

<p>1 Thursday, 15 December 2011 2 (10.08 am) 3 LORD JUSTICE LEVESON: Before we start, can I make one 4 statement and make a request. It is a mistake to think 5 that I do not read the newspapers, and I am concerned 6 that what is said at the Inquiry is accurately reported. 7 I'm conscious that there was a report that I decided 8 that we should resolve the Milly Dowler issue before 9 Christmas. That's not actually what I said. What 10 I said was: 11 "I want to know next week, before we break for 12 Christmas, precisely what is proposed should come before 13 the Inquiry, and that requires a consideration on the 14 part of the Metropolitan Police. It also requires 15 consideration by the Guardian. I am very happy to 16 consider also reflections that you want to make and 17 those, if any, that Mr Rhodri Davies wants to make as 18 well." 19 I was, of course, addressing Mr Sherborne. 20 I'm not being over overly critical, but it is 21 important that expectations are not generated which then 22 aren't met. I don't want an inquiry, I'm not concerned 23 as to how the error has crept in, and I'm not being, as 24 I say, overly critical, but I would be very grateful if 25 those who are reporting the work of the Inquiry do so</p> <p style="text-align: center;">Page 1</p>	<p>1 at the pagination at the bottom of each page, Mr Myler. 2 You'll have to turn over a few pages and you'll find 3 JCP2. 4 A. Yes. 5 Q. This is a briefing note which Mr Crone prepared, we know 6 from other evidence, on 24 May 2008. Was it sent to 7 you? 8 A. Yes. I believe it was. 9 Q. It speaks for itself. You presumably read it carefully; 10 is that correct? 11 A. Yes. 12 Q. The next step is JCP7, please, Mr Myler, which is 13 a transcript of Mr Pike's note of a call with you on 14 27 May 2008. 15 A. Yes. 16 Q. These are the only notes available. Mr Pike is 17 recording what you are telling him. You spoke to 18 James Murdoch. Can you help us please with the second 19 line: 20 "Not any options -- wait for silk's view." 21 A. I mean I don't recall this conversation, unfortunately. 22 Mr Pike did take a note of it and said himself without 23 refreshing his memory it was difficult to remember it 24 too. 25 I can only assume that because silk's view had been</p> <p style="text-align: center;">Page 3</p>
<p>1 accurately. The transcripts are there for people to 2 see, and it shouldn't be overly difficult. 3 So that's a mild warning shot. 4 The second thing I want to ask before we get back to 5 Mr Myler is where we are with Mr Pike, and there is one 6 issue there that we need to resolve sooner rather than 7 later. 8 MR JAY: He's working on it. 9 LORD JUSTICE LEVESON: Working on it? 10 MR JAY: Yes. 11 LORD JUSTICE LEVESON: All right. 12 MR JAY: He needs to see various files, but he is expediting 13 it. 14 LORD JUSTICE LEVESON: Thank you. Right. 15 MR COLIN MYLER (on former oath) 16 Questions by MR JAY 17 MR JAY: Mr Myler may we move on to a different topic, 18 namely the negotiations of the settlement of the 19 Gordon Taylor litigation. The best way into that is 20 this file 4, which I'm calling the generic file 4. 21 A. Yes. 22 Q. And it's tab 6, please. We now admit the Select 23 Committee documents, the ones which were placed on their 24 website and then more widely disseminated. 25 Can I ask you first, please, about JCP2, if you look</p> <p style="text-align: center;">Page 2</p>	<p>1 asked about this, that it was literally that: we wait to 2 see what outside counsel's view is of our situation. 3 Q. Yes. The "not any options"? It may speak for itself, 4 but -- 5 A. Yes. I infer from that that it essentially was what 6 silk's view was subsequently, which was: you have an 7 option to go to trial or you have an option to settle. 8 Q. But of course you didn't have the silk's view then. 9 A. No. 10 Q. So "not any options" might mean we're in a bit of 11 a corner here, there's very few options? 12 A. Yes. 13 Q. The third line: 14 "One result of Goodman -- CG [that's Clive Goodman] 15 sprayed around allegations, horrid process." 16 That more or less is what you're saying to Mr Pike, 17 isn't it? 18 A. Yes. 19 Q. I'm particularly interested, though, Mr Myler, in the 20 sixth line: 21 "Didn't believe culture in the newsroom -- Editor." 22 Could you help us, please, with that? 23 A. No. I mean I don't know what he means by "Editor", 24 whether he's talking about the previous editor or 25 whether he's talking about me, or whether or not --</p> <p style="text-align: center;">Page 4</p>

