like, an intrinsic part</p> <p style="text-align: center;">Page 38</p>	<p>1 A. Yes. Thought was given to that, yes, because it was 2 part and parcel of the thought process of not putting it 3 in the first edition.</p> <p>4 LORD JUSTICE LEVESON: No. I'm actually focusing on the 5 video.</p> <p>6 A. Yes.</p> <p>7 LORD JUSTICE LEVESON: Then custom and practice is nothing 8 to do with it?</p> <p>9 A. Sorry, I don't follow, sir.</p> <p>10 LORD JUSTICE LEVESON: I'm sorry, I'll repeat my question. 11 Do I gather from your answer that it was custom and 12 practice to put videos up, that no independent thought 13 was given to the propriety of publishing the video 14 online in circumstances where you knew that the target 15 of the story would have successfully obtained an 16 injunction to prevent any of it, had he known about it?</p> <p>17 A. This was an extreme example. I don't think I'd sort of 18 come across a situation like this before. So it was an 19 extreme example of content. But yes, thought had gone 20 into about what we did.</p> <p>21 MR JAY: Sorry, what reasoning process did you go through, 22 Mr Myler?</p> <p>23 A. Exactly that Mr Justice Leveson has outlined. We knew 24 that if we had gone to Mr Mosley, there was a likelihood 25 that we would have an injunction against publishing.</p> <p style="text-align: center;">Page 40</p>

10 (Pages 37 to 40)

<p>1 Q. But in order to be loyal to the public interest, as you 2 saw it, and publish a story which was in the public 3 interest, why not confine yourself to the written word? 4 Why was it necessary to put any pictorial details up 5 anywhere of what was going on, particularly in 6 circumstances where you only needed those images to 7 support you in any libel proceedings? 8 A. Yes, I accept that. But that is how -- that is what we 9 did, that was the decision that was taken. That's how 10 the paper in the online business worked. I know what 11 you are saying, I accept and understand what you're 12 saying, but that is what we did. 13 Q. Without being absolutely crude, in a standard 14 kiss-and-tell story, if you had a video, image, you 15 wouldn't publish the video, would you, of what was going 16 on? You'd simply publish -- 17 A. We certainly wouldn't be publishing extreme explicit 18 clips from it, no. 19 Q. No. But not even a family-rated version, which is what 20 you put on the website here in relation to Mr Mosley? 21 A. All I can say is that that is what we did, and that's 22 what happened. 23 Q. We know from Mr Crone's evidence that you discussed 24 these matters with him. Did you go any further with him 25 than to say, "We're going to do it because it's custom Page 41</p>	<p>1 or not you say, "Well, I'm responsible ultimately", 2 I would be interested in knowing what view you would 3 have taken about some of the decisions that were in fact 4 taken, some of the emails that were sent and some of the 5 decisions made in relation to what thereafter happened. 6 But Mr Jay, doubtless, will come to it. 7 MR JAY: Yes. It's paragraph 85 of the judgment of 8 Mr Justice Eady, isn't it, Mr Myler? Because you were 9 cross-examined by -- 10 A. Sorry, where will I find that? 11 Q. Page 31229, much earlier on in this tab. When you were 12 asked about the emails. 13 A. Yes. 14 Q. Can I ask you first of all: when were these emails first 15 drawn to your attention? 16 A. Um ... I can't be specific about exactly when. I'm 17 sorry. 18 Q. I don't think I'm asking you exactly when. You came 19 back from holiday on 10 April. By then Mr Justice Eady 20 had found in the News of the World's favour in his 21 interim judgment. 22 A. Yes. 23 Q. There was then an expedited trial, as we know. The 24 hearing dates of the trial, I think it started in early 25 July, but we know that from -- the question I see here Page 43</p>
<p>1 and practice"? 2 A. No. If I remember rightly, we had outside counsel's 3 advice, too. I believe. 4 Q. I don't think Mr Crone told us that. Are you saying you 5 had independent advice from counsel? 6 A. I believe. Again I would need to check that, but my 7 recollection is that we did, but I'd need to check that 8 from files. 9 Q. It may or may not have been relevant to the High Court 10 proceedings, but you don't refer to that in the witness 11 statement we're looking at. 12 A. I obviously haven't seen it since the trial. 13 Q. And then what happened is that the article, of course, 14 was published on 30 March and you went away on holiday 15 on 30 March, is that correct, for about ten days? 16 A. The second week, yes. 17 Q. So you weren't around for the follow-up piece, part 2, 18 on 6 April, were you? 19 A. No, but I was the editor and I accept and take 20 responsibility for what occurred, even though the deputy 21 was in charge. 22 LORD JUSTICE LEVESON: Ultimately, of course you're 23 responsible. But the issue is slightly different 24 because all sorts of decisions were made during that 25 week which you know we've been looking at, and whether Page 42</p>	<p>1 doesn't have the hearing. Just bear with me. I have 2 seen it. 3 LORD JUSTICE LEVESON: The front page of the judgment. 4 MR JAY: It is, it's 7 to 10 and then 14 July. How long 5 before 7 July, approximately, was it when you saw these 6 emails for the first time? 7 A. I honestly don't know. I may have just been told about 8 them or -- I don't know. I honestly can't recall. 9 Q. But when Mr Price cross-examined you about the emails -- 10 A. Yes. 11 Q. -- it wasn't the first time you'd seen them, was it? 12 A. Probably not, no. Probably not. But again, I'm sorry, 13 but I can't remember exactly if and when I sat and saw 14 and read all of them, but I was aware of them. 15 Q. When you first saw the emails, whenever it was, was your 16 reaction one of surprise? 17 A. Well, I think, as I said in response to Mr Price and to 18 Mr Justice Eady, I could see that it could be 19 interpreted as a threat, yes. 20 Q. But was your reaction one of surprise? 21 A. Yes. 22 LORD JUSTICE LEVESON: Could you tell me any other way that 23 it could be interpreted, other than as a threat? 24 A. Probably not. 25 Just one point. I think Mr Thurlbeck said in his Page 44</p>

<p>1 evidence that I hadn't spoken to him. I did admonish 2 Mr Thurlbeck after that about that specific thing and 3 made it clear that, you know, care needed to be taken. 4 However, until Mr Thurlbeck's evidence in this place the 5 other day, I wasn't aware that he hadn't written them. 6 LORD JUSTICE LEVESON: Does that surprise you? 7 A. Yes. And according to him, the emails were written by 8 another person. He accepts, to his credit, 9 responsibility for sending them, but -- 10 LORD JUSTICE LEVESON: It would be quite difficult for him 11 not to, actually, considering they have his name on and 12 they're from his email. 13 A. Yes, but I was surprised to hear that for the first 14 time. 15 MR JAY: Maybe you were surprised to hear his explanation, 16 Mr Myler. 17 A. About why he sent them? 18 Q. No, his explanation was that someone else wrote them. 19 A. Oh yes. 20 Q. That in itself causes you surprise, doesn't it? 21 A. That's what I mean, yes. 22 Q. Because when that -- well, I won't put it in these 23 terms. When you had a word with him about it, can I be 24 clear, was that before or after Mr Justice Eady's 25 judgment?</p> <p style="text-align: center;">Page 45</p>	<p>1 two questions: 2 "Question: Just before you leave that, can I ask 3 you whether you ever raised this with Mr Thurlbeck? 4 Answer: No, my Lord, because I was away that week 5 so I wasn't aware of these emails at that particular 6 time. 7 "Question: When you did become aware of them did 8 you raise it with him then? 9 "Answer: I did not because I didn't become aware of 10 them until considerably after the event, literally only 11 at the disclosure stage." 12 That would put us somewhere in late June, probably, 13 Mr Myler. 14 Then his Lordship says: 15 "That is effectively a non-answer, from which it 16 would appear that Mr Myler did not consider there was 17 anything at all objectionable about Mr Thurlbeck's 18 approach to the two women, as he did not query it at any 19 stage. This discloses a remarkable state of affairs." 20 Do you accept that criticism of you? 21 A. Yes. 22 Q. It was that which prompted you then to have a word in 23 Mr Thurlbeck's ear; is that right? 24 A. Yes. 25 LORD JUSTICE LEVESON: Before we move on, could I just focus</p> <p style="text-align: center;">Page 47</p>
<p>1 A. After. 2 Q. Did he say to you, "Well, I didn't in fact write them"? 3 A. No. I think I had the conversation also with the person 4 who did. It was unnecessary to have written in those 5 terms. 6 Q. Of course what Mr Thurlbeck did was clearly in breach of 7 the PCC code. Did you not think it right that given the 8 judgment of Mr Justice Eady and his assessment as 9 a senior High Court judge that this was a threat, that 10 really you should be taking this somewhat further and 11 reprimanding Mr Thurlbeck for breach of the PCC code? 12 A. In hindsight, probably yes. 13 Q. Why didn't you do that? 14 A. I don't know. You know, when I did reprimand a senior 15 executive for the other example we've discussed, he felt 16 that my letter to him and language was harsh, but 17 understood why I did it, and looking back, I probably 18 should have done the same thing with Mr Thurlbeck. But 19 I said at the time I wasn't aware that somebody else had 20 written it. 21 Q. Mr Justice Eady asked his own questions of you, didn't 22 he, paragraph 86 at page 31230, where his Lordship says: 23 "Before moving on, I wished to establish more 24 clearly what Mr Myler's attitude really was to these 25 threats made by his chief reporter. I therefore asked</p> <p style="text-align: center;">Page 46</p>	<p>1 on one other word in one of your answers? 2 A. Yes. 3 LORD JUSTICE LEVESON: You said it was "unnecessary" to have 4 written in those terms? 5 A. Yes. Inappropriate as well. 6 LORD JUSTICE LEVESON: Yes, that was the point. 7 A. Sorry? 8 LORD JUSTICE LEVESON: I mean, quite frankly, outrageous, 9 isn't it? 10 A. Totally inappropriate. And for a journalist of such 11 experience, why, I don't know why. 12 LORD JUSTICE LEVESON: You see what concerns me, and I've 13 said this and I'm very keen that everybody understands, 14 I am looking at this in detail but not because I'm going 15 to make some ruling in relation to Mr Mosley. 16 A. Yes. 17 LORD JUSTICE LEVESON: Or in relation to the women, but for 18 what it tells me about the thinking of extremely senior 19 journalists in the widest-selling newspaper in the 20 country. 21 A. Well, it's particularly disappointing to me given the 22 way I have worked and do work, the values that I place 23 on professionalism and ethical standards, with senior 24 people who should have known better. 25 LORD JUSTICE LEVESON: It goes further, and I'm sorry to</p> <p style="text-align: center;">Page 48</p>

12 (Pages 45 to 48)

<p>1 press you, but you understand why. 2 A. Yes. 3 LORD JUSTICE LEVESON: I may not be unfairly summarising 4 Mr Thurlbeck's evidence to say that even now he doesn't 5 quite get the point. 6 A. I'm surprised by that, because -- 7 LORD JUSTICE LEVESON: You must have heard or maybe you 8 haven't heard -- 9 A. I think I heard most of it, but I'm surprise by that 10 because as an experienced journalist that he is, he was 11 well aware of the criticism of that. 12 LORD JUSTICE LEVESON: But, you see, the risk is that I then 13 conclude, and I tell you so that you can deal with it, 14 that the reason he doesn't understand is because the 15 ethos of the place was: we're right, Eady is wrong, he 16 doesn't know what he's talking about, and it's 17 outrageous that we should be challenged in this way and 18 this is good stuff. 19 A. No. 20 LORD JUSTICE LEVESON: I'm putting it graphically just so 21 that you can respond because it troubles me. 22 A. No. Well, it troubles me too. It troubles me that you 23 have more than a reasonable expectation to come to that 24 view. Trying to change the cultures and the way of 25 working within a newspaper like the News of the World is</p> <p style="text-align: center;">Page 49</p>	<p>1 woman. And when you consider that the News of the World 2 is split almost half and half with the readership, 52 3 male, 48 women, I found it rather remarkable, but not 4 surprising, that the product that was going out was very 5 loutish, very laddish, and the language and the tone of 6 the paper didn't reflect the audience that it had. 7 So I set about changing that. I hired -- appointed 8 a woman deputy, not because she was a woman, but because 9 she was an exceptional professional. I promoted people 10 onto the back bench. I had a brilliant woman chief sub. 11 I had a very good features editor, who was a woman, who 12 came from the Daily Mail. And through hard work of 13 changing words, headlines, pictures, how we 14 approached -- you know, a very pretty girl in 15 a photograph didn't just have to have "Phwoar, look at 16 that", which was very sort of 80's journalism, it was 17 moving towards language which wouldn't be offensive to 18 half of the audience of the reader that we had, and by 19 introducing a new women's magazine, we actually 20 transformed the audience of the News of the World. 21 Q. This is culture in a slightly different sense to which 22 I interpreted your deployment of the noun in 23 paragraph 19 of your witness statement, where you were 24 referring to a culture of individual and collective 25 responsibility for ensuring compliance with the code and</p> <p style="text-align: center;">Page 51</p>
<p>1 particularly difficult, but I believe that I did change 2 things, change a way of working, different way of 3 approaching things, understanding that sometimes you had 4 to say no and not yes, and I can give you examples. You 5 know, it does take time to do that, but that was 6 a serious lapse on both their part. A lapse of judgment 7 that they should not have made. 8 LORD JUSTICE LEVESON: Well. 9 MR JAY: A number of questions from that, inevitably. 10 A. I'm sorry. 11 Q. The reason I asked you a bit earlier on to identify us 12 the culture which you found on arrival in January 2007 13 was really to get the feel from you of what it was and 14 you weren't perhaps quite as forthcoming as you might 15 have been because you just -- 16 A. Well, I -- 17 Q. Just wait Mr Myler. 18 A. I'm sorry. 19 Q. You told us frankly that trying to change the culture 20 was difficult, which of course suggests that there was 21 something which needed changing. I think I do need to 22 ask the question again: what was the culture which you 23 encountered on arrival? 24 A. Well, it was very laddish and very male dominated. When 25 I sat in my office, there were I think 12 men and one</p> <p style="text-align: center;">Page 50</p>	<p>1 the law, which is really, I think, what we were talking 2 about five minutes ago in the context of changing the 3 culture. Could you help us again with what the culture 4 was when you arrived, please? 5 A. Well, maybe I'm not understanding the question, Mr Jay. 6 The journalists at the News of the World were very 7 professional, very experienced in what they did. 8 I didn't have any immediate examples that I can recall 9 to you now that flagged up: this has to change. 10 I had a reputation within my years in Fleet Street 11 of being very straight in the way I operated and they 12 were aware of that, so I reinforced that by doing what 13 I did, implementing the processes and the protocols and 14 the systems that I did and changing the contracts and 15 increasing the -- focusing more on certain more relevant 16 issues within the PCC seminars. And by just the way of 17 impressing upon departmental heads, either one-on-one or 18 in conference or when they were talking about a certain 19 story, "Not interested, no, no, no". So it was very 20 direct, often very public. 21 Does that help? 22 Q. Can I ask you, please, the amendment you brought in on 23 16 February 2007, where you warned people that breaches 24 of the code will lead to disciplinary proceedings which 25 may result in summary dismissal, that warning was not</p> <p style="text-align: center;">Page 52</p>