<p>1 I just don't know the answer to that, I'm afraid, 2 Mr Jay. And then after that: 3 "Editor didn't know ..." 4 Q. "A lot", I think we -- 5 A. I'm sorry? 6 Q. The indecipherable is "a lot". 7 A. From that you could assume that the allegations that 8 Mr Goodman had made was that more people knew than 9 didn't know about what was going on, but I'm -- I don't 10 know whether that's what Mr Pike took from what I'd 11 said. 12 Q. Right. It can be read a number of ways. It might be 13 referring to the previous editor, or it might be 14 referring to you. Are you able to assist as to which? 15 A. That whether or not I didn't believe the culture in the 16 news room was what Mr Goodman said? 17 Q. No, it's what you're telling Mr Pike. 18 A. I -- 19 Q. Mr Pike is recording what you're telling him. Do you 20 see that? 21 A. Yes. I honestly wouldn't know how to interpret that. 22 Q. Okay. 23 A. It's fair to say that, as I said earlier, the 24 allegations that Mr Goodman made, it was a horrid 25 process and they were investigating. And Mr Goodman</p> <p style="text-align: center;">Page 5</p>	<p>1 police that you tend to take more as fact than some of 2 the fiction and allegations that have been made in other 3 places. 4 MR JAY: Yes. 5 A little bit further on in this document you see the 6 dash and then "Assurances to PCC". That's a reference, 7 is it, to the assurances you had given to the PCC? 8 A. I assume so, yes. 9 Q. Then the final dash or bullet point: 10 "CM my position as Editor -- cannot ignore it -- 11 back to CG plus -- appealed against his sacking, failed 12 to give direct evidence -- had to be seen new editor 13 couldn't be seen to dismiss their allegations." 14 That's more or less self-explanatory. You were 15 saying there that the allegations which were being made 16 you couldn't ignore; you had to take seriously. 17 A. Yes. 18 Q. But you didn't necessarily believe. Can I ask you 19 though about your state of mind insofar as you can throw 20 your mind back to three or four years ago, and the one 21 rogue reporter defence. Did you believe the one rogue 22 reporter defence before you saw Mr Crone's briefing 23 notes, which is earlier on in this bundle? 24 A. I think there had been no evidence presented to support 25 any other view, and I have to say that one of the things</p> <p style="text-align: center;">Page 7</p>
<p>1 didn't produce any evidence -- we asked him if he had 2 any to support his allegations. 3 Q. One possible explanation, and this I suppose might 4 assist you, and I put it forward, is that you, the 5 editor, in May 2008, didn't believe that there was 6 a culture in the newsroom where this sort of thing went 7 on? 8 A. Well, I certainly didn't believe it was going on while 9 I was there. 10 Q. No. But it wasn't going on before. I mean, maybe I'm 11 sort of asking you a very leading question, but -- 12 A. I think -- I think, quite frankly, Mr Jay, I mean the 13 information that we've subsequently discovered is very 14 difficult not to cloud trying to assimilate this and 15 what it might mean, because if you'd have asked me 18 16 months ago what I thought that means, it might have been 17 a different answer to what I now, perhaps, and what we 18 all believe it to be, and that's only because of the 19 information that's been put before this Inquiry, that 20 certainly I wasn't aware of before, that may have 21 existed. 22 LORD JUSTICE LEVESON: That's a fair observation, Mr Myler. 23 It's very difficult to go back three years without 24 remembering what's happened in that three years. 25 A. Particularly when information has come to light via the</p> <p style="text-align: center;">Page 6</p>	<p>1 that was very foremost in my mind when I came back was 2 the, as I understand it, the police took away three 3 black bin liners of evidence from Mr Mulcaire's home 4 when he was arrested in August 2006. And given what 5 I believed to be a thorough police investigation 6 throughout that period, and the fact that the police had 7 not interviewed any other member of staff from the 8 News of the World other than Mr Goodman, I think that 9 weighed heavily on my mind that I assumed that they 10 would have done so if they had had any kind of evidence 11 or reason to speak to somebody else. So that did weigh 12 heavily on my mind. 13 And also, when Mr Goodman was arrested with 14 Mr Mulcaire, the company called in Burton Copeland to 15 act as the go-betweens and the word I've used before is 16 a bridge head, as I understand, between the police and 17 the company, so that anything that the police wanted 18 Burton Copeland would facilitate, so that there was full 19 transparency and there was no opportunity to accuse the 20 company of being an obstruction to what the police were 21 looking for. 22 Q. Privilege has not been waived in relation to the 23 Burton Copeland advice. Have you read the sentencing 24 remarks or were you aware of Mr Justice Gross' 25 sentencing remarks delivered in January 2007 and the</p> <p style="text-align: center;">Page 8</p>