<p>1 carried out in Mr Thurlbeck's case, was it?</p> <p>2 A. No.</p> <p>3 Q. The evidence you gave to the Select Committee was not,</p> <p>4 if I may say so, quite as frank as the evidence you've</p> <p>5 given us. Question 768 on 5 May 2009, you can look at</p> <p>6 it if you like, when you were asked questions about the</p> <p>7 blackmail issue, the chairman asked:</p> <p>8 "I understand that, but the practice of essentially</p> <p>9 saying to somebody involved in a story that there are</p> <p>10 two ways of writing it and it's up to you which way we</p> <p>11 write, you do not think that constitutes misbehaviour?</p> <p>12 "Answer: I think it can be construed as</p> <p>13 misbehaviour, but I think a lot of it depends on exactly</p> <p>14 what is said. I think that is very important, because</p> <p>15 two people can have different interpretations of what is</p> <p>16 meant."</p> <p>17 The chairman said, "Indeed."</p> <p>18 But of course we know what was said because we had</p> <p>19 the text of the emails, didn't we?</p> <p>20 A. Mm.</p> <p>21 Q. And you were aware that you were criticised by the</p> <p>22 Select Committee in the report, and I read this part out</p> <p>23 to Mr Crone earlier, in between paragraphs 55 and 57,</p> <p>24 I think --</p> <p>25 A. Sorry, can you help me where to be looking here?</p> <p style="text-align: center;">Page 53</p>	<p>1 LORD JUSTICE LEVESON: And that may be entirely fair enough.</p> <p>2 But here you have not too long into the story, not too</p> <p>3 long into the story, an example of your chief reporter,</p> <p>4 probably with somebody else, whoever wrote it --</p> <p>5 A. Yes.</p> <p>6 LORD JUSTICE LEVESON: -- being prepared to indulge in</p> <p>7 conduct which you acknowledge frankly is outrageous, and</p> <p>8 demonstrates that, however experienced they were, they</p> <p>9 certainly weren't professional. And the question</p> <p>10 therefore arises what you did about it.</p> <p>11 A. That's a very fair point, and in hindsight I should have</p> <p>12 reprimanded them and they should have received a letter</p> <p>13 that probably should have gone in their personnel file,</p> <p>14 which would have been part of the disciplinary process.</p> <p>15 MR JAY: But was it you, Mr Myler, who was responsible for</p> <p>16 applying for the scoop of the year award on the back of</p> <p>17 the Max Mosley story?</p> <p>18 A. I would have -- I would have judged the final entrants,</p> <p>19 yes.</p> <p>20 Q. So you decided that the News of the World's, as it were,</p> <p>21 best scoop of the year was the Max Mosley story and you</p> <p>22 put it forward on that basis, is that --</p> <p>23 A. I don't know what the categories were, but if it was --</p> <p>24 without being reminded what it was up against, I would</p> <p>25 have had the final decision on what the entries would</p> <p style="text-align: center;">Page 55</p>
<p>1 Q. This file 3.</p> <p>2 A. Yes.</p> <p>3 Q. Tab 3. Page, on the top right hand, 23.</p> <p>4 A. Yes.</p> <p>5 Q. The question we're looking at in fact is paragraph 54,</p> <p>6 but at paragraph 56:</p> <p>7 "A culture in which the threats made to women A and</p> <p>8 B could be seen as defensible is to be deplored. The</p> <p>9 fact that News of the World executives still do not</p> <p>10 fully accept the inappropriateness of what took place is</p> <p>11 extremely worrying."</p> <p>12 Certainly the interpretation the Select Committee</p> <p>13 took away from your evidence is that you weren't</p> <p>14 accepting the inappropriateness of what was said. Do</p> <p>15 you agree with that?</p> <p>16 A. I certainly have.</p> <p>17 LORD JUSTICE LEVESON: You certainly have to us, Mr Myler,</p> <p>18 and I'm grateful for the care that you're putting into</p> <p>19 the answers you're giving to the questions, but let me</p> <p>20 just take it one stage further. You've said quite</p> <p>21 correctly that when you arrived you didn't have any</p> <p>22 examples which suggested that the ethical or cultural</p> <p>23 approach of the paper was lacking and you described the</p> <p>24 journalists as very professional and very experienced.</p> <p>25 A. Mm.</p> <p style="text-align: center;">Page 54</p>	<p>1 have been, yes.</p> <p>2 LORD JUSTICE LEVESON: When would that be? What part of the</p> <p>3 year?</p> <p>4 A. Oh gosh. It's normally the end of the year. Well,</p> <p>5 I think the awards, from memory, are I think around</p> <p>6 about October time. The judging would be any -- there</p> <p>7 would be cut-off points, so probably it's August,</p> <p>8 September, I'm guessing. It was --</p> <p>9 LORD JUSTICE LEVESON: The dates are quite important.</p> <p>10 A. It's a bit of a lengthy process. They are a matter of</p> <p>11 record.</p> <p>12 LORD JUSTICE LEVESON: Yes, I'm sure. I'm sure.</p> <p>13 MR JAY: But after, of course, the outcome of the privacy</p> <p>14 claim; is that right?</p> <p>15 A. Oh yes.</p> <p>16 Q. From which it might be possible to draw the inference</p> <p>17 that you weren't merely completely uncontrite, you were</p> <p>18 proud of all of this. Is that fair?</p> <p>19 A. No. Let's be clear, Mr Jay. The News of the World was</p> <p>20 humiliated by Mr Mosley's court victory. I was</p> <p>21 humiliated. And it was a landmark in how tabloid</p> <p>22 newspapers would have to approach those kind of stories.</p> <p>23 So I wasn't gloating. At all.</p> <p>24 Q. The final question before we have our break, and this is</p> <p>25 a point which certainly Mr Sherborne made in opening the</p> <p style="text-align: center;">Page 56</p>

<p>1 case, and possibly Mr Mosley made in his evidence. 2 After the judgment from Mr Justice Eady was handed down, 3 did you give a press conference outside the Royal Courts 4 of Justice at the front? 5 A. I wasn't -- I don't think it was a press conference. 6 I think I read a statement, I believe. I think I read 7 a statement. 8 Q. Can you remember in general terms what that statement 9 said? 10 A. I'd have to be reminded. I haven't refreshed my memory 11 about what was said. 12 Q. Were you critical of Mr Justice Eady? You were entitled 13 to be. It's your right. 14 A. I'd rather be reminded about what I said, I'm sorry. 15 Q. I don't have the text of it, so I can't put it to you, 16 so I won't. 17 A. I mean, certainly we accepted the verdict. You know, it 18 was something that we accepted. 19 Q. You didn't appeal it, did you? 20 A. We didn't appeal it because it was put to me that there 21 were no grounds to appeal because of Mr Justice Eady not 22 awarding exemplary damages. It was put to me that 23 legally that was the only cause of appeal. That's how 24 it was explained to me, legally. 25 MR JAY: Would that be a convenient moment to break?</p> <p style="text-align: center;">Page 57</p>	<p>1 LORD JUSTICE LEVESON: It's about halfway through. It's 2 just before your second statement, just a few pages 3 before your second statement. 4 MR JAY: Yes, I have got the right page. 5 A. Yes. I have it, yes. 6 Q. Just dwell on this letter a little bit. I should 7 perhaps have done so at an earlier stage in my 8 questioning of you. 9 A. Sorry, I was finding it. I'm sorry, I missed that, 10 sorry. 11 Q. Under the heading "The law" on 02605, you say: 12 "First and foremost we obey the law." 13 Do you see that, Mr Myler? 14 A. Yes. 15 Q. "The law under various acts concerning privacy and the 16 obtaining of private information must be strictly 17 observed. There are no circumstances in which those 18 laws can be ignored or sidestepped." 19 A. Yes. 20 Q. You don't identify the acts or tell us what the law is, 21 do you, there? Apart from the fact it must be strictly 22 observed? 23 A. Well, not in terms of -- are you talking about the 24 actual act itself? 25 Q. Yes.</p> <p style="text-align: center;">Page 59</p>
<p>1 LORD JUSTICE LEVESON: Yes. I'll go back and look at CPR59 2 or whatever it is. Okay. 3 (3.29 pm) 4 (A short break) 5 (3.41 pm) 6 MR JAY: May I ask you now, Mr Myler, please, about the use 7 of private investigators? 8 A. Yes. 9 Q. When you arrived, did you change the News of the World's 10 policy in relation to private investigators and the 11 circumstances in which they might be used? 12 A. I said in the letter that went out to all members of 13 staff that any use of private investigators had to be 14 within the way in which the newspaper would work, within 15 the PCC code, within the law, and that they could not be 16 used for any improper means; in other words, sort of 17 arm's length journalism. 18 Q. I think you said as well, but we can look at the letter 19 at 02065 -- 20 A. Sorry, which book are we in? 21 Q. I'm afraid, Mr Myler, we are in your witness statement 22 file, which is file 1. 23 A. Yes. Sorry, the number again? 24 Q. It's your letter of 7 February which I hope is going to 25 be 02065.</p> <p style="text-align: center;">Page 58</p>	<p>1 A. Well, no. But I think everybody understood what the law 2 is. 3 Q. But even the law of privacy; is that correct? 4 A. It says privacy. 5 Q. You think people understood what the requirements of the 6 law were? 7 A. Well, yes, but taking in tandem with the PCC seminars 8 that they were undertaking, which lasted about two and a 9 half hours each time. And they had been operated under 10 the laws of privacy within the PCC code before I got 11 there. 12 Q. Okay. On the next page under "Cash payments", you tell 13 your staff: 14 "We already have a clear policy on cash payments, 15 but to reiterate." 16 First of all, what was the clear policy on cash 17 payments when you arrived? 18 A. I can't remember to the letter exactly what it was, but 19 they were strict. I believe that departmental heads had 20 to sign them off in the first instance and to be happy 21 that the circumstances in which they were proposing that 22 they should be paid they had checked out themselves and 23 supported. And I believe they had to sign off the name 24 of the person it was going to, the amount of money and 25 what it was for.</p> <p style="text-align: center;">Page 60</p>

15 (Pages 57 to 60)

<p>1 Q. Because the policy which you are apparently reiterating 2 is that cash payments are only permitted in exceptional 3 circumstances. First of all, was that the policy which 4 you found on your arrival in January 2007? 5 A. Well, subsequent to what I discovered and was told, 6 I didn't believe that was the case. 7 Q. No. Was it the policy which you in fact implemented at 8 all material times after January 2007, namely cash 9 payments should only be permitted in exceptional 10 circumstances? 11 A. Yes. With the caveats that I explained before. 12 Q. To be clear, what were they? 13 A. That each departmental head would have to sign them off, 14 be satisfied that they were real and proper, that the 15 person that was identified as the recipient was on the 16 electoral roll, and it was very clear what they were 17 being paid for and they had delivered what they were 18 being paid for. 19 Q. Because the policy went further: 20 "Every such payment requires a compelling 21 justification and must be fully recorded." 22 Was that the policy which you implemented and 23 maintained at all material times after January 2007? 24 A. Every cash payment was recorded, yes. Were recorded, 25 yes.</p> <p style="text-align: center;">Page 61</p>	<p>1 including the Automobile Association. As head of that 2 organisation, he presided over a huge expansion 3 programme. He should have, I believe, displayed ethical 4 standards to merit the status and the position that he 5 had, and taking part and organising orgies, which were 6 brutal and depraved and that including paying women for 7 sex, was not, I believe, the ethical standards that the 8 membership of the FIA could reasonably expect. 9 Q. That's telling us that you strongly disagree then with 10 Mr Justice Eady's conclusion. I think that must be 11 right, mustn't it? 12 A. I said I respected and I accepted the decision, but 13 I didn't totally agree with it, no. 14 Q. Okay. 15 A. And I don't think I was on my own. 16 Q. Commissioning private -- 17 LORD JUSTICE LEVESON: That was the point I was making about 18 appeal, actually, because it's not just a question of 19 fact, it's a question of law as well, and mixed law and 20 fact can all be the subject of appeal. Anyway. 21 MR JAY: Can you just confirm this, Mr Myler? Did leading 22 counsel advise on an appeal or not? 23 A. My understanding was that without exemplary damages 24 being awarded, we didn't have grounds to appeal. That 25 is what I understood and what I was told.</p> <p style="text-align: center;">Page 63</p>
<p>1 Q. But did it require always a compelling justification? 2 A. Yes. That was signed off by each departmental head and 3 then it would go through the managing editor's office. 4 Q. And then on the final page, 02607, a series of very 5 strong statements. For example, the third paragraph: 6 "There must be no misrepresentation or deception, 7 either by commission or omission. Nor any breaches 8 whatsoever of the Data Protection Act." 9 A. Yes. 10 Q. In your experience, was that adhered to? 11 A. I'm not aware of any instances that it wasn't. 12 Q. Okay. 13 "Further, there must be no unwarranted intrusion 14 into personal privacy without the clearest 15 justification, as set out under PCC rules." 16 Was that the policy which you applied and maintained 17 at all material times? 18 A. Yes. 19 Q. Not in the case we've been looking at 20 minutes ago, 20 I suppose you would have to agree? 21 A. With Mr Mosley? 22 Q. Yes. 23 A. Mr Mosley was the head of the richest sport in the 24 world. He was elected to the president of the FIA, they 25 had a global membership of I think 125 million,</p> <p style="text-align: center;">Page 62</p>	<p>1 Q. Was that Mr Crone's advice or was it Mr Crone's advice 2 backed by leading counsel? 3 A. I understood it was Mr Crone's advice, but he would have 4 talked to leading counsel, I suspect. I don't 5 believe -- 6 Q. You don't know one way or the other whether he did, is 7 that your evidence? 8 A. I don't know as a matter of fact, but I know it was 9 discussed. 10 Q. All right. Then to continue with this letter: 11 "Commissioning private investigators or freelances 12 to undertake, at arm's length, enquiries which may be 13 deemed improper is also unacceptable." 14 What did you mean there by "may be deemed improper"? 15 A. If I could go back a little bit, one of the issues that 16 I wanted to make very clear was that if a reporter was 17 out on the road and did something that was in breach of 18 the code or in breach of the law, and his defence would 19 be, you know, "The news editor said if I didn't get this 20 story I would be fired", it was a cop-out. They had to 21 take responsibility and accountability for their actions 22 on behalf of the paper, and that went also to anybody 23 who was working for the newspaper, whether it would be 24 a freelancer or whether or not it would be a private 25 investigator. It wasn't sufficient to be able to say,</p> <p style="text-align: center;">Page 64</p>

16 (Pages 61 to 64)

<p>1 you know, "I was told to do it".</p> <p>2 Q. Okay. I come back to paragraph 39 of your witness</p> <p>3 statement then, 02508. What you were telling us there,</p> <p>4 Mr Myler:</p> <p>5 "I am aware that newspapers often use</p> <p>6 investigators ..."</p> <p>7 I'll give you time to find it. It's paragraph 39.</p> <p>8 A. Yes.</p> <p>9 Q. "I am aware that newspapers often use investigators to</p> <p>10 carry out legitimate investigatory work. I only have</p> <p>11 specific knowledge of a private investigator being used</p> <p>12 by the newspaper on one occasion. In that case, I was</p> <p>13 told that the investigator was being used to conduct</p> <p>14 surveillance activities."</p> <p>15 Can we be clear, I think you make this clear in your</p> <p>16 second witness statement, you're referring there to</p> <p>17 Mr Derek Webb, aren't you?</p> <p>18 A. Yes.</p> <p>19 Q. Did you regard him at all material times as being</p> <p>20 a private investigator?</p> <p>21 A. He was when I became aware of him. Shall I explain how</p> <p>22 I became aware of him?</p> <p>23 Q. Yes.</p> <p>24 A. I became aware of him when he was arrested and charged</p> <p>25 with an offence relating to, I think, a local journalist</p> <p style="text-align: center;">Page 65</p>	<p>1 occasion was?</p> <p>2 A. What he was doing?</p> <p>3 Q. Yes.</p> <p>4 A. I'm not aware of what that particular job was. I don't</p> <p>5 know.</p> <p>6 Q. But are you telling us that you are only aware of one</p> <p>7 particular job he ever did for the News of the World?</p> <p>8 A. I only became aware of Derek Webb on this occasion when</p> <p>9 he was arrested, yes, and I instructed that we couldn't</p> <p>10 use him.</p> <p>11 Q. I understand. But when he came back in 2009 and carried</p> <p>12 on working for the News of the World with his NUJ card,</p> <p>13 if I can so describe it, were you aware of the sort of</p> <p>14 surveillance activities he was undertaking?</p> <p>15 A. Not specifically, no.</p> <p>16 Q. In general terms, were you aware of the sort of</p> <p>17 surveillance activities he was undertaking?</p> <p>18 A. No, because his name was never mentioned to me again.</p> <p>19 His name was never brought to my attention again either</p> <p>20 by anyone in the news department or by anyone in the</p> <p>21 managing editor's office. He was never on my radar.</p> <p>22 Q. So you have no clue, therefore, as to the gamut of his</p> <p>23 activities and the purposes behind them; is that your</p> <p>24 evidence?</p> <p>25 A. No, I had no detail of his -- of the jobs he was</p> <p style="text-align: center;">Page 67</p>
<p>1 down in the Thames Valley. Once I was made aware of</p> <p>2 that, I said that he could no longer continue to work</p> <p>3 for us until the case had been completed, finalised. In</p> <p>4 the event, I believe the case collapsed and the news</p> <p>5 editor approached me and said that he was excellent at</p> <p>6 what he did, he was a former police officer who was</p> <p>7 particularly expert in surveillance, and because of my</p> <p>8 discomfort, would I feel better if he became a member of</p> <p>9 the National Union of Journalists? And I said, well,</p> <p>10 yes. And that's how I became aware of him.</p> <p>11 LORD JUSTICE LEVESON: It didn't make him a journalist, did</p> <p>12 it?</p> <p>13 A. No, of course not, but it made him more aware of the</p> <p>14 responsibilities of working for the News of the World.</p> <p>15 MR JAY: Why did it do that, Mr Myler?</p> <p>16 A. Because of the code that we operated, which he would</p> <p>17 have been aware of anyway.</p> <p>18 Q. Yes. Just rather an odd thing to do, give him an NUJ</p> <p>19 label as it were. What were you trying to achieve?</p> <p>20 A. It was a proposition that was put to me, and I actually</p> <p>21 thought that it was something that was being thoughtful</p> <p>22 and sensible of the executive who thought of it.</p> <p>23 I certainly don't regard it as being reckless.</p> <p>24 Q. The one occasion that you refer to in paragraph 39,</p> <p>25 Mr Myler, could you help us, please, with what that</p> <p style="text-align: center;">Page 66</p>	<p>1 commissioned to do. All I know is that I never had any</p> <p>2 reason to be asked or questioned or make a decision</p> <p>3 about what he had done via either a complaint or an</p> <p>4 issue or a payment or a problem.</p> <p>5 Q. Did you consider that there were any public interest</p> <p>6 issues regarding the engagement of someone like that on</p> <p>7 surveillance activities?</p> <p>8 A. Someone like what?</p> <p>9 Q. Private investigator.</p> <p>10 A. Private investigators have been used by newspapers for</p> <p>11 many years. Banks, insurance companies, all use private</p> <p>12 investigators.</p> <p>13 Q. It depends on what they're asked to do, doesn't it?</p> <p>14 A. Yes, I accept that.</p> <p>15 Q. Perhaps you would accept hypothetically that if they're</p> <p>16 set on to someone to carry out discreet surveillance</p> <p>17 really as a fishing expedition, that might be one side</p> <p>18 of the line, but if you had a specific tip from a source</p> <p>19 that that person was indulging in an improper activity</p> <p>20 and you wanted to substantiate that by getting evidence</p> <p>21 from a private investigator, that might be on the other</p> <p>22 side of the line. Would you agree with that as</p> <p>23 a generality?</p> <p>24 A. I think that as far as I'm aware any work that was</p> <p>25 commissioned by the News of the World to Derek Webb was</p> <p style="text-align: center;">Page 68</p>