<p>1 reference to others at News International?</p> <p>2 A. I wasn't acutely aware. I was aware of the trial, I was</p> <p>3 aware of the circumstances. Again it was an awkward</p> <p>4 situation where I don't think my appointment had even</p> <p>5 been announced, and I was heading back from New York, so</p> <p>6 it was a bit -- you know, there was a lot going on.</p> <p>7 LORD JUSTICE LEVESON: What about the fact that Mr Goodman</p> <p>8 was the royal reporter and that a number of these</p> <p>9 targets clearly couldn't be described as coming within</p> <p>10 that generic description?</p> <p>11 A. I think the other -- I think Mr Goodman also had</p> <p>12 a column, didn't he, called -- I think it was called</p> <p>13 Blackadder, and I think there were sort of non-Royal</p> <p>14 stories and snippets and gossip that appeared in that.</p> <p>15 So, yes, I mean I'm aware of that, but again there</p> <p>16 appeared to be absolutely no evidence that was presented</p> <p>17 to me, or certainly to the company, that I was aware of,</p> <p>18 that led us to believe that it went beyond Mr Goodman.</p> <p>19 MR JAY: Once you'd seen Mr Crone's briefing note, did your</p> <p>20 mind change or not?</p> <p>21 A. It's fair to say that I always had some discomfort and</p> <p>22 I always -- the term I phrased was I felt that there</p> <p>23 could have been bombs under the newsroom floor and</p> <p>24 I didn't know where they were and I didn't know when</p> <p>25 they were going to go off. That was my own view. But</p> <p style="text-align: center;">Page 9</p>	<p>1 like. Two points, actually. First of all, "have email</p> <p>2 from member of staff"; do you know what that's about?</p> <p>3 A. No.</p> <p>4 LORD JUSTICE LEVESON: Because it may be that somebody's</p> <p>5 telling you something which appears to be relevant, but</p> <p>6 you can't remember?</p> <p>7 A. No.</p> <p>8 LORD JUSTICE LEVESON: And then "Les no longer here -- James</p> <p>9 would say get rid of them -- cut out cancer", and the</p> <p>10 important word in that sentence is "them".</p> <p>11 A. Yes.</p> <p>12 LORD JUSTICE LEVESON: So could you elaborate on that?</p> <p>13 A. All I can think of is that if you go back to the top of</p> <p>14 the note where "One result of Goodman -- CG sprayed</p> <p>15 around allegations, horrid process", and then there are</p> <p>16 initials which I won't name, they were individuals that</p> <p>17 Mr Goodman had made very serious allegations against,</p> <p>18 and I questioned those individuals about the</p> <p>19 allegations, putting it to them what Mr Goodman had</p> <p>20 said, and again, in the absence of any evidence to</p> <p>21 support Mr Goodman's allegations, they were denied.</p> <p>22 Very strongly.</p> <p>23 So perhaps in the conversation with Mr Pike I had</p> <p>24 recounted Mr Goodman's allegations and perhaps mentioned</p> <p>25 the names of the people that he mentioned. I couldn't</p> <p style="text-align: center;">Page 11</p>
<p>1 trying to get the evidence or establishing the evidence</p> <p>2 that sadly the police already had was another matter.</p> <p>3 Q. The bombs under the newsroom floor metaphor may be an</p> <p>4 extremely good one, Mr Myler, but just taking it</p> <p>5 a little bit further, Mr Crone told us that he didn't</p> <p>6 believe the one rogue reporter defence from the outset.</p> <p>7 Did he express that view to you?</p> <p>8 A. No. He expressed very, very much more recently the view</p> <p>9 that it was a remark that perhaps I think the phrase he</p> <p>10 used was that it might come back and bite us, or bite</p> <p>11 the company.</p> <p>12 LORD JUSTICE LEVESON: Yes, he said that to me, but Mr Jay</p> <p>13 is really asking whether here was the head of legal</p> <p>14 services who was close to it in this country when you</p> <p>15 were in America, he didn't share it with you at the</p> <p>16 time?</p> <p>17 A. Not that I recall, no. No.</p> <p>18 MR JAY: But we know Mr Silverleaf's opinion was written on</p> <p>19 3 June 2008. Can we be clear about what your evidence</p> <p>20 is about it? Did you see that opinion?</p> <p>21 A. I don't recall seeing the written opinion.</p> <p>22 LORD JUSTICE LEVESON: Just before we go to the opinion,</p> <p>23 have you finished the phone call?</p> <p>24 MR JAY: I have, but obviously I've missed out a point.</p> <p>25 LORD JUSTICE LEVESON: Well, there is point that I would</p> <p style="text-align: center;">Page 10</p>	<p>1 go any further than that, sir, I'm sorry.</p> <p>2 LORD JUSTICE LEVESON: All right, thank you. Sorry, Mr Jay.</p> <p>3 MR JAY: Leading counsel's opinion, you don't remember</p> <p>4 seeing it?</p> <p>5 A. I don't remember seeing it.</p> <p>6 Q. So does it follow that you might have seen it?</p> <p>7 A. I'd like to think that I would remember significant</p> <p>8 parts of it if I had seen it.</p> <p>9 Q. Were its contents, though, summarised to you?</p> <p>10 A. Yes.</p> <p>11 Q. Why didn't you ask to see it, Mr Myler?</p> <p>12 A. I -- I don't know. It doesn't -- it wasn't common</p> <p>13 practice for me to read counsel's opinion. I more often</p> <p>14 than not relied on a sort of verbal review of it and</p> <p>15 that all was served well and I had no reason not to do</p> <p>16 it any other ways, and that's -- certainly Mr Crone told</p> <p>17 me silk's view of our position.</p> <p>18 Q. Did he tell you words to the effect that in leading</p> <p>19 counsel's view there was a powerful case for there being</p> <p>20 or having been a culture of illegal information access</p> <p>21 used at the company in order to produce stories for</p> <p>22 publication?</p> <p>23 A. I don't recall that phrase "powerful culture", no,</p> <p>24 I don't.</p> <p>25 LORD JUSTICE LEVESON: That would presumably hit you</p> <p style="text-align: center;">Page 12</p>

<p>1 absolutely between the eyes. 2 A. Yes, precisely. 3 LORD JUSTICE LEVESON: Because if you're there to do 4 anything -- 5 A. Yes. 6 LORD JUSTICE LEVESON: -- it's to cope with that. 7 A. Yes, absolutely. And it went back to the allegations 8 that were made by Mr Goodman. 9 LORD JUSTICE LEVESON: And you've no recollection of being 10 told this? 11 A. No. 12 MR JAY: I was going to suggest it was the high watermark of 13 the opinion, reading it, apart from the figures he gives 14 towards the end, but he also says: 15 "Not only does this mean that NGN is virtually 16 certain to be held liable to Mr Taylor, but to have this 17 paraded at a public trial would I imagine be extremely 18 damaging to NGN's public reputation." 19 Was at least that message communicated? 20 A. The message that I remember being communicated was very 21 clear: that our position, following the discovery of the 22 "for Neville" email, was fatal to our case. That was 23 what I remember being the central message from silk's 24 view. A view that was shared by Mr Crone, by Mr Pike 25 and indeed by myself.</p> <p style="text-align: center;">Page 13</p>	<p>1 in this witness box, the company, not unreasonably or 2 unsurprisingly, wanted to try to get things back on 3 track after Mr Mulcaire and Mr Goodman went to jail, and 4 it was a significant process to do that. So there was 5 no appetite, I think, to go back to that place. 6 Q. What was your understanding at the time as to the value 7 of the claim? 8 A. In terms of its monetary value? 9 Q. In terms of what leading counsel was advising, given you 10 say you didn't see the advice? 11 A. All I understood was that the money that was being asked 12 for was an incredible amount of money. This was a story 13 that hadn't appeared in the paper, by the way. It 14 seemed an extremely high amount, but it had also been 15 made very clear that Mr Taylor was not in the position 16 to budge. And he was adamant that he wanted that sum or 17 he wanted a trial. 18 Q. I'll come back to that, but it's really what the true 19 value of the claim was likely to be, making allowance 20 for the fact that there's not much decided authority in 21 this area and leading counsel does his best on his own 22 experience, but what was your understanding of what he 23 was advising? 24 A. I'm not sure whether I had a clear understanding of what 25 he was advising. The negotiations that were being</p> <p style="text-align: center;">Page 15</p>