<p>1 lawful and legitimate, and nothing has been presented to 2 me to suggest otherwise. 3 Q. But if you didn't know what he was doing, how could you 4 make that judgment? 5 A. Well, there were practices in place, and very 6 transparent practices in place, to find that out rather 7 quickly. I assumed that Mr Webb would be invoicing 8 monthly, weekly, I don't know. I don't know how often 9 he was used. 10 Q. He was used a lot. But someone else, the managing 11 editor would approve his bills? 12 A. Yes. And if there was any suggestion of improper 13 working, he would have raised it first of all with the 14 person who commissioned Mr Webb and then with me if he 15 felt it was appropriate to do so. 16 LORD JUSTICE LEVESON: You may be suffering from the fact 17 that you don't have the detail, but if the bills don't 18 identify precisely what he's doing, then it's quite 19 difficult to second guess it. Then it becomes -- 20 A. Yes. 21 LORD JUSTICE LEVESON: -- a communication and the extent to 22 which the managing editor wants to investigate what this 23 person is doing. 24 A. It does, and you have to rely on the person who is 25 putting down the purpose of the work for Mr Webb to be</p> <p style="text-align: center;">Page 69</p>	<p>1 A. Oh, in a lot of cases it was very transparent because 2 with big set issues, ie page 1 stories, they tended to 3 come pretty well from the same sort of circle of people. 4 People like, you know, Max Clifford or other agents. 5 They tended to be in the main very transparent. They 6 would say the person is looking for X and I'm looking 7 after them, and it often became a bidding war within 8 market forces. 9 Q. Can I ask you about public interest and the weighing of 10 factors. Paragraph 47 of your first witness statement. 11 You tell us there: 12 "The consequences of failing to meet these standards 13 were significant and decisions on balancing the public 14 interest in a free press and the private interests of 15 individuals were not made lightly." 16 Your experience in 2001 which you've told us about, 17 did that cause you to be more cautious in terms of 18 weighing up the public interest balance? 19 A. It made me more cautious about taking legal advice, on 20 the basis that three lawyers had told me that it was 21 okay to publish it. But no. I mean, situations like 22 that are a huge learning curve and you have to hope that 23 you take that into account when you're making further 24 decisions. 25 Q. Yes. Did you have Mr Crone on hand for difficult or</p> <p style="text-align: center;">Page 71</p>
<p>1 giving an accurate presentation of what that work was. 2 If, for example, that had not happened, I would have 3 expected perhaps the departmental head who signed that 4 off to explain to the managing editor why he'd put down 5 something else. That's what I hope would have happened. 6 MR JAY: Were any stories put up for consideration by you on 7 the basis of information which had been sourced in some 8 way by Mr Webb or some other private investigator, to 9 your knowledge? 10 A. Stories that I put up? 11 Q. No, put up to you for consideration. 12 A. That originated from Mr Webb? 13 Q. Yes. 14 A. I'm not aware of any, no. You mean that he was the 15 tipster? 16 Q. Yes. 17 A. No. 18 Q. The circumstances in which you would require an editor 19 to know more about the identity of the source, those 20 would be confined, would they, to circumstances when you 21 might have some doubt about the accuracy of the story; 22 is that correct? 23 A. Yes, the veracity and the impact of what the story might 24 be, the consequences of what the story might be. 25 Q. How often did you know the identity of the source?</p> <p style="text-align: center;">Page 70</p>	<p>1 hard cases? 2 A. If he wasn't away, yes. And, you know, pretty well more 3 often than not outside leading counsel, too. 4 Q. Were there many occasions on which you overrode or 5 rejected Mr Crone's advice? 6 A. Not many. 7 Q. Did he express himself in terms of allocation of risk or 8 was he more definite or bold in the advice he gave? 9 A. Always very clear. The relationship that existed and 10 the system that existed before a story even got to me 11 was very clear, tried and tested, and appeared to work 12 and did work. They knew -- they being the departmental 13 heads -- and in some cases often reporters, I suspect, 14 would have gone to him in the course of putting up 15 a story or working on a story, irrespective of going to 16 the news editor or the news desk. He was very, very 17 experienced, very clear in his advice and very good. 18 Q. Okay. Can I just test with you, if you don't mind, the 19 Michael Phelps story and just see how far we get with 20 it. Of course we clearly remember this, but just so we 21 can be absolutely clear about it. Was the photography 22 or the party in the United Kingdom or elsewhere? 23 A. It was in America, I believe. I think it was on a 24 university campus. 25 Q. Yes. And he was photographed smoking cannabis at</p> <p style="text-align: center;">Page 72</p>

<p>1 a private party. That was the basic background which 2 you knew about? 3 A. I think it was a bong. 4 Q. I didn't catch that. 5 A. It was a bong. It was through the glass smoking pipe. 6 Q. Right. So even in the United States of America, I don't 7 know what the law is in relation to the smoking of 8 cannabis or the taking it in by the method you've 9 described, we're at the very lowest end of criminality, 10 aren't we, Mr Myler? 11 A. Taking drugs is at the lowest end? 12 Q. Smoking cannabis is at the lowest end of criminality? 13 A. It was against the law. 14 Q. Yes, we're agreed about that. Did you know the 15 circumstances in which the photograph was taken? 16 A. Again, I think it was explained to me that he was at 17 a party on a university campus and that's when the 18 photograph was taken. 19 Q. Yes, well, we know that from your witness statement. 20 But was it taken using a long lens? Was it taken by 21 a friend at the party? Could you give us some context? 22 A. I don't believe it was taken by a long lens. I think it 23 was taken by somebody who was at the party. 24 Q. Was that somebody then selling it to the highest bidder; 25 the photograph, that is?</p> <p style="text-align: center;">Page 73</p>	<p>1 story. 2 Q. I'll come to that. 3 A. Sorry. 4 Q. I'm just trying to go through the decision-making 5 process. 6 A. Yes, sorry. 7 Q. On the one hand, there's his privacy. On the other 8 hand, there are the public interest considerations which 9 you've told us eloquently about, and you felt that the 10 latter outweighed the former; is that correct? 11 A. Yes. I think there's an element of false image there, 12 yes. In that particular case. Doesn't mean to say that 13 he was smoking and taking drugs every night, clearly. 14 Q. The false image was or is he's an Olympic swimmer at the 15 very top of his sport and therefore a role model; is 16 that right? 17 A. No, I mean he was -- I can't tell you immediately which 18 products and which companies he was endorsing, but they 19 were considerable, and I think as a result of the story 20 being published, he lost some of those endorsements and 21 he was suspended. 22 Q. But to be fair to the News of the World, the features 23 editor, you tell us, did contact Mr Phelps' agent about 24 this story in advance of publication? 25 A. Yes.</p> <p style="text-align: center;">Page 75</p>
<p>1 A. I can't recall about the circumstances of how it 2 specifically came to us, whether it came to us via the 3 person directly who took the photograph and owned the 4 copyright of it, or whether it came to us via another 5 source, via somebody that that individual who took the 6 picture went to and came to us. 7 Q. Did you at least have to pay for the photograph? 8 A. The records to the managing editor's office will show 9 that, clearly. I assume payment was made, but either 10 the source -- whether the source of the story was the 11 person who took the photograph -- but I'm pretty sure 12 that some money would have exchanged hands, yes. 13 Q. So in deciding whether to publish the story, there are 14 two considerations in play, are there not? First of 15 all, this was a private party and Mr Phelps, who after 16 all is a world famous swimmer, at the very top of his 17 profession and sport, is enjoying a quiet evening out 18 but breaking the law? 19 A. I think that's stretching it, with respect, Mr Jay. 20 Q. Is it? 21 A. Yes. Michael Phelps was a huge Olympic champion, a role 22 model for millions of people, and his endorsements as 23 a result of that were clear for all to see. And I think 24 you know the consequences of us going to his people and 25 what they offered us in return for not publishing the</p> <p style="text-align: center;">Page 74</p>	<p>1 Q. Because, after all, here you had the hard evidence in 2 the form of the photograph, and I suppose you were 3 running the risk that he might apply for an injunction, 4 weren't you? 5 A. I don't think we felt that that was measurably high. 6 Q. Okay. It was argued on his behalf that publishing the 7 story would breach Mr Phelps' privacy. Well, evidently 8 yes, but are there any other considerations or factors 9 which came into play at that stage? 10 A. Not that I can recall. 11 Q. Of course, a consequence of publishing the story you set 12 out there. You may be right about the public interest 13 decision you took in this case, but can I just ask you 14 this: was it proportionate in regard to the minor 15 infraction of the law we're talking about here? 16 A. Well, we're not -- we're not arbiters of the law, 17 Mr Jay. Michael Phelps was a huge sports star, known 18 throughout the world. A very, very leading Olympic 19 champion. And he and his team clearly understood the 20 significance and the seriousness of the story becoming 21 public knowledge. 22 Q. Fair enough. I just wanted to test that one with you 23 and others will consider where we are in the public 24 interest. 25 Can I ask you next, please, about your third</p> <p style="text-align: center;">Page 76</p>

<p>1 statement, before coming on to other matters. This is 2 dealing with the McCann diaries. 3 A. Yes. 4 Q. Amongst other matters. 5 You make it clear in paragraphs 5 and 6 of the 6 statement, 51874, Mr Myler -- 7 A. Yes, I have it. 8 Q. Do you have it to hand? The newspaper was very 9 supportive of the McCanns, and you wouldn't adopt the 10 stance that other national newspapers had taken by 11 printing malicious stories which had no foundation and 12 emanated largely from the Portuguese press. So that was 13 your position. 14 A. Yes. 15 Q. You had a very successful appeal, which raised 16 £1.5 million in 48 hours. In paragraph 7 you say that 17 you spoke to Dr Gerry McCann on a frequent basis about 18 developments in the case, "or more often than not just 19 to catch up". About how often did you speak to him? 20 A. Every maybe -- in the early stages, probably a little 21 bit more regularly, but weeks, perhaps, depending on 22 what was happening, what was developing, what we were 23 aware of or what we were working on. But as 24 I explained, the news desk in particular were in much 25 more regular contact with their spokesman.</p> <p style="text-align: center;">Page 77</p>	<p>1 There's only one mistake in this statement, 2 actually. It says we initiated discussions with 3 Vodafone about a European amber alert system. In fact, 4 they came to us through somebody I knew at Vodafone who 5 had been thinking about this, and proposed that we could 6 try to establish with Vodafone who would waive all 7 fees, it would be free, a system that other 8 telecommunications firms would join in, which in many 9 cases could be of huge importance in the case of 10 somebody going missing. So an alert would flash up on 11 your cellphones, wherever you were, giving basic details 12 of boy, girl, size, age, what they were wearing. 13 I know that Gerry and Kate were very interested in 14 the scheme that was very successful in America and 15 I think they'd been over to America to explore how it 16 worked and how they could bring it back to Europe. It 17 was one of the things that they were working on. 18 Q. That's fair enough, Mr Myler, but the context of the 19 Hello magazine evidence was Dr McCann, in the 20 transcript: 21 "I think it would be fair to say that Mr Myler was 22 irate when he learned of the publication which happened 23 and was berating us for not doing an interview with the 24 News of the World." 25 So it's accepting the berating from you, but he was</p> <p style="text-align: center;">Page 79</p>
<p>1 Q. This is Mr Ian Edmondson on the one hand who was the 2 news editor? 3 A. Yes. 4 Q. And the spokesman was Mr Clarence Mitchell, who we heard 5 about on the other? 6 A. Yes. And before that, I think it was 7 Justine McGuinness, yes. 8 Q. Did you have any direct dealings with Mr Mitchell? 9 A. Not really, no. 10 Q. Not really or at all? 11 A. No, hardly at all. 12 Q. There was evidence from the McCanns about three weeks 13 ago now that following something published in Hello 14 magazine, there was an irate phone call between you and 15 him. Is that right, Mr Myler? 16 A. I was surprised to hear that from Gerry. I think he 17 actually said that I berated him. I don't recall that. 18 I've not really got a reputation for berating people, 19 and I certainly wouldn't have any cause to berate Gerry 20 after what -- and what they were going through. 21 I pointed out to him simply that the surprise of doing 22 something with Hello magazine with a circulation of, 23 I don't know, I'm guessing at that time maybe 300,000, 24 against a circulation of the News of the World which was 25 over 3 million, and as I'd said --</p> <p style="text-align: center;">Page 78</p>	<p>1 irate. Maybe it's a matter of perception. 2 A. He was irate? 3 Q. Mm. 4 A. No, I don't think it -- Gerry wasn't irate. 5 Q. Sorry, it was you. 6 A. I was irate, yes. 7 Q. And berating them. 8 A. I had no cause at all at any stage to berate or be irate 9 with Gerry. Indeed, the relationship was such that he 10 would call and thank me for what the News of the World 11 had been doing. It was a relationship that I valued. 12 Q. Okay. 13 LORD JUSTICE LEVESON: So one understands, you can get in 14 touch with him whenever you want, if you want to, if you 15 think it's important? 16 A. To a point. I mean I was very aware that they did enjoy 17 and protect their own privacy and space, as it were. 18 They had a lot going on and they were dealing with a lot 19 of issues, and dealing with a lot of -- I mean, the 20 pressure was pretty intense on them. 21 LORD JUSTICE LEVESON: Oh, I'm sure. I didn't quite mean 22 that. I really meant that if you had something that was 23 significant and important, particularly if you felt it 24 might impact on that privacy -- 25 A. Yes, I --</p> <p style="text-align: center;">Page 80</p>

<p>1 LORD JUSTICE LEVESON: -- you were able to pick up the 2 phone -- 3 A. I know where you're heading, yes, of course, yes. 4 I know where you're going, sir, with respect. And 5 I mean respect, as opposed to what you said the other 6 day to Mr Wallis. 7 LORD JUSTICE LEVESON: I'm a very open person, Mr -- 8 A. I like to think I am, too. 9 MR JAY: Mr Myler, did you have his mobile phone number? 10 A. I think I did, yes. The point I'm making, Mr Jay, is 11 that I didn't abuse that. I was aware of what they were 12 dealing with, and unless there was a reason specifically 13 to discuss, I didn't want to waste their time. 14 Q. Right. You tell us that the "Kate's diary in her own 15 words" story was published in the News of the World on 16 14 September 2008 and you also tell us it was not 17 a story which was produced in a matter of days. 18 A. That was -- again, might I just say that I only received 19 from Linklaters yesterday in the bundles, six arrived 20 yesterday morning, so I only saw for the first time 21 records from other people that were requested, because 22 I've not had access. 23 Q. I think it's -- 24 A. And the statement to you was obviously made before that, 25 so it was from recollection.</p> <p style="text-align: center;">Page 81</p>	<p>1 A. Sorry. I couldn't fit it in the bag, actually. 2 MR JAY: It has tabs, so it's easier to ... 3 A. Thank you. 4 Q. Tab 2. 5 A. Yes. 6 Q. Mr Edmondson to you, 5 September. So we are nine days 7 before the story: 8 "We have got the Kate McCann diaries journalist at 9 a meeting. They are in Portuguese, translated by cops. 10 Official police document looks good. Don't think this 11 is a set-up. We can take possession after paying 12 a small deposit and pay the balance upon publication, 13 3,000 euros in total. Get it as great stuff for next 14 week? Ian." 15 So your source, as it were, was I think a Portuguese 16 journalist? 17 A. Mm. 18 Q. I think it was a woman journalist, but it's not going to 19 matter. Made clear to you that the Portuguese police 20 had translated the diary and therefore they remained in 21 Portuguese but they looked as if they were what they 22 purported to be; is that correct? 23 A. Yes, according to this. 24 Q. Were you concerned by the fact that the diary had been 25 obtained from the police in some way?</p> <p style="text-align: center;">Page 83</p>
<p>1 Q. I think it's important to try and understand what 2 material, documentary material, you had available to you 3 in September 2008, rather than material which you've 4 only seen subsequently, since only the former would have 5 informed your thinking at the time, wouldn't it? 6 A. Yes, but it's -- we're now 2011. It's remembering. 7 Q. Indeed. You tell us in your witness statement that the 8 story was presented to you by Mr Edmondson, is that 9 correct? 10 A. It is. 11 Q. And he made it clear to you that he had a copy of the 12 diary. Did he let you know or tell you from where he 13 had obtained it? 14 A. I can't recall the conversation specifically, but I'm 15 sure he would have done. 16 Q. Well, we can be more precise. If you could pick up the 17 Linklater file, if we can describe it in those terms, 18 and look, please, at tab 2. 19 A. Sorry, what number is it? 20 Q. The papers which arrived from Linklaters which you 21 mentioned three minutes ago. 22 LORD JUSTICE LEVESON: Do you not have the file? 23 A. If it's not here. 24 MR JAY: We can provide you with another file. It's there. 25 We'll get it to you.</p> <p style="text-align: center;">Page 82</p>	<p>1 A. I can't recall exactly how the conversation developed 2 and when and where it would have taken place with 3 Mr Edmondson, but if I remember correctly, elements of 4 the diary had already been published in some of the 5 Portuguese papers, I believe, previously, so I assumed 6 that it was the same journalist who was the author of 7 those stories, who had come to us. 8 Q. But were you aware of some of the background which 9 comprised this: that the police had obtained the diary, 10 having seized it from Dr Kate McCann, and then there was 11 an order by the Portuguese judge for the diary to be 12 returned, but I think a copy by then had been taken? 13 Were you aware of any of that background? 14 A. I don't recall that specifically, I'm sorry. 15 Q. But it was clear to you that the ultimate source -- the 16 proximate source was the journalist, but the ultimate 17 source was the Portuguese police. That much was clear, 18 wasn't it? 19 A. I think it's clear that that's where it probably would 20 have emanated, yes. 21 Q. And then there were discussions about the cost, which 22 I don't think we need dwell on. And then -- 23 LORD JUSTICE LEVESON: This is a formal agreement is made in 24 writing, behind tab 3? 25 A. Yes.</p> <p style="text-align: center;">Page 84</p>