<p>1 Q. In paragraph 7, leading counsel says: 2 "Little doubt that Mr Taylor's case will be advanced 3 on the basis that Mr Mulcaire was specifically employed 4 by NGN to engage in illegal information gathering to 5 provide the basis for stories to appear in NGN's 6 newspapers. I would not imagine that NGN wishes this 7 kind of allegation to be given any more publicity than 8 is inevitable from the bringing of the claim." 9 Well, that speaks for itself, doesn't it? 10 A. Yes. 11 Q. That there's really a very important reputational issue 12 here? 13 A. Yes. 14 Q. Did you understand that one way or the other? 15 A. I think I understood very clearly that the option of 16 a trial, which would have brought back everything the 17 paper had gone through with the Goodman and Mulcaire 18 trial, was something that clearly wasn't -- nobody was 19 very keen on. 20 Q. You mentioned the bombs under the newsroom floor, but 21 this was creating a tendency for one or more of those 22 bombs to explode if there were a trial. Would you agree 23 with that? 24 A. Possibly. But -- yeah, possibly that would have been 25 the case. As you've heard from other people before me</p> <p style="text-align: center;">Page 14</p>	<p>1 conducted by Mr Crone and Mr Pike with, I think, 2 Mr Lewis, Mr Taylor's solicitor, were pretty blunt, 3 I think. It was made very clear from Mr Taylor's 4 position that he wasn't too keen to negotiate. It was 5 this or not. I think that was the atmosphere in which 6 those negotiations appeared to be conducted. 7 Q. Didn't you want to know what leading counsel thought the 8 true value of the claim might be? 9 A. Well, maybe I assumed too much, but I assumed that 10 Mr Pike and Mr Crone, who had far more experience than 11 me of dealing with claims of this nature from a legal 12 point of view, and what the value was -- I mean, as 13 I said yesterday, I'd been out of the country for five 14 years and I was quite astounded how the landscape had 15 changed in the five years I was away, so a lot of things 16 had moved on. 17 Q. All the more reason for wanting to know what leading 18 counsel's advice was because you didn't have much 19 experience, but weren't you told some ballpark figures 20 that leading counsel was advising? 21 A. I can't remember whether or not the figures that were 22 mentioned to me were specifically what counsel was 23 suggesting. I remember that, you know, there were these 24 huge figures being talked about and whether or not they 25 were based on silk's advice or it was a mixture of</p> <p style="text-align: center;">Page 16</p>

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<p>1 Mr Crone, Mr Pike, I honestly can't remember.</p> <p>2 Q. Mr Myler, the other side's figures had nothing to do</p> <p>3 with the true value of the claim, did they? You knew</p> <p>4 that.</p> <p>5 A. No, Mr Taylor was in a very strong position and a figure</p> <p>6 was put on it.</p> <p>7 Q. That's right.</p> <p>8 A. That was it.</p> <p>9 Q. But the question was they had nothing to do with the</p> <p>10 true value of the claim, you knew that they were much</p> <p>11 more than the true value of the claim. Are we agreed?</p> <p>12 A. Yes.</p> <p>13 Q. But in order to calibrate the sort of offer which you</p> <p>14 might make to settle this case, you would need to know</p> <p>15 as best you could what the true value of the claim might</p> <p>16 be. Are we agreed?</p> <p>17 A. Yes. Yes.</p> <p>18 Q. So didn't you ask or weren't you told what leading</p> <p>19 counsel was advising as to what the true value of the</p> <p>20 claim might be?</p> <p>21 A. I can't remember specifically whether I was told what</p> <p>22 counsel's figure was. Perhaps you could tell me what</p> <p>23 the figure was and see if I can remember.</p> <p>24 Q. He was saying, paragraph 17 of the advice at JCP24:</p> <p>25 "In these circumstances it is impossible to arrive</p> <p style="text-align: center;">Page 17</p>	<p>1 claim to the person who had the authority to settle the</p> <p>2 claim, the chief executive, you would have to know what</p> <p>3 the true value was, wouldn't you?</p> <p>4 A. Yes. I mean, sort of fast-forward to 2010, 2011. I was</p> <p>5 in one meeting, I believe, with Mr Silverleaf when we</p> <p>6 were discussing some of the civil litigant cases --</p> <p>7 Q. I'd rather you didn't cover that because you're going to</p> <p>8 move straight into privileged areas.</p> <p>9 A. No, I'm talking about the broad reason of how he was</p> <p>10 assuming today what the probable compensation would be,</p> <p>11 or award, in a case of some of those cases, so --</p> <p>12 Q. We can't go there, Mr --</p> <p>13 A. No, no, I'm not going there. I'm just saying that was</p> <p>14 the only other occasion where I specifically remember</p> <p>15 getting that advice about the potential award in a case</p> <p>16 of what we're talking about. Not that Mr Taylor was</p> <p>17 a run-of-the-mill case.</p> <p>18 Q. I continue to express some bewilderment about this,</p> <p>19 Mr Myler, because in nearly 30 years' experience,</p> <p>20 I haven't actually seen a client who doesn't want to</p> <p>21 know what the true value of the claim is, whether I'm</p> <p>22 acting for a claimant or defendant, if I can be forgiven</p> <p>23 for just offering that little piece of anecdotal</p> <p>24 evidence. And here's you not apparently concerned to</p> <p>25 know what the true value of the claim is. Is that</p> <p style="text-align: center;">Page 19</p>