<p>1 LORD JUSTICE LEVESON: This is 5 September? 2 A. Yes. 3 LORD JUSTICE LEVESON: A substantial sum of money to supply 4 the diary of Kate McCann for exclusive publication? 5 A. Yes. According to this, yes. 6 LORD JUSTICE LEVESON: Yes. That's the -- 7 MR JAY: So at that stage you had a contractual commitment 8 to pay an amount, and the consideration would be 9 exclusive publication in the News of the World; is that 10 right? 11 A. Generally, yes. 12 Q. It wasn't your understanding that anybody had asked for 13 Dr Kate McCann's consent by that stage, was it? 14 A. At that stage? 15 Q. Yes. 16 A. I -- well, this is Friday at 8.06 pm. I know, as 17 I said, that Ian Edmondson was probably at that stage 18 almost in daily contact with Mr Mitchell. What 19 conversations had taken place, I don't know. But I know 20 that they had a very close relationship and a very close 21 working professional relationship. 22 Q. I think the question is a bit more precise. Before 23 making the contractual commitment -- 24 A. Yes. 25 Q. -- which would save you having to pay money which might</p> <p style="text-align: center;">Page 85</p>	<p>1 quickly -- 2 MR JAY: Yes, you're right, I'm wrong. 3 So the next few days, I think the documents show, 4 were devoted to establishing that the diaries were what 5 they purported to be, do I have that right? 6 A. Yes. 7 Q. And then did there come a point, you having established 8 that, that you wanted to ascertain whether or not there 9 was consent from Dr Kate McCann for publication? Have 10 I correctly understood the position? 11 A. Yes. 12 Q. But the obvious question, Mr Myler, is this: why did you 13 not telephone either of the McCanns and find out whether 14 they consented? 15 A. Because Ian Edmondson had assured me on more than one 16 occasion that Clarence was aware of what we were 17 intending to do and had said, "Good". I think it was 18 very clear from Mr Edmondson's point of view how he'd 19 spelt out what he was doing, and indeed I stressed very 20 clearly by using the phrase that I did not want Kate to 21 come out of church on Sunday morning and find that the 22 diaries were there without her knowledge. 23 Q. But you were of course aware that if Dr Kate McCann had 24 not given her consent to the publication of this 25 personal diary, she would be outraged by the</p> <p style="text-align: center;">Page 87</p>
<p>1 not lead to anything -- 2 A. Well, it would be on publication. 3 Q. It would be on publication. But were you satisfied that 4 Dr Kate McCann had given her consent or was the issue of 5 consent something which you were going to address later? 6 A. Well, I don't know -- at that stage, I didn't know 7 whether or not they had it. You know, physically had 8 from the journalist what she said she had. 9 Q. No, indeed not. But -- 10 A. So I -- the question really about whether or not we had 11 permission from Kate or whatever conversations 12 Ian Edmondson would have had with Mr Mitchell, until he 13 had it, I'm not sure it was relevant. 14 Q. Sorry, my understanding of this contract, and it's quite 15 a short document with very few stipulations, is that on 16 consideration of the diary being supplied to the 17 News of the World, News of the World would pay 20,000 18 euros to the journalist, and its purpose would be for 19 exclusive publication in the News of the World? 20 A. Yes. 21 Q. But the payment of 20,000 euros wasn't dependent on it 22 being exclusively published in the News of the World? 23 LORD JUSTICE LEVESON: Yes, it was, paragraph 6. 24 A. Yes, it was. Yes, it was. All the contracts were on 25 that basis because we would run out of money rather</p> <p style="text-align: center;">Page 86</p>	<p>1 publication. You were aware of that, weren't you? 2 A. I wouldn't have published if I'd thought that she hadn't 3 been made aware of it. 4 Q. And Mr Edmondson was telling you that he'd obtained 5 consent on what day? 6 A. Well, it was absolutely clear from the Friday to the 7 Saturday that that assurance had been given to him and 8 given again to me. 9 Q. It was going to be a front page story, wasn't it? 10 LORD JUSTICE LEVESON: Which Friday to which Saturday are we 11 talking about? What date? 12 MR JAY: 12th and 13th, isn't it? 13 A. In other words, sort of from the Friday conference to 14 deciding, you know, what you're doing with the front of 15 the paper. 16 LORD JUSTICE LEVESON: I see. 17 A. I made it clear, I think on the Friday, by using that 18 phrase, and I repeated it to him again on the Saturday. 19 And at no stage did he indicate to me that Mr Mitchell 20 had told him it wouldn't be appropriate to do what he'd 21 been told we were doing. 22 Q. Given the importance of all of this, why not just pick 23 up the phone yourself and find out? 24 A. Mr Mitchell was a very experienced media spokesperson, 25 absolutely. I had no reason to believe that what</p> <p style="text-align: center;">Page 88</p>

<p>1 Mr Edmondson was telling me wasn't correct.</p> <p>2 Q. Did Mr Edmondson tell you clearly that he had told</p> <p>3 Mr Mitchell that a copy of the diary had been obtained</p> <p>4 via the Portuguese police, had been translated by you,</p> <p>5 and that sections of that translation were going to be</p> <p>6 published in the News of the World as opposed to the</p> <p>7 News of the World simply using publications which had</p> <p>8 already been made in Portugal to base a story?</p> <p>9 A. No, no, no. My understanding was that it was very clear</p> <p>10 that Mr Edmondson had explained what had we had because</p> <p>11 I think the extracts that had appeared in Portugal were</p> <p>12 very minor, limited. I don't know how much they used.</p> <p>13 But there was a -- I think there's a transcript in here</p> <p>14 of a conversation where he explains that he was trying</p> <p>15 to get me to go big with it, and I think in the course</p> <p>16 of that conversation I think Mr Mitchell had said that</p> <p>17 he'd vaguely remembered when they had been used in part</p> <p>18 in the Portuguese press and that they were obviously</p> <p>19 very selective.</p> <p>20 Q. Yes, but did Mr Edmondson make it clear to you that he</p> <p>21 had made it clear to Mr Mitchell that he had the whole</p> <p>22 diary and was going to cause extracts from it to be</p> <p>23 published in the News of the World?</p> <p>24 A. That's what he led me to believe, yes.</p> <p>25 Q. Because reading the transcript, and this is something</p> <p style="text-align: center;">Page 89</p>	<p>1 have published it. I mean, why would I do something as</p> <p>2 personal as that, however much behind a shield of</p> <p>3 nailing the lies of the Portuguese media and the press?</p> <p>4 I don't think that would have been sufficient for the</p> <p>5 grief it caused her, and I had absolutely nothing to</p> <p>6 gain and everything to lose, given the relationship that</p> <p>7 we had established.</p> <p>8 Q. But if that was your thought process on 16 September,</p> <p>9 why wasn't it the thought process you had the previous</p> <p>10 week, Mr Myler?</p> <p>11 A. Because I was given an absolute categoric assurance that</p> <p>12 Clarence knew what we were doing.</p> <p>13 LORD JUSTICE LEVESON: Well, you've read this transcript,</p> <p>14 I'm sure. It's clearly not a document that spells it</p> <p>15 out in words of one syllable, is it?</p> <p>16 A. You know, Mr Edmondson, given the number of times</p> <p>17 I asked him for the assurance to make sure that there</p> <p>18 was absolute clarity and understanding, had no view that</p> <p>19 there was anything ambiguous in what we were going to</p> <p>20 do.</p> <p>21 LORD JUSTICE LEVESON: It may be, Mr Myler, that it's unfair</p> <p>22 to ask you much more about this, but would you agree</p> <p>23 with this: this document is most clearly ambiguous?</p> <p>24 A. This --</p> <p>25 LORD JUSTICE LEVESON: This is the transcript that you were</p> <p style="text-align: center;">Page 91</p>
<p>1 which you didn't, of course, see at the time, the</p> <p>2 transcript of the conversation --</p> <p>3 A. Sorry, which tab are we?</p> <p>4 Q. This is tab 9.</p> <p>5 LORD JUSTICE LEVESON: You did see it just a few days later</p> <p>6 on the Tuesday.</p> <p>7 MR JAY: A four-page transcript of a conversation between</p> <p>8 Ian Edmondson and Clarence Mitchell on Friday, September</p> <p>9 12, 2008. It's quite a complicated document, and</p> <p>10 certainly bears at least one interpretation, probably</p> <p>11 several. You saw it two days later or two days after</p> <p>12 publication, on the Tuesday, didn't you?</p> <p>13 A. This is the transcript of the conversation between</p> <p>14 Ian Edmondson and Mr Mitchell?</p> <p>15 Q. Indeed.</p> <p>16 A. Yes.</p> <p>17 Q. We know Mr Edmondson sent it to you. You're the first</p> <p>18 recipient on the email, aren't you?</p> <p>19 A. Yes.</p> <p>20 Q. Having seen that transcript, and I'm not going to go</p> <p>21 through it now, why did you apologise to the McCanns at</p> <p>22 all? Unless it was capable of bearing at least a number</p> <p>23 of interpretations?</p> <p>24 A. Well, because I felt very bad that she didn't know. And</p> <p>25 as I've said before, without her permission, I wouldn't</p> <p style="text-align: center;">Page 90</p>	<p>1 sent by Mr Edmondson as establishing, presumably, the</p> <p>2 consent about which you were then concerned. And it's</p> <p>3 not terribly clear. Would you agree with that?</p> <p>4 A. I need to --</p> <p>5 LORD JUSTICE LEVESON: All right.</p> <p>6 A. I only got this bundle yesterday.</p> <p>7 LORD JUSTICE LEVESON: That's entirely fair enough.</p> <p>8 A. I'm sorry.</p> <p>9 MR JAY: What was the total sum that the News of the World</p> <p>10 paid for this diary?</p> <p>11 A. I don't know. We'd have to check. Because often when</p> <p>12 sums are going into a managing editor's sheet,</p> <p>13 particularly when they have brackets which says they're</p> <p>14 still being negotiated, the tendency was for that sum to</p> <p>15 be negotiated down, and therefore it was a running</p> <p>16 memoir, if you like. Chances are that that figure</p> <p>17 possibly could have come down. So the managing editor's</p> <p>18 office will have a record of that.</p> <p>19 Q. Okay, but you made a donation to the Madeleine fund?</p> <p>20 A. Oh yes.</p> <p>21 Q. Was it a substantial donation?</p> <p>22 A. I believe it was. And an apology the following week,</p> <p>23 I think it was the following week, negotiated with,</p> <p>24 I think, Mr Thomson from Carter Ruck, and in it was an</p> <p>25 acceptance and an acknowledgment that there had been</p> <p style="text-align: center;">Page 92</p>