<p>1 with any certainty at the high level of damages which</p> <p>2 will be awarded. My view is that the court might award</p> <p>3 a sum at any level from 25,000 to 250,000 or possibly</p> <p>4 even more, although I think this extremely unlikely. My</p> <p>5 best guess is that the award will be either about</p> <p>6 £100,000 or about £250,000, depending upon the personal</p> <p>7 reaction of the judge who hears the claim."</p> <p>8 A. Yes.</p> <p>9 Q. Was that communicated to you?</p> <p>10 A. I can't say for sure that it was, but it would be wrong</p> <p>11 to say that it wasn't.</p> <p>12 Q. Was it probably communicated to you?</p> <p>13 A. It may have been. I -- you know, my recollection from</p> <p>14 those conversations was always the issue of this was</p> <p>15 a case that we didn't have a choice with, and it was</p> <p>16 a matter of what the figure would be to settle, and</p> <p>17 a figure that Mr Taylor would accept.</p> <p>18 LORD JUSTICE LEVESON: Who had the authority to settle this?</p> <p>19 Who was saying, "Yes, offer this", or, "Don't offer</p> <p>20 that"? Was that you?</p> <p>21 A. No, no, it was the chief executive. Because it was</p> <p>22 clear that at the level that Mr Taylor was coming from,</p> <p>23 it was way beyond my authority, certainly way beyond</p> <p>24 Mr Crone's authority. That was way out of our league.</p> <p>25 MR JAY: But in order to communicate the true value of the</p> <p style="text-align: center;">Page 18</p>	<p>1 really your position in June 2008?</p> <p>2 A. Look, I was perfectly happy with Mr Crone and Mr Pike's</p> <p>3 experience to deal with matters with leading counsel,</p> <p>4 and I am sure that they would have reported to me, if</p> <p>5 only as a matter of courtesy, anything they thought was</p> <p>6 relevant for me to be aware of. I had absolute</p> <p>7 confidence in their experience and the way in which they</p> <p>8 conducted matters, and I had no reason to believe that</p> <p>9 whatever negotiations they were having, either with</p> <p>10 Mr Taylor's legal team and whatever conversations they</p> <p>11 had with Mr Silverleaf, I had perfect confidence in</p> <p>12 that.</p> <p>13 Q. Okay. But after leading counsel advised, an offer was</p> <p>14 made to Mr Taylor under the rules of £350,000. Were you</p> <p>15 aware of that?</p> <p>16 A. I'm sure I was aware, but I can't -- I mean, there's</p> <p>17 a lot of moving parts to this sequence, so at what stage</p> <p>18 that happened, I couldn't be specific.</p> <p>19 Q. Were you asked for instructions by Mr Pike or Mr Crone</p> <p>20 to make that offer?</p> <p>21 A. That would be something that we would need to have</p> <p>22 talked to the chief executive about. I wouldn't have</p> <p>23 taken that decision on my own to have done that, because</p> <p>24 it exceeded certainly my authority.</p> <p>25 Q. That's right, Mr Myler, and that's the slightly</p> <p style="text-align: center;">Page 20</p>

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<p>1 bewildering part, because we know that you didn't ask 2 the chief executive for instructions because by the time 3 you met with him on 10 June, the offer had already been 4 made, hadn't it?</p> <p>5 A. I -- I -- I need to be reminded of the sequence of 6 events. I'm sorry. There was a -- you know, I wasn't 7 involved at every step of the way about every 8 conversation that took place either between Mr Crone and 9 Mr Pike, Mr Pike and Mr Lewis, or Mr Crone and Mr Lewis. 10 I'm sorry, I just wasn't in that place.</p> <p>11 Q. Do I have this right, that instructions had to come from 12 someone, and that someone logically would have to be 13 either you or the chief executive?</p> <p>14 A. Yes, but I wouldn't have taken it upon myself to 15 sanction that amount of money because I would have had 16 to have gone to the chief executive to have got 17 authority for that.</p> <p>18 Q. Can you look, please, at JCP11.</p> <p>19 A. Yes.</p> <p>20 Q. Which is an attendance note of a discussion between 21 Mr Pike and Mr Lewis on 6 June. You see three lines 22 into it:</p> <p>23 "Said that JCP have sent across a Part 36 letter 24 [that's an offer of settlement] in the sum of £350,000." 25 So the best evidence we have is that the offer of</p> <p style="text-align: center;">Page 21</p>	<p>1 instructions to make an offer of £350,000 on or about 2 6 June. Would you agree with that?</p> <p>3 A. I don't recall it, but if -- I think we all knew we were 4 in a difficult position with a difficult negotiation, so 5 again I just can't remember having a meeting or 6 a conversation of that nature, but as I've said, 7 Mr Crone is a very, very experienced legal manager and 8 lawyer, and, you know, had conducted negotiations like 9 this for many years. Not, clearly, to this amount, 10 which was the reason why we brought it to the attention 11 of the chief executive.</p> <p>12 Q. But Mr Crone could not act without instructions, could 13 he? Not properly act without instructions?</p> <p>14 A. He would -- Mr Crone had his -- I mean the legal budget 15 wasn't apportioned by me. The legal budget was 16 apportioned by the company. He would -- he had 17 responsibility for that budget. I didn't. But he 18 would, you know, talk to me about cases, but often he 19 would just get on and do them and deal with them.</p> <p>20 Q. At this level, though, he wouldn't, would he?</p> <p>21 A. I don't think he would, no.</p> <p>22 LORD JUSTICE LEVESON: It's not actually 6 June, Mr Jay, 23 because on 3 June it's clear that they focused on 24 £350,000.</p> <p>25 MR JAY: About to send, yes.</p> <p style="text-align: center;">Page 23</p>
<p>1 £350,000 was made on 6 June, which of course was after 2 leading counsel's opinion and before the meeting with 3 the chief executive on 10 June.</p> <p>4 A. Sorry, is JCP Mr Pike?</p> <p>5 Q. Yes.</p> <p>6 A. Sorry, yes.</p> <p>7 Q. Now, Mr Pike can't act without instructions?</p> <p>8 A. Mm.</p> <p>9 Q. Instructions must have come from the client, which, 10 I repeat, must have been either you or the chief 11 executive; would you agree?</p> <p>12 A. Yes. Or -- yes. And Mr Crone being aware that this was 13 a very tough negotiation that was only going to go one 14 way. It wasn't going down, it was going up in value.</p> <p>15 Q. Are you saying that you think you had a conversation 16 with the chief executive to authorise the offer of 17 £350,000, which must have been on or about 6 June; are 18 you saying that?</p> <p>19 A. No, I'm not saying that at all.</p> <p>20 Q. Because the only conversation we know about was on 21 10 June, don't we?</p> <p>22 A. Yes.</p> <p>23 Q. What might be said is that the likely sequence of events 24 was this: that the contents of the opinion were 25 communicated to you on or about 3 June, and you gave</p> <p style="text-align: center;">Page 22</p>	<p>1 LORD JUSTICE LEVESON: Because Mr Pike is telling Mr Lewis 2 that they were about to send a further Part 36 offer in 3 the sum of £350,000.</p> <p>4 MR JAY: Yes, sir you're right. So it could be at any 5 stage, but more likely to be closer to 3 June than 6 6 June.</p> <p>7 LORD JUSTICE LEVESON: Well, probably prior to 3 June. One 8 wouldn't normally tell an opponent that you were just 9 about to make an offer for £350,000 unless one had 10 authority to do it.</p> <p>11 MR JAY: There's another point on the 6 June attendance 12 note, JCP11. What Mr Lewis was saying -- do you see in 13 the middle paragraph:</p> <p>14 "ML said that Taylor wanted to carry on because of 15 all the issues surrounding what NGN had done. One way 16 or another, this was going to hurt NGN. Taylor wanted 17 to show that the News of the World stories had been 18 illegally obtained. He wanted to demonstrate that the 19 News of the World had been doing this and that it was 20 rife in the organisation when the News of the World had 21 been making public statements, including statements in 22 Parliament, telling them that they were simply a rogue 23 trader. Taylor was not happy about this. He wanted to 24 speak out about all of this."</p> <p>25 Was the gist of that communicated to you?</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 A. No, I don't recall that specifically. What I remember 2 being told was that his position was very simple. He 3 wanted a million pounds or he wanted to go to trial. 4 What I remember being told was that he wanted to 5 humiliate the paper. 6 Q. Have you seen the recent emails disclosed to and then by 7 the Select Committee, which have been reported upon? 8 A. Can you remind me where they are? 9 Q. I can show you them now. (Handed) 10 A. Thank you. 11 LORD JUSTICE LEVESON: Thank you very much. 12 MR JAY: Look at the third page of this little clip of 13 documents, Mr Myler. You'll see first of all an email 14 from Mr Pike to Mr Crone timed at 17.18 on 6 June. Do 15 you see that? 16 A. Yes. 17 Q. "Tom, just confirm my without prejudice conversation 18 with Mark Lewis, Taylor's lawyer. 