<p>1 a misplaced understanding that we had Kate's permission 2 and, you know, we made that very clear, that the last 3 thing we wanted to do was to cause her any more 4 distress. 5 Q. May I move off that to another topic. This topic is 6 such that I won't be able to conclude it today. I don't 7 know how you -- 8 LORD JUSTICE LEVESON: Do I understand that, save for 9 Mr Myler, we're not going to find ourselves tomorrow 10 running over a witness? 11 MR JAY: We won't, because there's another witness, 12 Mr Sanderson, who deals with these matters. He'll be 13 quite short. And then Mr Webb, who won't be that long 14 either, so although we're not doing very well today, 15 overall we're not doing badly. 16 LORD JUSTICE LEVESON: No, well, I understand the point. 17 All right, I think that Mr Myler is due a break as well. 18 A. Okay. 19 LORD JUSTICE LEVESON: Thank you very much. We'll resume at 20 10 o'clock tomorrow. Oh, pause. 21 MR CAPLAN: Sir, just one thing very briefly. 22 LORD JUSTICE LEVESON: Yes, Mr Caplan. 23 MR CAPLAN: Just to exercise a brief right of reply on 24 behalf of the Daily Mail. 25 LORD JUSTICE LEVESON: You're absolutely right. I'm very</p> <p style="text-align: center;">Page 93</p>	<p>1 LORD JUSTICE LEVESON: There it is. You will have noticed 2 that after Mr Sherborne started, I interrupted him, 3 probably quite rudely, and dealt with the topic, which 4 is concerned with the deletion of the emails with which 5 am concerned, for reasons which I'm sure you will 6 understand, as I dealt with it. 7 MR CAPLAN: Thank you very much. 8 LORD JUSTICE LEVESON: Thank you very much. 9 (4.37 pm) 10 (The hearing adjourned until 10 o'clock the following day) 11 12 Housekeeping1 13 14 MR THOMAS GERALD CRONE (on former7 15 oath) 16 Questions by MR JAY7 17 Questions by MR SHERBORNE75 18 MR JON CHAPMAN (sworn)83 19 Questions by MR JAY83 20 MR COLIN MYLER (sworn)116 21 Questions by MR JAY116 22 23 24 25</p> <p style="text-align: center;">Page 95</p>
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<p>1 sorry that one of the few moments that you're not 2 here -- 3 MR CAPLAN: Yes, I'm sure that was coincidental. 4 LORD JUSTICE LEVESON: I'm sure it's coincidental and I knew 5 that you would see it. 6 MR CAPLAN: Sir, yes. Might I say this. I understand that 7 Mr Sherborne referred to an approach that was made by 8 a Daily Mail journalist to Mr Mark Lewis, the Dowlers' 9 solicitor, yesterday evening, and the suggestion was 10 made, I think by Mr Lewis, that this approach and the 11 question that was asked was an attack upon the Dowler 12 family. I'm mentioning this first of all because it was 13 mentioned in public to this Inquiry, and also because it 14 has been taken up by one or two other online publishers. 15 May I say this: the journalist was not attacking the 16 Dowlers in any sense. He was making a proper approach 17 to Mr Lewis as their solicitor, trying to see what the 18 implications might be from recent reports concerning 19 deletions from Milly Dowler's voicemails. No more than 20 that. And I'm very anxious that that position should be 21 understood, that there was no attempt at all, or 22 intention, to mount any attack on the Dowlers. It was 23 an inquiry to their solicitor. No story has resulted 24 from it and I'm surprised that Mr Lewis brought it to 25 the attention of the Inquiry.</p> <p style="text-align: center;">Page 94</p>	
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cease 30:18	41:6 58:11	92:17	14:5 16:4	controls 28:8	cricket 29:23	decision 12:6,7
ceased 1:14,19	59:17 60:21	comfortable 7:9	22:17 27:25	30:20	criminal 10:3	12:13,20,20
31:10,11	61:3,10 70:18	coming 77:1	55:7 65:13	convenient 57:25	14:3 16:23	41:9 55:25
celebrities 29:5	70:20 73:15	commercial 4:17	conducted 32:21	conversation	criminality	63:12 68:2
34:18	74:1	5:23 36:18	conference 11:10	46:3 82:14	27:16 73:9,12	76:13
celebrity 29:3,4	claim 2:20,20 4:7	commission	36:14 52:18	84:1 89:14,16	criteria 38:21	decisions 42:24
34:15	4:9 36:20	16:12 62:7	57:3,5 88:13	90:2,7,13	critical 57:12	43:3,5 71:13
cellphones 79:11	56:14	commissioned	confine 41:3	conversations	criticised 53:21	71:24
cent 28:9,13	Clarence 78:4	68:1,25 69:14	confined 70:20	85:19 86:11	criticism 47:20	decision-making
30:24	87:16 90:8	Commissioner's	confining 38:19	copies 35:21	49:11	75:4
certain 12:4	91:12	5:19	confirm 63:21	cops 83:9	Crone 1:11 2:16	deemed 64:13,14
28:24,24 32:7	clarity 91:18	Commissioning	connected 29:5	copy 82:11 84:12	3:18,22 4:3,6	deep 23:8
33:23 52:15,18	clear 5:22 14:4	63:16 64:11	connection 18:20	89:3	42:4 53:23	defence 4:11
certainly 1:23	16:21 17:1,7	commitment	consent 85:13	copyright 74:4	71:25 95:12	64:18
13:6 20:12	17:17 19:23	85:7,23	86:4,5 87:9,24	cop-out 64:20	Crone's 41:23	defensible 54:8
21:5 35:5	32:9 36:13	Committee 1:8	88:5 92:2	core 27:24	64:1,1,3 72:5	definite 72:8
41:17 54:12,16	45:3,24 56:19	5:12 53:3,22	consented 87:14	Corp 15:18,25	cross-examined	definitive 1:16
54:17 55:9	60:14,16 61:12	54:12	consequence	corporate 4:17	43:9 44:9	delegating 24:3
56:25 57:17	61:16 64:16	common 35:2	17:19 31:22	21:18 22:1	crude 41:13	deletion 95:4
66:23 78:19	65:15,15 72:9	communication	76:11	corporation	cultural 54:22	deletions 94:19
90:10	72:11,17,21	17:15,20 69:21	consequences	13:24 14:1,8	culture 5:2 22:25	delivered 61:17
chairman 53:7	74:23 77:5	companies 68:11	70:24 71:12	15:16,16 18:11	23:2,4,19,20	demonstrates
53:17	82:11 83:19	75:18	74:24	Corporation's	23:21,25 24:8	55:8
challenge 17:15	84:15,17,19	company 10:11	consider 12:16	14:5	24:13 50:12,19	department
17:22 18:5	87:18 88:6,17	14:9,11 17:11	28:3 33:6	correct 1:9 2:13	50:22 51:21,24	17:21,23,24
challenged 18:2	89:9,20,21	24:14	47:16 51:1	3:24 4:15 5:25	52:3,3 54:7	25:11 30:6
18:3 49:17	92:3 93:2	compared 28:17	68:5 76:23	9:15,20,21	cultures 49:24	31:11,13 67:20
challenges 34:11	clearest 62:14	comparison	considerable	16:19,20 21:22	curve 71:22	departmental
challenging	clearly 8:5 19:20	28:18	75:19	22:14,16 37:10	custom 37:21	24:4 52:17
34:13	24:19 46:6,24	compelling	considerably	42:15 60:3	39:20 40:7,11	60:19 61:13
champion 74:21	72:20 74:9	61:20 62:1	47:10	70:22 75:10	41:25	62:2 70:3
76:19	75:13 76:19	compensation	consideration	82:9 83:22	cut-off 56:7	72:12
Chances 92:16	87:20 89:2	2:4	70:6,11 85:8	89:1		depend 22:12
change 17:20	91:14,23	compensatory	86:16	correctly 54:21	D	dependent 86:21
31:19,21 34:12	Clifford 71:4	2:7	considerations	84:3 87:10	daily 9:16,23	depending 30:8
49:24 50:1,2	Clifford's 3:11	complaint 68:3	74:14 75:8	correspondence	51:12 85:18	77:21
50:19 52:9	clips 38:11 41:18	complaints	76:8	2:18	93:24 94:8	depends 53:13
58:9	Cloke 3:25 4:5	16:11 19:1,2,5	considering	cost 84:21	damages 57:22	68:13
changed 32:8	close 20:9 29:5	complete 4:19	45:11	costs 2:5	63:23	deplored 54:8
changes 23:6	32:2 85:20,20	completed 66:3	constitutes 53:11	Coulson 9:20	data 15:4,20	deployment
changing 34:5	closely 4:16	completely 56:17	construed 53:12	counsel 13:8,10	62:8	51:22
35:1 50:21	clue 67:22	compliance 5:18	contact 75:23	42:5 63:22	database 6:19	deposit 83:12
51:7,13 52:2	CMS 5:11	10:16 13:14	77:25 85:18	64:2,4 72:3	date 88:11	depraved 63:6
52:14	code 14:2 16:6,8	23:1,23 51:25	contacting 34:17	counsel's 3:14	dated 8:12 9:5	deputy 11:4
Chapman 1:3	16:12,13 17:4	complicated	contained 38:4	42:2	dates 43:24 56:9	42:20 51:8
6:1 95:16	18:15,19 20:25	90:9	content 37:22	country 48:20	Davies 6:9,11,12	Derek 65:17 67:8
charge 42:21	21:21,22 22:21	comply 16:22	40:19	course 17:9	6:18,21 7:2	68:25
charged 65:24	23:1,23 24:25	18:14	context 52:2	18:25 19:8	day 45:5 81:6	describe 34:6
chases 27:22	33:7,12 46:7	component	73:21 79:18	20:23 21:24	88:5 95:10	67:13 82:17
chasing 6:7	46:11 51:25	30:10	continual 1:13	33:22 36:5,12	days 42:15 81:17	described 26:25
check 42:6,7	52:24 58:15	comport 14:19	continue 64:10	42:13,22 46:6	83:6 87:3 90:5	54:23 73:9
92:11	60:10 64:18	comprised 21:25	66:2	50:20 53:18	90:11,11	desk 5:3 72:16
checked 60:22	66:16	84:9	continued 31:16	56:13 66:13	deal 18:2 20:11	77:24
chief 46:25 51:10	coincidental	concept 26:25	contract 2:7	72:14,20 76:11	32:23 49:13	detail 48:14
55:3	94:3,4	concerned 5:8,23	21:24 22:21	81:3 87:23	dealing 77:2	67:25 69:17
choose 33:19	Colin 6:4 7:6,12	26:18 83:24	86:14	89:15 90:1	80:18,19 81:12	details 1:20 41:4
Christopher	95:18	92:2 95:4,5	contractor 2:9	court 35:12 36:5	dealings 78:8	79:11
19:22 20:4	collapsed 66:4	concerning 3:12	contracts 16:7	42:9 46:9	deals 93:12	developed 84:1
church 87:21	collective 22:25	59:15 94:18	16:10 52:14	56:20	dealt 34:15 95:3	developing 38:5
circle 71:3	23:22 24:9	concerns 7:1	86:24	courts 34:14,25	95:6	77:22
circulation 78:22	51:24	48:12	contractual 85:7	57:3	December 9:6	developments
78:24	come 12:17 15:8	conclude 49:13	85:23	cover 10:17	34:2	77:18
circumspect	18:19 19:13	93:6	contributors	16:16 29:7	decently 33:7	devoted 87:4
35:6	26:1 40:18	conclusion 63:10	25:8	33:6	deception 62:6	dial 13:8
circumstances	43:6 49:23	condign 33:10	control 2:23	covering 18:25	decided 55:20	diaries 77:2 83:8
3:8 10:6,25	65:2 71:3 75:2	condition 16:13	controlling	CPR59 58:1	deciding 74:13	87:4,22
30:25 40:14	84:7 87:7,21	conduct 13:25	15:17	credit 45:8	88:14	diary 81:14

82:12 83:20,24 84:4,9,11 85:4 86:16 87:25 89:3,22 92:10 difference 16:20 different 6:22 7:22 8:3 12:24 28:14 29:15 35:24 42:23 50:2 51:21 53:15 difficult 15:7,20 19:14 23:4 31:25 38:11,18 45:10 50:1,20 69:19 71:25 direct 16:15 52:20 78:8 directed 23:18 direction 22:11 directly 74:3 disagree 63:9 disagreeable 27:23 disappearing 32:3,5,6 disappointed 4:25 disappointing 48:21 disciplinary 16:24 18:15,17 52:24 55:14 discloses 47:19 disclosure 47:11 discomfort 66:8 discovered 61:5 discreet 68:16 discretion 22:17 discuss 81:13 discussed 13:3 25:4 41:23 46:15 64:9 discussions 3:12 3:18 4:6,8,10 32:15 79:2 84:21 dismissal 16:25 18:18 52:25 dismissed 17:2 display 11:15 displayed 63:3 displaying 38:23 distinction 13:17 distress 93:4 divided 28:14 division 14:1 18:10,11 document 14:10 15:13,24 83:10 86:15 90:9 91:14,23 documentary 82:2 documents 21:19 21:19,20,25 87:3	doing 27:22 39:25 52:12 67:2 69:3,18 69:23 78:21 79:23 80:11 87:19 88:14,21 91:12 93:14,15 domain 10:22 32:13 dominated 50:24 donation 92:19 92:21 door 30:17 doubt 7:2 70:21 doubtless 43:6 Dowler 94:11 Dowlers 94:8,16 94:22 Dowler's 94:19 Dr 77:17 79:19 84:10 85:13 86:4 87:9,23 dramatically 30:14 draw 56:16 drawing 24:24 drawn 43:15 drifted 27:21 drugs 73:11 75:13 due 20:5 93:17 duty 11:16 dwelt 23:12 59:6 84:22	36:14 editors 9:14 14:17 16:5 32:17 35:4 editor's 20:22 21:21 32:14 62:3 67:21 74:8 92:12,17 Edmondson 78:1 82:8 83:6 84:3 85:17 86:12 87:15 88:4 89:1,2,10,20 90:8,14,17 91:16 92:1 Edmondson's 87:18 effectively 47:15 either 6:20 25:22 36:16 52:17 62:7 67:19 68:3 74:9 87:13 93:14 elected 62:24 electoral 25:13 61:16 element 75:11 elements 84:3 eloquently 75:9 email 45:12 90:18 emails 2:18 43:4 43:12,14 44:6 44:9,15 45:7 47:5 53:19 95:4 emanated 77:12 84:20 employed 2:12 employee 2:25 16:12,21 employees 14:11 17:13 employer 16:11 employment 1:25 2:12,19 2:20 16:7,14 21:24 22:22 employment-r... 5:8 encountered 50:23 encouraged 24:10 endorsed 16:18 endorsements 74:22 75:20 endorses 16:11 endorsing 75:18 engagement 68:6 enjoy 80:16 enjoying 74:17 enquiries 6:15 7:3 64:12 ensure 24:4 37:8 ensuring 21:18 23:1,22 33:7	51:25 entailed 37:12 entered 10:22 entire 11:24 entirely 12:14 55:1 92:7 entitled 57:12 entrants 55:18 entries 55:25 environment 13:6 17:14 equivalent 2:8 essentially 53:8 establish 46:23 79:6 established 87:7 91:7 establishing 33:3 87:4 92:1 ethical 48:23 54:22 63:3,7 ethically 33:3 ethics 11:25 14:10 17:16 32:25 ethos 49:15 Europe 79:16 European 79:3 euros 83:13 86:18,21 evening 36:15 74:17 94:9 event 47:10 66:4 everybody 14:7 14:9 18:12 26:25 48:13 60:1 evidence 8:14 9:2 32:24,25 36:5 39:2,3,5 39:12,16 41:23 45:1,4 49:4 53:3,4 54:13 57:1 64:7 67:24 68:20 76:1 78:12 79:19 evidently 76:7 exactly 40:23 43:16,18 44:13 53:13 60:18 84:1 example 26:5 29:23 40:17,19 46:15 55:3 62:5 70:2 examples 50:4 52:8 54:22 excellent 66:5 exception 29:23 exceptional 51:9 61:2,9 exchange 2:18 exchanged 74:12 exclusive 10:7 85:4,9 86:19 exclusively 86:22	executive 18:1 22:14 31:15 46:15 66:22 executives 54:9 exemplary 20:14 57:22 63:23 exercise 7:25 10:21 93:23 exercised 30:20 existed 23:3,12 25:13,16 72:9 72:10 existing 13:18,21 expansion 63:2 expect 63:8 expectation 33:17 49:23 expected 30:19 70:3 expects 14:11 expedited 43:23 expedition 68:17 expenses 27:1 32:12,16,18 expensive 29:12 experience 5:6 11:24 12:10,19 13:2 33:22 35:4 48:11 62:10 71:16 experienced 22:3 49:10 52:7 54:24 55:8 72:17 88:24 expert 66:7 explain 10:25 23:4 25:14 65:21 70:4 explained 57:24 61:11 73:16 77:24 89:10 explains 21:22 89:14 explanation 45:15,18 explicit 38:7,10 41:17 explicitness 37:22 exploration 26:5 explore 79:15 explosion 34:14 express 16:7 72:7 expressing 38:6 extended 22:5 extension 38:2 38:17 extensive 3:23 extent 11:24 69:21 extracts 89:11,22 extreme 30:25 40:17,19 41:17 extremely 48:18 54:11	F fact 6:21 12:8 14:14 43:3 46:2 54:5,9 59:21 61:7 63:19,20 64:8 69:16 79:3 83:24 factor 36:21 factors 35:1 36:17 71:10 76:8 failed 20:25 failing 71:12 failure 16:22 18:14 fair 6:18 12:23 26:8 27:6 31:9 55:1,11 56:18 75:22 76:22 79:18,21 92:7 fairly 32:23 fall 30:14 false 75:11,14 family 94:12 family-rated 41:19 famous 74:16 far 14:1 68:24 72:19 Farrers 3:1 father 10:7 favour 43:20 fear 36:19 features 30:7 31:14,15 51:11 75:22 February 20:4 24:24 25:3 52:23 58:24 feel 16:15 18:5 26:20 50:13 66:8 feeling 12:4 fees 1:17,17 fell 17:2 30:9 felt 5:18 46:15 69:15 75:9 76:5 80:23 90:24 FIA 62:24 63:8 figure 3:3 19:7 92:16 file 7:15,16,16,18 7:23 8:3 20:22 35:13,23,24 54:1 55:13 58:22,22 82:17 82:22,24 files 20:21 42:8 fills 14:14 final 55:18,25 56:24 62:4 finalised 66:3 financial 28:10 31:3 find 8:1 19:14	38:11 43:10 65:7 69:6 87:13,21 88:23 93:9 finding 59:9 fired 64:20 fire-chasing 34:17 firms 79:8 first 2:14 7:15 8:11,17 9:9,9 11:2 12:9 13:22 17:11,24 21:17 23:2 25:5 36:9 37:13 40:3 43:14,14 44:6 44:11,15 45:13 59:12 60:16,20 61:3 69:13 71:10 74:14 81:20 90:17 94:12 first-hand 1:10 fishing 68:17 fit 83:1 five 34:1 52:2 fixer 29:25 fixing 29:23 flagged 52:9 flags 8:1,2 flash 79:10 Fleet 52:10 focus 22:8 47:25 focusing 40:4 52:15 follow 8:3 10:2 40:9 followed 21:7 32:19 following 24:7 78:13 92:22,23 95:10 follow-up 42:17 footballers 10:3 force 27:19 forces 71:8 foremost 59:12 forgive 24:8 form 76:2 formal 84:23 former 66:6 75:10 82:4 95:12 forthcoming 50:14 forward 3:20 55:22 foul 17:2 found 11:12,12 43:20 50:12 51:3 61:4 foundation 77:11 four 18:22 19:8 four-page 90:7 frame 35:7
---	--	--	---	--	--	---

frank 53:4	gloating 56:23	hand 54:3 71:25	95:11	indicate 88:19	interpretations	5:18 6:1,2,4,7
frankly 35:5	global 13:24 14:7	75:7,8 77:8	HR 17:16	indicated 2:19	53:15 90:23	6:9,24 7:7,8
48:8 50:19	14:22 15:17	78:1	huge 63:2 71:22	individual 14:11	interpreted	8:9,20 13:13
55:7	16:1 62:25	handbook 21:22	74:21 76:17	14:19 17:12,21	44:19,23 51:22	23:25 26:15
free 71:14 79:7	globally 18:11	handed 57:2	79:9	22:25 23:22	interpreting	28:5,7 32:12
freelancer 64:24	go 1:25 17:17	handle 32:12	human 3:25	24:8 26:10	33:24	35:1,24 36:3
freelances 25:9	34:11 40:21	hands 74:12	humiliated 56:20	33:13 51:24	interrupted 95:2	40:21 43:6,7
64:11	41:24 58:1	hang 8:10	56:21	74:5	interview 10:7,9	44:4 45:15
frees 79:7	62:3 64:15	happen 30:19,19	hundred 35:18	individuals 6:14	79:23	50:9 52:5
frequent 77:17	75:4 89:15	happened 20:14	hypothetically	6:14 27:18	interviews 3:23	55:15 56:13,19
Friday 11:9	90:20	23:7 27:14	21:3 68:15	31:24 71:15	4:2,3	57:25 58:6
36:10 85:16	goes 21:15 26:13	41:22 42:13	<hr/>	individual's	intrinsic 38:25	59:4 63:21
88:6,10,13,17	33:18,18 48:25	43:5 70:2,5	I	33:17	introduce 23:16	66:15 70:6
90:8	going 6:5 9:8,15	79:22	Ian 78:1 83:14	induce 35:3	introduced	74:19 76:17
friend 73:21	11:19 15:8	happening 4:18	85:17 86:12	indulge 55:6	13:15,20 17:12	81:9,10 82:24
front 15:8 44:3	18:19 19:14	16:1,3 37:9	87:15 90:8,14	indulging 68:19	introducing	83:2 85:7 87:2
57:4 88:9,14	23:5,14,16	77:22	idea 11:15	inevitably 50:9	51:19	88:12 90:7
full 7:11 27:19	25:21 26:16	happy 60:20	identified 61:15	inference 32:9	intrusion 62:13	92:9 93:11
fully 23:17 54:10	31:10 35:13,17	hard 51:12 72:1	identify 7:15	56:16	invade 33:16	95:14,17,19
61:21	41:5,15,25	76:1	50:11 59:20	information 5:19	investigate 69:22	job 12:4 24:2
fund 92:19	48:14 51:4	harm 3:6	69:18	28:25 29:21	investigating	33:21 67:4,7
fundamental	58:24 60:24	harsh 46:16	identity 70:19,25	30:2 32:22	3:19	jobs 67:25
33:3	72:15 74:24	head 3:25 61:13	ignored 59:18	59:16 70:7	investigation	join 79:8
funds 32:3,5,5	78:20 79:10	62:2,23 63:1	illegal 28:1	informed 82:5	5:17	joined 19:21,21
furnished 35:12	80:18 81:4	70:3	image 41:14	infraction 76:15	investigator	22:6
further 7:4 11:13	83:18 86:5	heading 59:11	75:11,14	inherited 37:1	64:25 65:11,13	joins 14:9
26:4 41:24	88:9 89:5,22	81:3	images 38:23	initiated 79:2	65:20 68:9,21	JON 95:16
46:10 48:25	90:20 91:19	headlines 51:13	41:6	initiatives 22:13	70:8	Joseph 7:12
54:20 61:19	92:12 93:9	heads 17:24 24:4	immediate 52:8	injunction 36:20	investigators	journalism 9:10
62:13 71:23	good 6:5 9:9	25:11 52:17	immediately	37:5 39:25	58:7,10,13	9:11 51:16
<hr/>	17:15 18:2,4	60:19 72:13	36:19 75:17	40:16,25 76:3	64:11 65:6,9	58:17
G	35:18 49:18	hear 6:5 45:13	impact 11:19	inquiry 5:2,5	68:10,12	journalist 17:4
gain 91:6	51:11 72:17	45:15 78:16	12:3,20 70:23	94:13,23,25	investigatory	20:25 21:10
gamut 67:22	83:10 87:17	heard 6:6 29:20	80:24	inside 7:20,21	65:10	22:4 27:10,11
gamut 39:19	Goodman 3:4	49:7,8,9 78:4	impacted 11:24	insofar 22:11	invoicing 69:7	27:16 48:10
40:11	Goodman's 3:19	hearing 43:24	implemented	instance 12:9	involved 1:3,7	49:10 65:25
general 14:7,16	4:7	44:1 95:10	61:7,22	60:20	3:11,24 4:3,16	66:11 83:8,16
15:4 57:8	Goodman/Mul...	Hello 78:13,22	implementing	instances 21:2	53:9	83:18 84:6,16
67:16	23:8	79:19	52:13	62:11	involvement	86:8,18 94:8
generality 33:9	gosh 19:6,9	help 1:6 5:5 6:10	implications	instigated 25:8	35:11	94:15
68:23	21:15 56:4	30:12 31:23	94:18	instill 24:14	involving 10:3	journalists 3:24
Generally 85:11	govern 16:4	52:3,21 53:25	importance 79:9	instructed 67:9	in-house 11:11	14:17 16:5,7
generated 24:1	governance	66:25	88:22	insurance 68:11	irate 78:14 79:22	17:7 22:2,16
GERALD 95:12	21:19 22:1	hesitate 35:14	important 6:24	intending 87:17	80:1,2,4,6,8	27:9 48:19
Gerry 77:17	graphically	He'll 93:12	23:10,13 26:11	intense 80:20	irrespective	52:6 54:24
78:16,19 79:13	49:20	high 35:12 36:5	53:14 56:9	intention 94:22	72:15	66:9
80:4,9	grateful 54:18	42:9 46:9 76:5	80:15,23 82:1	interest 7:5	island 33:19	judge 10:9 11:8
getting 31:7	great 18:11	higher 12:25	importantly 24:5	33:14 38:6,15	issue 1:16 10:24	12:5,7 46:9
68:20	83:13	highest 73:24	impossible 24:1	38:16,20 41:1	12:10 34:16	84:11
girl 51:14 79:12	grief 91:5	highly 8:22	impressing	41:3 68:5 71:9	42:23 53:7	judged 55:18
give 12:23 50:4	grounds 57:21	hindsight 46:12	52:17	71:14,18 75:8	68:4 86:4	judges 33:24
57:3 65:7	63:24	55:11	improper 58:16	76:12,24	issues 5:8,18	judging 56:6
66:18 73:21	Group 1:17,18	hired 51:7	64:13,14 68:19	interested 43:2	10:2 12:16	judgment 22:13
given 3:8 7:13	15:15	history 9:10	69:12	52:19 79:13	17:16 18:20	22:19 43:7,21
11:20 21:12	guess 69:19	11:22	improve 17:20	interesting 5:17	20:9 22:8 32:7	44:3 45:25
22:16 26:10	guessing 19:9	hoaxed 21:11	23:10	30:16	33:6 52:16	46:8 50:6 57:2
27:13 32:25	56:8 78:23	holiday 33:18	inappropriate	interests 33:13	64:15 68:6	69:4
39:21 40:1,13	guidelines 19:23	42:14 43:19	48:5,10	71:14	71:2 80:19	July 1:13 28:10
46:7 48:21	<hr/>	honest 17:8	inappropriately	interim 36:20	<hr/>	28:11 43:25
53:5 86:4	H	20:20	38:7	43:21	J	44:4,5
87:24 88:7,8	hacking 27:22	honestly 19:8	inappropriately...	internal 3:12	James 1:7	June 3:15 47:12
88:22 91:6,11	28:2	33:7 44:7,8	54:10,14	International	January 9:19	jury 11:8
91:16	half 51:2,2,18	hope 8:11 38:6	including 63:1,6	5:3 15:15 16:2	10:13 19:22	Justice 1:22 5:7
giving 11:14 14:6	60:9	58:24 70:5	increasing 52:15	International's	20:2 23:3,16	5:22 6:3,5,8,11
32:24 54:19	halfway 59:1	71:22	independent 2:9	4:12	34:2 50:12	6:16,20,23 7:4
70:1 79:11	hammering	hours 60:9 77:16	39:21 40:12	interpretation	61:4,8,23	7:24 8:5,8,17
glass 73:5	30:17	Housekeeping	42:5	54:12 90:10	Jay 1:3 2:4,10	10:19 11:1,2,3

12:14,22 13:2	44:7,8 45:3	18:18 52:24	91:25 92:5,7	49:12,20 50:8	22:10	58:12
13:10 26:11,21	46:14,14 48:11	86:1	93:8,16,19,22	54:17 55:1,6	manner 20:16	membership
26:24 27:6,13	49:16 50:5	leading 13:8,10	93:25 94:4	56:2,9,12 58:1	32:20	62:25 63:8
28:2,5 32:9	51:14 53:18	63:21 64:2,4	95:1,8	59:1 63:17	March 3:20 4:1	memoir 92:16
34:21 35:21,25	55:23 57:17	72:3 76:18	lewd 38:23	66:11 69:16,21	36:10,12 42:14	memory 56:5
36:6 39:2,4,6,8	64:6,8,8,19	leads 35:10	Lewis 94:8,10,17	80:13,21 81:1	42:15	57:10
39:11,13,15,18	65:1 67:5 68:1	leaked 36:16,23	94:24	81:7 82:22	Mark 94:8	men 50:25
40:4,7,10,23	69:3,8,8 70:19	learn 12:18	libel 41:7	84:23 85:1,3,6	marked 7:17 8:1	mentioned 5:11
42:22 43:8,19	70:25 71:4	learned 79:22	lies 91:3	86:23 88:10,16	market 71:8	5:16 36:14
44:3,18,22	72:2 73:7,14	learning 12:18	life 19:25	90:5 91:13,21	material 7:10	67:18 82:21
45:6,10,24	73:19 74:24	71:22	lightly 71:15	91:25 92:5,7	10:22 38:7,9	94:13
46:8,21 47:25	78:23 79:13	leave 47:2	likelihood 40:24	93:8,16,19,22	38:18 61:8,23	mentioning
48:3,6,8,12,17	81:3,4 82:12	leaving 9:22	limit 3:6	93:25 94:4	62:17 65:19	94:12
48:25 49:3,7	85:16,19,19	led 3:2 18:15	limited 1:18	95:1,8	82:2,2,3	merely 37:4 39:8
49:12,20 50:8	86:6,6,7 88:14	20:2 89:24	89:12	Lordship 46:22	matter 1:11 2:14	56:17
54:17 55:1,6	89:12 90:17,24	leeway 12:23	limits 37:21	47:14	12:7 33:9	merit 63:4
56:2,9,12 57:2	91:16 92:11	left 10:10 23:8	line 4:12,15	lose 91:6	56:10 64:8	merits 4:6,8
57:4,12,21	93:2,7	34:4	17:15 21:9	loss 20:14	80:1 81:17	method 73:8
58:1 59:1	knowing 6:25	legal 1:17,17	68:18,22	lost 12:4 75:20	83:19	Michael 72:19
63:10,17 66:11	43:2	12:5 13:5,5	Linklater 82:17	lot 7:10 17:19	matters 19:11	74:21 76:17
69:16,21 80:13	knowledge 1:10	17:16 71:19	Linklaters 81:19	23:6 26:19	32:16 41:24	million 62:25
80:21 81:1,7	21:3 65:11	legally 57:23,24	82:20	27:3,9,10 29:2	77:1,4 93:12	77:16 78:25
82:22 84:23	70:9 76:21	legitimacy 26:5	literally 47:10	29:20 38:8	Max 3:11 55:17	millions 74:22
85:1,3,6 86:23	87:22	legitimate 25:12	litigation 1:19	53:13 69:10	55:21 71:4	Milly 94:19
88:10,16 90:5	known 29:22	25:15,17,20	little 3:17 9:5	71:1 80:18,18	Mazher 29:13	mind 23:24 35:7
91:13,21,25	39:23 40:16	65:10 69:1	10:21 15:7	80:19	Mazher's 29:16	35:9 72:18
92:5,7 93:8,16	48:24 76:17	length 58:17	59:6 64:15	loutish 51:5	McCann 77:2,17	mine 7:25
93:19,22,25	Kuttner 32:15	64:12	77:20	love 5:5	79:19 83:8	minor 76:14
94:4 95:1,8	Kuttner's 32:13	lengthy 56:10	local 65:25	low 37:9	84:10 85:4	89:12
justification	L	lens 73:20,22	long 17:17 22:20	lowest 73:9,11	86:4 87:9,23	minutes 52:2
61:21 62:1,15	label 66:19	letter 1:8,12 3:20	29:22 44:4	73:12	McCanns 77:9	62:19 82:21
Justine 78:7	lacking 54:23	4:1 19:11	55:2,3 73:20	loyal 41:1	78:12 87:13	Mirror 9:16,16
K	laddish 50:24	24:25 46:16	73:22 93:13	Lucky 13:10	90:21	9:23,24 10:1,2
Kate 79:13 83:8	51:5	55:12 58:12,18	longer 66:2	M	McCann's 85:13	misbehaviour
84:10 85:4,13	laid 19:21 34:14	58:24 59:6	longstanding	Madeleine 92:19	McGuinness	53:11,13
86:4,11 87:9	landmark 56:21	60:18 64:10	29:21	magazine 51:19	78:7	misplaced 93:1
87:20,23	landscape 27:12	Let's 56:19	look 5:13 16:9	78:14,22 79:19	McMullan 26:25	misrepresentat...
Kate's 81:14	34:4,5 35:2	level 12:24 37:9	25:4 51:15	Mahmood 29:13	27:11,21	62:6
93:1	language 46:16	levels 30:23 33:8	53:5 58:1,18	Mahmood 29:13	McMullan's	missed 30:11
keen 48:13	51:5,17	33:11	82:18	Mail 51:12 93:24	27:3	59:9
keep 29:7 32:12	lapse 50:6,6	Leveson 1:22 5:7	looked 2:24 5:10	94:8	mean 12:3,8 13:4	missing 79:10
key 21:20	large 14:10 22:2	5:22 6:3,5,8,11	5:15 37:16	main 28:22 31:9	19:2 25:14,20	mission 24:13
kind 28:25 29:18	largely 77:12	6:16,20,23 7:4	83:21	71:5	33:11 37:22	mistake 79:1
33:20 56:22	lasted 60:8	7:24 8:5,8,17	looking 15:6	maintained	45:21 48:8	Mitchell 78:4,8
Kingdom 15:2	late 47:12	10:19 11:1,2,3	17:18 22:11	61:23 62:16	57:17 64:14	85:18 86:12
72:22	law 14:3 16:23	12:14,22 13:2	42:11,25 46:17	maintaining	70:14 71:21	88:19,24 89:3
kiss-and-tell	22:4,21 23:1	13:10 26:11,21	48:14 53:25	33:4,8	75:12,17 80:16	89:16,21 90:8
30:3 41:14	23:23 24:25	26:24 27:6,13	54:5 62:19	majority 29:10	80:19,21 81:5	90:14
knew 4:21 24:4	27:19 33:23,25	28:2,5 32:9	71:6,6	29:11	91:1	mixed 63:19
39:22 40:14,23	34:12 35:2	34:21 35:21,25	looks 1:15 83:10	making 12:20	Meaning 25:16	mixture 2:6
72:12 73:2	52:1 58:15	39:2,4,6,8,11	Lord 1:22 5:7,22	63:17 71:23	means 12:22	Mm 53:20 54:25
79:4 91:12	59:11,12,15,20	39:13,15,18	6:3,5,8,11,16	81:10 85:23	25:18,20 31:3	80:3 83:17
94:4	60:1,3,6 63:19	40:4,7,10,23	6:20,23 7:4,24	94:16	58:16	mobile 81:9
know 4:18 8:20	63:19 64:18	42:22 44:3,22	8:5,8,17 10:19	male 50:24 51:3	meant 12:9	model 74:22
12:11 15:14	73:7,13 74:18	45:6,10 47:25	11:1,23 12:14	malicious 77:11	53:16 80:22	75:15
17:8,25 18:3	76:15,16	48:3,6,8,12,17	12:22 13:2,10	man 10:8	measurably 76:5	modus 31:19
19:6,8,10,22	lawful 25:12,14	48:25 49:3,7	26:11,21,24	management	measure 35:3	moment 10:21
19:25 20:12,19	25:17,20 69:1	49:12,20 50:8	27:6,13 28:2,5	23:15	media 33:1 88:24	57:25
20:21 21:8,8	laws 59:18 60:10	54:17 55:1,6	32:9 34:21	manager 17:15	91:3	moments 94:1
22:2 23:7 24:8	lawyer 11:11,16	56:2,9,12 58:1	35:21,25 39:2	managerial	mediated 18:25	money 26:9
24:12,17 27:14	lawyers 1:9 2:17	59:1 63:17	39:4,6,8,11,13	22:13	19:5	60:24 74:12
29:16,17 30:3	11:5,13 12:11	66:11 69:16,21	39:15,18 40:4	managing 20:22	meet 17:18 20:16	85:3,25 86:25
30:8 33:15	34:15 71:20	80:13,21 81:1	40:7,10 42:22	32:14,17 62:3	20:25 34:13	monthly 69:8
34:10 36:9	lax 26:18	81:7 82:22	44:3,22 45:6	67:21 69:10,22	38:21 71:12	morale 23:9
39:6 41:10,23	lay 15:21 38:21	84:23 85:1,3,6	45:10 47:4,25	70:4 74:8	meeting 83:9	morning 81:20
42:25 43:23,25	lead 16:23 18:17	86:23 88:10,16	48:3,6,8,12,17	92:12,17	member 66:8	87:21
		90:5 91:13,21	48:25 49:3,7	mandatory	members 24:19	mortified 20:7

Mosley 36:16,19 37:3 40:24 41:20 48:15 55:17,21 57:1 62:21,23 Mosley's 35:10 56:20 Motorman 6:19 28:3 mount 94:22 move 47:25 93:5 moving 46:23 51:17 Mulcaire 2:9,16 2:24 3:3 6:15 7:3 Mulcaire's 1:4,9 2:17 Mulcaire-relat... 7:1 Murdoch's 1:7 mustn't 63:11 mutuality 2:23 Myler 3:22 4:2,5 6:4,9 7:6,8,12 7:25 8:9 13:16 18:21 21:21 23:15 25:25 28:7 31:22 32:23 36:7 37:3 40:22 43:8 45:16 47:13,16 50:17 54:17 55:15 58:6,21 59:13 63:21 65:4 66:15,25 73:10 77:6 78:15 79:18,21 81:9 87:12 91:10,21 93:9,17 95:18 Myler's 46:24	51:19 news 1:17,18 4:12 5:3,3 9:15 9:18 10:13 11:5 12:17 13:24 14:1,5 15:15,16,16,18 15:25 16:2 18:9,11 20:3 20:13 22:3 27:7,14,17 30:7 35:8 43:20 49:25 51:1,20 52:6 54:9 55:20 56:19 58:9 64:19 66:4,14 67:7,12,20 68:25 72:16,16 75:22 77:24 78:2,24 79:24 80:10 81:15 85:9 86:17,17 86:19,22 89:6 89:7,23 92:9 newspaper 9:14 10:17 12:1 13:14 18:23 23:9 33:4 36:16,22,23 38:4 48:19 49:25 58:14 64:23 65:12 77:8 newspapers 1:17 1:18 13:7 56:22 65:5,9 68:10 77:10 newsroom 36:24 NI 15:12,17 18:10 nicely 15:8 night 75:13 nine 83:6 non-answer 47:15 normally 56:4 note 20:22 notice 2:6 noticed 17:9 95:1 Notwithstanding 27:24 noun 51:22 NUJ 66:18 67:12 number 50:9 58:23 81:9 82:19 90:22 91:16	59:22 obtained 26:6,6 40:15 82:13 83:25 84:9 88:4 89:3 obtaining 39:25 59:16 obvious 87:12 obviously 4:16 4:21 5:17 14:2 15:2 18:19 42:12 81:24 89:18 occasion 21:10 65:12 66:24 67:1,8 87:16 occasions 72:4 occurred 42:20 October 56:6 odd 66:18 offence 65:25 offensive 51:17 offered 74:25 office 20:22 32:14 50:25 62:3 67:21 74:8 92:18 officer 66:6 Official 83:10 Oh 6:23 13:1 15:10 45:19 56:4,15 71:1 80:21 92:20 93:20 okay 11:12 35:10 58:2 60:12 62:12 63:14 65:2 71:21 72:18 76:6 80:12 92:19 93:18 Olympic 74:21 75:14 76:18 omission 62:7 Once 66:1 one-on-one 52:17 online 38:17 39:22 40:14 41:10 94:14 onwards 23:17 open 7:14 81:7 opening 56:25 operandi 31:19 operate 31:11,11 operated 26:19 52:11 60:9 66:16 operating 31:12 operation 29:16 29:25 operations 29:13 29:18 opinion 3:15 opposed 81:5 89:6 oral 36:6	order 2:3 41:1 84:11 organisation 63:2 organising 63:5 orgies 63:5 original 16:10 originated 70:12 outcome 56:13 outlay 29:24 outlined 40:23 outraged 87:25 outrageous 48:8 49:17 55:7 outside 5:6 7:21 36:23 42:2 57:3 72:3 outweighed 75:10 overall 93:15 overriding 33:14 overrode 72:4 owned 74:3 o'clock 93:20 95:10	77:16 86:23 paragraphs 24:21 53:23 77:5 parameters 2:23 22:20 parcel 40:2 Pardon 9:25 part 6:13,25 10:23 18:12 24:2 25:23 26:16,21 27:19 38:25 40:2 42:17 50:6 53:22 55:14 56:2 63:5 89:17 particular 5:3,20 15:2 33:24 47:5 67:4,7 75:12 77:24 particularly 35:2 41:5 48:21 50:1 66:7 80:23 92:13 parts 8:3 30:10 party 72:22 73:1 73:17,21,23 74:15 pass 10:19 passed 2:16 pause 93:20 pay 31:8 74:7 83:12 85:8,25 86:17 paying 30:18 63:6 83:11 payment 1:16 25:10 28:15,20 30:14 31:17 61:20,24 68:4 74:9 86:21 payments 1:12 25:8,12,21 26:16,19 28:9 28:17,18,19 29:12 30:10,24 31:10 32:6 60:12,14,17 61:2,9 PCC 14:2 16:6 16:23 18:22 19:12 20:2,8 20:13,16,23,25 21:21 23:1,23 46:7,11 52:16 58:15 60:7,10 62:15 pen 32:18 people 6:22 18:16 25:16 26:16 27:24 29:4,13 48:24 51:9 52:23 53:15 60:5 71:3,4 74:22 74:24 78:18	81:21 people's 38:14 perception 26:15 33:23 34:7,8 80:1 period 25:7 28:17,18 permission 17:14 86:11 90:25 93:1 permitted 61:2,9 person 15:21 17:22 25:13,21 26:13 39:23 45:8 46:3 60:24 61:15 68:19 69:14,23 69:24 71:6 74:3,11 81:7 personal 62:14 87:25 91:2 personnel 55:13 Phelps 72:19 74:15,21 75:23 76:7,17 phone 28:2 78:14 81:2,9 88:23 phones 27:22 photograph 34:19 51:15 73:15,18,25 74:3,7,11 76:2 photographed 72:25 photography 72:21 phrase 87:20 88:18 Phwoar 51:15 physically 86:7 pick 81:1 82:16 88:22 pictorial 41:4 picture 74:6 pictures 33:16 34:10 51:13 piece 38:22 42:17 Pike 6:6 pipe 73:5 place 9:9 10:16 13:14 15:24 24:18 27:17,17 39:12,12,17 45:4 48:22 49:15 54:10 69:5,6 84:2 85:19 placed 37:19 38:8 planning 11:17 play 36:17 74:14 76:9 please 1:6 3:17 7:8,10 9:22 10:12 13:13 18:21 23:19	25:4 28:7 37:19 52:4,22 58:6 66:25 76:25 82:18 pm 1:2 58:3,5 85:16 95:9 point 6:12 11:23 11:23 14:4,15 16:6 33:1 44:25 48:6 49:5 55:11 56:25 63:17 80:16 81:10 87:7,18 93:16 pointed 78:21 points 56:7 police 66:6 83:10 83:19,25 84:9 84:17 89:4 policy 14:22 16:1 37:23 58:10 60:14,16 61:1 61:3,7,19,22 62:16 Portugal 89:8,11 Portuguese 77:12 83:9,15 83:19,21 84:5 84:11,17 89:4 89:18 91:3 position 1:25 2:22 8:22 11:7 31:8 63:4 77:13 87:10 94:20 positions 22:14 possession 83:11 possible 37:10 56:16 possibly 19:21 57:1 92:17 Post 9:19 potential 10:24 pounds 27:1 practice 14:2 16:12 37:21 39:20 40:7,12 42:1 53:8 practices 69:5,6 precise 4:10 82:16 85:22 precisely 30:23 69:18 prejudice 10:24 11:19 prepared 55:6 present 7:24 presentation 70:1 presented 11:2 11:10 19:24 69:1 82:8 presided 63:2 president 62:24 press 16:11 49:1 57:3,5 71:14 77:12 89:18
--	---	--	---	---	--	--

91:3 pressure 80:20 presumably 92:1 pretty 13:7 18:6 20:7 32:9 51:14 71:3 72:2 74:11 80:20 prevent 40:16 preventing 39:24 previous 91:9 previously 84:5 price 5:9,10 44:9 44:17 primarily 31:21 32:14 printing 77:11 privacy 5:9,10 33:8,11,17,20 33:23 34:4,20 35:3,12 56:13 59:15 60:3,4 60:10 62:14 75:7 76:7 80:17,24 private 33:20 58:7,10,13 59:16 63:16 64:11,24 65:11 65:20 68:9,10 68:11,21 70:8 71:14 73:1 74:15 privileged 8:22 probably 2:15 9:4 12:22 15:8 17:8,8 39:24 44:12,12,24 46:12,17 47:12 55:4,13 56:7 77:20 84:19 85:17 90:10 95:3 problem 10:21 32:1 36:22 37:2 68:4 procedures 10:16 13:14,15 25:10 proceedings 5:12 16:24 18:15,17 41:7 42:10 52:24 process 3:2 40:2 40:21 55:14 56:10 75:5 91:8,9 processed 25:10 processes 52:13 produced 81:17 producing 13:6 product 51:4 products 75:18 profession 74:17 professional 51:9 52:7 54:24 55:9	85:21 professionalism 48:23 programme 22:6 63:3 progress 7:25 prominence 20:5 promoted 51:9 prompted 47:22 promulgated 20:2 proper 61:14 94:16 proportionate 38:19 76:14 prompted 79:5 proposing 60:21 proposition 66:20 propriety 11:25 39:21 40:13 protect 80:17 protection 15:4 15:20 62:8 protocols 13:18 13:21 23:11 24:18 52:13 proud 56:18 provide 7:10,19 7:23 82:24 provided 7:9,13 25:22 proximate 84:16 prurient 38:6,14 38:16 public 4:12,15 10:22 33:14,18 38:20 41:1,2 52:20 68:5 71:9,13,18 75:8 76:12,21 76:23 94:13 publication 12:2 20:3 22:21 75:24 79:22 83:12 85:4,9 86:2,3,19 87:9 87:24 88:1 90:12 publications 89:7 publish 11:4,7 11:12 12:9,13 41:2,15,16 71:21 74:13 published 10:8 34:19 36:12 42:14 75:20 78:13 81:15 84:4 86:22 88:2 89:6,23 91:1 publishers 94:14 publishing 39:22 40:13,25 41:17 74:25 76:6,11 purely 26:9	purported 83:22 87:5 purpose 7:24 69:25 86:18 purposes 67:23 put 3:19 12:10 35:1 38:12,14 39:20 40:12 41:4,20 45:22 47:12 55:22 57:15,20,22 66:20 70:4,6 70:10,11 putting 29:9 37:12,13 38:22 40:2 49:20 54:18 69:25 72:14	quality 22:12 quarters 12:5 Queen's 3:14 query 47:18 question 2:1 4:4 12:15 17:3 18:13 23:18 24:7 26:21 27:5 38:13 39:19 40:10 43:25 47:2,7 50:22 52:5 53:5 54:5 55:9 56:24 63:18,19 85:22 86:10 87:12 94:11 questioned 68:2 questioning 59:8 questionnaires 17:12 questions 7:7 9:8 46:21 47:1 50:9 53:6 54:19 95:14,15 95:17,19 quickly 21:15 69:7 87:1 quiet 74:17 quite 7:10 8:5 15:20 23:5,23 24:22 26:19 27:3 29:12 45:10 48:8 49:5 50:14 53:4 54:20 56:9 69:18 80:21 86:14 90:9 93:13 95:3	reaction 44:16 44:20 read 6:24 11:6 14:16 32:24 44:14 53:22 57:6,6 91:13 reader 51:18 readers 33:4 readership 51:2 reading 89:25 real 61:14 realise 34:18 realised 2:15 reality 34:9 really 2:6 4:18 5:16 12:6 14:17 17:24 18:7 22:2 46:10,24 50:13 52:1 68:17 78:9,10,18 80:22 86:10 reason 12:15 35:14 36:18 49:14 50:11 68:2 81:12 88:25 reasonable 33:17 49:23 reasonably 63:8 reasoning 3:2 40:21 reasons 95:5 rebuke 19:11 recall 4:8 44:8 52:8 74:1 76:10 78:17 82:14 84:1,14 receded 30:4 receive 21:1 received 2:17 55:12 81:18 receiving 25:13 recipient 61:15 90:18 reckless 66:23 recognise 27:3,5 27:12,24 recognised 34:3 recollection 42:7 81:25 record 56:11 92:18 recorded 61:21 61:24,24 records 74:8 81:21 redacted 6:13 reduce 30:23 reduced 28:9 37:9 reduction 31:20 refer 21:9 42:10 66:24 reference 13:13 14:24 15:4 16:10	references 6:21 referred 94:7 referring 13:22 31:13 51:24 65:16 refers 6:13 reflect 51:6 refreshed 57:10 refuse 17:5 regard 65:19 66:23 76:14 regarding 34:4 68:6 regular 32:7 77:25 regularly 77:21 reinforced 52:12 reiterate 60:15 reiterating 61:1 rejected 72:5 relating 65:25 relation 3:10 12:1 35:2 41:20 43:5 48:15,17 58:10 73:7 relationship 2:16 20:8,13 72:9 80:9,11 85:20 85:21 91:6 relatively 1:19 relevant 12:16 22:8 42:9 52:15 86:13 rely 39:4 69:24 remained 83:20 remarkable 47:19 51:3 remember 19:19 20:18 21:6,14 42:2 44:13 57:8 60:18 72:20 84:3 remembered 89:17 remembering 82:6 remind 19:18 reminded 55:24 57:10,14 repeat 40:10 repeated 88:18 repeating 25:19 replace 9:19 reply 93:23 report 53:22 reporter 4:11 46:25 55:3 64:16 reporters 72:13 reports 5:19 94:18 reprimand 21:1 21:6 46:14 reprimanded 55:12 reprimanding	46:11 reprimands 21:2 republish 20:15 reputation 52:10 78:18 reputational 3:6 requested 81:21 require 62:1 70:18 requirement 16:23 requirements 20:17 34:13 60:5 requires 16:12 61:20 resolved 20:19 resource 25:22 resources 3:25 respect 74:19 81:4,5 respected 20:11 32:20 63:12 respond 20:6 49:21 response 26:15 44:17 responsibilities 24:20 66:14 responsibility 5:21 11:22 12:12 17:16 22:24,25 23:22 24:3,5,9 42:20 45:9 51:25 64:21 responsible 15:23 42:23 43:1 55:15 rest 11:22 result 10:10 16:24 18:6 34:11,24 52:25 74:23 75:19 resulted 10:9 94:23 resume 93:19 return 74:25 returned 84:12 review 13:19 25:8 Rhodri 6:9,11 richest 62:23 right 2:11,23 6:23 8:8 9:6,12 13:11 14:8,23 17:5 19:23 21:20 25:25 28:21 29:14 33:14 35:6,25 36:17,20,25 37:14,16 38:1 39:7 46:7 47:23 49:15 54:3 56:14 57:13 59:4 63:11 64:10	73:6 75:16 76:12 78:15 81:14 85:10 87:2,5 92:5 93:17,23,25 rightly 14:4 16:5 33:1 42:2 rigorous 25:9 ring-fenced 29:17 rise 19:11 risk 2:11 36:15 37:8 49:12 72:7 76:3 rival 36:16,25 road 27:10 64:17 rogue 4:11 role 4:17 21:18 74:21 75:15 roles 24:20 roll 25:13 61:16 rolling 22:6 roughly 11:17 Royal 57:3 Ruck 92:24 rudely 95:3 rules 22:5 62:15 ruling 48:15 rumours 4:21 run 86:25 running 17:22 76:3 92:15 93:10
						S	
						safe 13:7 23:6 29:2 Sanderson 93:12 sat 11:14,16 44:13 50:25 satisfied 61:14 86:3 satisfy 25:11 Saturday 11:10 11:14 88:7,10 88:18 save 85:25 93:8 saw 41:2 44:5,13 44:15 81:20 90:11 saying 20:4 23:24 24:15 30:17 34:18,24 36:17 37:16 41:11,12 42:4 53:9 says 46:22 47:14 60:4 79:2 92:13 scandal 29:24 scheme 79:14 scoop 55:16,21 scores 18:9 screen 15:8 second 8:20 9:1 42:16 59:2,3 65:16 69:19	

secondly 35:4	set-up 83:11	28:5 36:2	41:13	strictly 59:16,21	78:21	79:8
section 21:17	severe 12:21	39:13,14 40:9	standards 13:25	strong 16:15	surprised 4:25	telephone 87:13
32:22,25	sex 63:7	40:10,21 43:10	14:10 16:4	62:5	12:11 27:13	tell 9:10 10:6,15
sections 89:5	sexual 37:22	43:17 44:12	21:1 23:11	strongly 63:9	45:13,15 49:6	18:21 23:21
secure 18:4	sexually 38:7	48:7,25 50:10	33:10 48:23	stuff 36:23 38:10	78:16 94:24	44:22 49:13
security 36:22	sheet 32:18	50:18 53:25	63:4,7 71:12	49:18 83:13	surprising 51:4	59:20 60:12
see 6:23 7:22 8:5	92:12	57:14 58:20,23	star 76:17	style 23:15	surrounding 3:9	71:11 75:17,23
8:11,20,22	Sherborne 56:25	59:9,9,10 75:3	start 9:9	sub 51:10	surveillance	81:14,16 82:7
11:3 14:6,24	94:7 95:2,15	75:6 80:5	started 19:17	subject 1:22 6:15	65:14 66:7	82:12 89:2
16:18 21:24	shield 91:2	82:19 83:1	43:24 95:2	7:3 8:25 39:23	67:14,17 68:7	telling 35:5 63:9
23:15 28:19	short 58:4 86:15	84:14 86:14	starts 15:15	63:20	68:16	65:3 67:6 88:4
36:3 43:25	93:13	90:3 92:8 94:1	state 35:9 47:19	subsequent 61:5	survey 18:7	89:1
44:18 48:12	shortly 32:3	sort 13:24 17:13	stated 16:10	subsequently	surveys 17:12	tells 48:18
49:12 59:13	show 74:8 87:3	18:3 29:16	statement 8:11	2:25 4:23 82:4	suspect 15:25	ten 42:15
72:19 74:23	showing 14:10	40:17 51:16	8:12,20 9:1,1,4	subsidiary 15:18	16:2 19:20	tended 71:2,5
88:16 90:1,5	side 4:17 68:17	58:16 67:13,16	9:9 10:15	substantial 85:3	64:4 72:13	tendency 92:14
94:5,17	68:22	71:3 88:13	13:23 18:21	92:21	suspended 75:21	term 16:7
seeking 13:5	sidestepped	sorts 42:24	20:24 21:17	substantiate	sweeping 23:24	terms 16:4,13
14:15 23:16	59:18	source 30:1	22:23 23:24	68:20	swiftly 24:22	21:19 23:15
seen 11:5 34:22	sign 8:24 60:20	68:18 70:19,25	25:5 33:15	substitution 2:24	swimmer 74:16	24:21 27:4
42:12 44:2,11	60:23 61:13	74:5,10,10	35:12 42:11	success 34:22	75:14	34:5 45:23
54:8 82:4	signed 8:13,23	83:15 84:15,16	51:23 57:6,7,8	successful 37:6	sworn 7:6 36:4	46:5 48:4 57:8
90:20	62:2 70:3	84:17	58:21 59:2,3	39:24 77:15	95:16,18	59:23 67:16
seized 84:10	significance 30:4	sourced 70:7	65:3,16 71:10	79:14	syllable 91:15	71:17 72:7
Select 1:8 5:12	76:20	sources 28:20,25	73:19 77:1,6	successfully	system 21:4,5	82:17
53:3,22 54:12	significant 12:3	29:21,22 30:14	79:1 81:24	40:15	22:1,11 26:18	terribly 92:3
selective 89:19	16:20 29:24	31:7 32:22	82:7	successor 32:19	72:10 79:3,7	test 72:18 76:22
self-employed	71:13 80:23	space 80:17	statements 7:14	suffering 69:16	systematically	tested 72:11
2:13	Silverleaf 3:14	speak 77:19	7:15 8:2 17:10	sufficient 64:25	37:25	testimony 18:12
selling 73:24	Silverleaf's 6:10	speaking 21:3	62:5	91:4	systems 13:18	27:4 29:20
seminars 17:25	similar 32:24	specific 15:19	States 73:6	suggest 24:17	23:11 24:18	36:6
22:6 52:16	similarly 14:23	21:8 43:16	status 2:20 63:4	69:2	52:14	text 53:19 57:15
60:7	simple 26:1	45:2 65:11	steps 20:15 37:8	suggested 54:22		Thames 66:1
sending 45:9	simply 26:9,17	68:18	sticker 9:5	suggesting 26:4	T	thank 3:10 6:1,2
senior 21:10	34:22 38:21	specifically	sting 29:12	28:14	tab 8:9,16,18	6:2,3,8,16,17
22:13 24:19	41:16 78:21	13:22 67:15	stipulations	suggestion 69:12	35:16,17,18	7:4,5,13 8:4,7
46:9,14 48:18	89:7	74:2 81:12	86:15	94:9	43:11 54:3	9:8 10:12
48:23	sir 1:24 6:2,12	82:14 84:14	stories 30:3,18	suggests 1:12	82:18 83:4	15:10 30:3
sense 51:21	19:22 20:4	speed 13:8	56:22 70:6,10	50:20	84:24 90:3,4	32:22 36:8
94:16	27:5 31:23	spells 91:14	71:2 77:11	sum 29:24 85:3	tabbed 8:17	80:10 83:3
sensible 33:10	40:9 81:4	spelt 87:19	84:7	92:9,14	tabloid 56:21	93:19 95:7,8
66:22	93:21 94:6	sphere 5:20	story 11:2,6,12	summarise 36:3	tabs 8:21 15:7	theirs 30:7
sent 11:4,8 17:23	sit 7:8	split 51:2	11:15 12:9	summarising	35:16 83:2	they'd 22:4,4
43:4 45:17	situation 40:18	spoke 77:17	13:3 25:22,23	49:3	take 10:12 13:4	25:22,24 79:15
90:17 92:1	situations 14:20	spoken 18:16	36:10,12,14,15	summary 16:24	20:15 24:21	thing 6:24 18:2
sentence 26:12	71:21	45:1	37:4,13 38:17	52:25	27:17,19 32:3	27:18 45:2
33:5	six 81:19	spokesman	39:1,9,23	sums 92:12	36:19 37:8	46:18 66:18
sentencing 4:22	size 79:12	77:25 78:4	40:15 41:2,14	Sunday 9:16,24	42:19 50:5	93:3,21
separate 7:23	slightly 27:13	spokesperson	52:19 53:9	10:1,2 87:21	54:20 64:21	things 17:10,19
30:5	39:18 42:23	88:24	55:2,3,17,21	supplied 86:16	71:23 83:11	27:23 37:12
September 8:12	51:21	sport 62:23	64:20 70:21,23	supply 85:3	taken 12:1,24	50:2,3 79:17
56:8 81:16	small 83:12	74:17 75:15	70:24 72:10,15	support 41:7	25:22 26:9	think 2:1,6 3:7
82:3 83:6 85:1	smoking 72:25	sports 76:17	72:15,19 74:10	supported 60:23	28:5 41:9 43:3	3:22,25 5:11
90:8 91:8	73:5,7,12	spot 29:23	74:13 75:1,19	supportive 77:9	43:4 45:3	8:1 9:23 11:9
series 62:4	75:13	staff 22:10 23:9	75:24 76:7,11	suppose 62:20	73:15,18,20,20	14:9,12,14,15
serious 31:24	social 17:16	24:7,19 31:15	76:20 81:15,17	76:2	73:22,23 77:10	16:9,16 18:8
36:22 37:2	solicitor 94:9,17	31:21 58:13	82:8 83:7 88:9	sure 11:5,18 19:6	84:2,12 85:19	20:7 23:6,10
50:6	94:23	60:13	89:8 94:23	20:18,23 24:4	94:14	23:12,17,18,25
seriousness	somebody 26:14	stage 47:11,19	story's 26:6	27:20 33:9	talked 64:4	24:16,21 25:1
76:20	33:18 46:19	54:20 59:7	straight 52:11	56:12,12 74:11	talking 21:20	25:19,25 27:8
set 13:18 33:16	53:9 55:4	76:9 80:8 85:7	strange 3:8	80:21 82:15	49:16 52:1,18	29:20 30:13
34:9 35:11	73:23,24 74:5	85:13,14,17	Street 52:10	86:13 91:14,17	59:23 76:15	31:9 32:11,18
51:7 62:15	79:4,10	86:6 88:19	stressed 87:19	94:3,4 95:5	88:11	34:8 35:13
68:16 71:2	somewhat 46:10	stages 77:20	stretching 74:19	surnames 6:18	tandem 60:7	38:13,16 40:17
76:11	sorry 2:1 8:10,10	stance 77:10	strict 10:16	surprise 4:20	target 40:14	42:4 43:18,24
settlement 1:3	8:23 12:3 15:6	stand 39:9	11:20 13:13	6:20 44:16,20	team 76:19	44:17,25 46:3
2:2 3:3	20:20 21:16	standard 14:5	60:19	45:6,20 49:9	telecommunic...	46:7 49:9

50:21,25 52:1 53:11,12,13,14 53:24 56:5,5 57:5,6,6 58:18 60:1,5 62:25 63:10,15 65:15 65:25 68:24 72:23 73:3,16 73:22 74:19,23 75:11,19 76:5 78:6,16 79:15 79:21 80:4,15 81:8,10,23 82:1 83:10,15 83:18 84:12,19 84:22 85:22 87:3,17 88:17 89:11,13,15,16 91:4 92:23,24 93:17 94:10 thinking 5:7 10:20 48:18 79:5 82:5 third 9:4 21:9 62:5 76:25 Thomas 7:12 95:12 Thomson 92:24 thought 2:11 23:2 30:16 39:21 40:1,2 40:12,19 66:21 66:22 88:2 91:8,9 thoughtful 66:21 thousands 27:1,1 threat 44:19,23 46:9 threatened 18:5 threats 46:25 54:7 three 7:13 71:20 78:12 82:21 Thurlbeck 44:25 45:2 46:6,11 46:18 47:3 Thurlbeck's 45:4 47:17,23 49:4 53:1 Tighter 28:7 time 4:23 5:13 11:11 16:6 17:11 18:7,23 20:12 21:15 27:9,11 29:21 29:22 33:21 34:16,16,16 37:21,24 38:3 38:5 44:6,11 45:14 46:19 47:6 50:5 56:6 60:9 65:7 78:23 81:13,20 82:5 90:1 times 61:8,23 62:17 65:19 91:16	tip 26:2,6 68:18 tips 28:20 tipster 70:15 tipsters 25:9 today 1:23 13:7 93:6,14 told 3:22 42:4 44:7 50:19 61:5 63:25 65:1,13 71:16 71:20 75:9 88:20,21 89:2 tomorrow 93:9 93:20 tone 51:5 top 14:6 18:9 54:3 74:16 75:15 topic 93:5,5 95:3 total 28:16 83:13 92:9 totally 48:10 63:13 touch 80:14 toughest 32:17 trail 29:1 training 22:4,18 transcript 79:20 89:13,25 90:2 90:7,13,20 91:13,25 transformed 51:20 translated 83:9 83:20 89:4 translation 89:5 transparent 69:6 71:1,5 trauma 23:7,9 trial 10:3,10,23 23:8 42:12 43:23,24 tribunal 2:12 tried 24:3 72:11 troubles 49:21 49:22,22 trust 33:4 45:4 47:17,23 49:4 53:1 Truthful 8:14 try 23:4 28:19 32:12 79:6 82:1 trying 13:17 19:18,18 49:24 50:19 66:19 75:4 89:14 94:17 Tuesday 90:6,12 turn 25:1 two 6:13 7:20 8:2 10:3 11:13 17:23 35:1,21 36:17 47:1,18 53:10,15 60:8 74:14 90:11,11 94:14	<hr/> U <hr/> ultimate 22:24 84:15,16 ultimately 42:22 43:1 Um 18:16 43:16 unacceptable 64:13 uncontribute 56:17 understand 1:18 1:25 2:25 12:14 15:21 18:1 20:14 25:25 41:11 49:1,14 53:8 67:11 82:1 93:8,16 94:6 95:6 understandable 36:18 understanding 33:16 50:3 52:5 63:23 85:12 86:14 89:9 91:18 93:1 understands 16:22 23:17 48:13 80:13 understood 24:20 46:17 60:1,5 63:25 64:3 76:19 87:10 94:21 undertake 64:12 undertaking 60:8 67:14,17 undoubtedly 6:14 34:21 91:21 unfairly 49:3 Union 66:9 United 15:2 72:22 73:6 university 72:24 73:17 unnecessary 46:4 48:3 unsure 11:13 unwarranted 62:13 updating 15:25 upgraded 22:7 use 7:25 31:7 58:6,13 65:5,9 67:10 68:11 usual 2:7,22 <hr/> V <hr/> vaguely 89:17 Valley 66:1 valued 80:11 values 48:22 various 59:15 vast 33:22	veracity 70:23 verbal 21:6 verdict 57:17 verdicts 34:12,24 version 41:19 victory 56:20 video 37:17,19 38:18,25 39:22 40:5,13 41:14 41:15 videoed 39:6 videos 39:20 40:12 view 2:10 3:1 4:14,20 11:13 11:25 12:24 13:5,5 16:2 29:19 43:2 49:24 87:18 91:18 views 27:8 Vodafone 79:3,4 79:6 voicemails 94:19 volume 8:10 <hr/> W <hr/> wait 50:17 waiting 19:13 waive 79:6 Wallis 81:6 want 11:3,6 28:25 31:23 36:3,13,15 80:14,14 81:13 87:20 wanted 11:15 64:16 68:20 76:22 87:8 93:3 wants 69:22 war 71:7 warned 52:23 warning 21:7,12 52:25 wasn't 2:9 4:16 5:14 11:23 19:25 27:6,8 38:9 44:11 45:5 46:19 47:5 56:23 57:5 62:11 64:25 72:2 80:4 84:18 85:12 86:21 88:9 89:1 91:9 waste 81:13 waved 32:18 way 2:2 5:4 17:17 23:20 28:1 29:9 31:11,12 32:4 33:24 44:22 48:22 49:17,24 50:2,2 52:11 52:16 53:10 58:14 64:6 70:8 83:25 ways 17:23 53:10 wearing 79:12 Webb 65:17 67:8 68:25 69:7,14 69:25 70:8,12 93:13 website 37:20,23 38:3,8 41:20 week 42:16,25 47:4 83:14 91:10 92:22,23 weekly 69:8 weeks 77:21 78:12 weighing 33:13 71:9,18 went 4:24 9:18 34:1 42:14 58:12 61:19 64:22 74:6 weren't 15:23 31:6 32:5,5 42:17 50:14 54:13 55:9 56:17 76:4 88:1 We'll 82:25 93:19 we're 13:6 21:20 22:11 23:13 41:25 42:11 49:15 54:5 73:9,14 76:15 76:16,16 82:6 93:9,14,15 we've 13:3 32:24 42:25 46:15 62:19 whatsoever 62:8 whilst 33:7 whistle 29:1 wide 14:23 wider 33:14 widest-selling 48:19 wind 37:4 wish 29:7 wished 46:23 witness 6:4 7:14 8:11 13:23 18:21 25:5 35:11 42:10 51:23 58:21 65:2,16 71:10 73:19 82:7 93:10,11 woman 51:1,8,8 51:10,11 83:18 women 47:18 48:17 51:3 54:7 63:6 women's 51:19 wonder 10:20 30:20 Woodgate 10:4	word 26:11 41:3 45:23 47:22 48:1 worded 38:22 words 3:23 17:1 26:1 34:6 37:25 51:13 58:16 81:15 88:13 91:15 work 17:14 23:14 26:17 48:22 51:12 58:14 65:10 66:2 68:24 69:25 70:1 72:11,12 worked 22:3,20 27:9 41:10 48:22 79:16 working 27:11 29:19 30:1 33:12 49:25 50:2 64:23 66:14 67:12 69:13 72:15 77:23 79:17 85:21 works 26:2 world 9:15,18 10:13 12:17 18:9 20:3,13 22:3 27:7,14 27:18,21,23 29:3,4 35:8 49:25 51:1,20 52:6 54:9 56:19 62:24 66:14 67:7,12 68:25 74:16 75:22 76:18 78:24 79:24 80:10 81:15 85:9 86:17,17 86:19,22 89:6 89:7,23 92:9 World's 43:20 55:20 58:9 worry 8:25 35:25 worrying 54:11 worthwhile 10:20 wouldn't 11:21 19:8 38:23 41:15,17 51:17 77:9 78:19 82:5 88:2,20 90:25 write 46:2 53:11 writing 53:10 84:24 written 21:1,2,7 21:12 41:3 45:5,7 46:4,20 48:4 wrong 12:5,6,19 12:20 24:16 49:15 87:2 wrote 24:24 45:18 55:4 <hr/> X <hr/> X 71:6 <hr/> Y <hr/> year 18:8 29:18 31:3 33:21 55:16,21 56:3 56:4 years 4:23 9:11 19:8 27:10 28:10 30:4,15 34:1 52:10 68:11 yellow 8:18 9:5 yesterday 1:23 81:19,20 92:6 94:9 York 9:19 34:1 young 10:8 <hr/> 0 <hr/> 02065 25:1 58:19 58:25 02504 13:23 02505 21:17 02508 65:3 02520 14:13 02582 15:5 02605 59:11 02607 62:4 <hr/> 1 <hr/> 1 7:16,16,23 8:9 8:10 58:22 71:2 95:11 1.5 77:16 10 18:20 43:19 44:4 93:20 95:10 10,000 2:5 11 20:24 21:9 116 95:18,19 12 50:25 90:9 12th 88:12 125 62:25 13th 88:12 14 44:4 81:16 16 25:3 52:23 91:8 18 20:4 19 22:23 24:15 51:23 <hr/> 2 <hr/> 2 3:20 4:1 9:6 42:17 82:18 83:4 2.00 1:2 20 1:13 19:9 62:19 20,000 86:17,21 2001 9:23 34:2
--	---	--	--	--

35:5 71:16	54 54:5				
2004/June 28:10	55 53:23				
2005 28:10	56 54:6				
2007 2:15 3:20	57 53:23				
4:19 9:15,19					
10:13 18:14	<hr/> 6 <hr/>				
22:9 23:3,16	6 6:12 13:22				
24:24 25:3	42:18 77:5				
34:2 50:12	86:23				
52:23 61:4,8	<hr/> 7 <hr/>				
61:23	7 24:24 44:4,5				
2007/June 28:11	58:24 77:16				
2008 3:15 28:11	95:12,14				
33:21 35:6	70,000 2:4				
81:16 82:3	75 95:15				
90:9	768 53:5				
2008/9 17:11					
2009 5:12 21:15	<hr/> 8 <hr/>				
53:5 67:11	8.06 85:16				
2010 14:25 21:15	80's 51:16				
2011 1:13 8:12	80,000 2:3				
18:14 82:6	83 95:16,17				
22 24:22	85 43:7				
23 54:3	86 46:22				
246,000 1:8	89 28:9,13 30:24				
26 16:9					
27 16:19 24:22	<hr/> 9 <hr/>				
28 25:5,19 36:3	9 90:4				
36:10					
29 20:2 28:7					
35:16,17					
<hr/> 3 <hr/>					
3 3:15 7:20,20,21					
7:22 8:16					
35:13,15,21,23					
35:24 36:9					
54:1,3 78:25					
84:24					
3s 7:20					
3,000 83:13					
3.29 58:3					
3.41 58:5					
30 8:12 19:9					
36:12 42:14,15					
300,000 78:23					
31229 43:11					
31230 46:22					
313 36:2					
31328 35:17,19					
37 33:1					
39 65:2,7 66:24					
39506 19:12					
<hr/> 4 <hr/>					
4 36:13					
4.37 95:9					
40 9:11					
47 71:10					
48 51:3 77:16					
<hr/> 5 <hr/>					
5 10:15 13:13					
53:5 77:5 83:6					
85:1					
51874 77:6					
52 51:2					