19 "1. Taylor's attitude is that he wishes to be 20 vindicated or made rich. 21 "2. He wishes to see NGN suffer. One way or 22 another he wants this to hurt NGN. 23 "3. He wants to demonstrate that what happened to 24 him is/was rife throughout the organisation. He wants 25 to correct the paper telling parliamentary inquiries Page 25</p>	<p>1 best course is to counteroffer the figure we discussed 2 earlier this week plus costs. That would amount to 3 £700,000. But there's a further nightmare scenario in 4 this, which is that several of those voicemails on ..." 5 LORD JUSTICE LEVESON: Somebody's email. 6 MR JAY: "... [somebody's] email were taken from 7 [somebody's] phone. He was at the time and still 8 is ..." 9 Towards the bottom of the email but on the next 10 page: 11 "As you know, we have put in a Part 36 offer, 12 £350,000, which should give us good protection in terms 13 of what a judge might eventually award ... if we can't 14 settle with Taylor, we can sit on this offer in the 15 reasonable expectation that costs from here on will have 16 to be paid by him. It's not what we want, but it's the 17 only weapon we have." 18 Certainly the inference I've drawn is that you were 19 forwarded, along with this email, Mr Pike's email, which 20 we see underneath, timed at 17.18 on 6 June 2008. Do 21 you see that, Mr Myler? 22 A. 6 June? 23 Q. Yes. 24 A. Yes. 25 LORD JUSTICE LEVESON: It follows, doesn't it, because if Page 27</p>
<p>1 that this was not happening when it was (NGN's line 2 having been that there was a rogue trader in 3 Clive Goodman). 4 "While Lewis had not taken instructions on exactly 5 how much Taylor now wanted, following the Part 36 6 £350,000 offer on Tuesday [I'm sure we could work out 7 whether the Tuesday was 3 June, it wouldn't take us long 8 to find out] he said Taylor had previously made clear 9 that what he wanted if we were to keep the matter 10 confidential was seven figures plus indemnity costs." 11 I paraphrase that adds up to £1.2 million. So that 12 is what Mr Pike is telling Mr Crone. Then if you work 13 back through this email stream to the previous page, 14 Mr Myler. 15 A. Yes. 16 Q. 7 June 2008, 12.30, Tom Crone to you: 17 "Mark Lewis, Taylor's lawyer, came back yesterday 18 with his client's position (see it confirms our 19 expectations of Taylor). I told Julian to get us if 20 possible a few more days for service of the amended 21 defence which is currently due to be served on Monday at 22 the latest." 23 And then he continues with various matters we 24 needn't read out, but towards the end you see: 25 "In terms of doing a deal with Taylor, I think the Page 26</p>	<p>1 you look at the heading of the email to you, it's from 2 Tom Crone to you, subject is "Forward: Strictly private 3 and confidential and subject to legal professional 4 principle". 5 A. Yes. 6 MR JAY: So it is forwarded. 7 A. Yes. 8 Q. Indeed, it's the same point when we work up. 9 So you knew several things, didn't you, Mr Myler? 10 One of them was that Mr Taylor wanted to demonstrate 11 that what had happened or was still happening is/was 12 rife throughout the organisation. You knew that, didn't 13 you? 14 A. I accept this. I think I only got this yesterday, 15 so ... I only got the bundles the day before, so forgive 16 me. We did ask NI many months ago for assistance with 17 files and they were refused, so please forgive me. 18 Q. But you also knew that Mr -- 19 LORD JUSTICE LEVESON: Well, Mr Myler, I don't want you to 20 be taken at disadvantage. Do you need time to look at 21 this? 22 A. No, no, I accept what you're saying. I haven't got 23 a problem with that. 24 LORD JUSTICE LEVESON: All right. 25 MR JAY: Mr Crone was also explaining that the Part 36 offer Page 28</p>

7 (Pages 25 to 28)

<p>1 which had been made of £350,000 should give you good 2 protection in terms of what a judge might eventually 3 award. 4 A. Mm. 5 Q. What did you understand by that? 6 A. Well, Part 36 means that if you put a figure in that is 7 higher than the award of the courts, the other side have 8 to pay costs, and costs being an integral significant 9 part of any action. 10 Q. Absolutely. And it would effectively have wiped 11 Mr Taylor out. But the other point is you must have 12 known or understood what the true value of the claim 13 was; wouldn't you agree? 14 A. It follows that if that's the figure that Mr Pike and 15 Mr Crone were suggesting, I would have gone with the 16 suggestion, because it would have been the legal opinion 17 about what the figure should be for a Part 36. 18 Q. Of course by that -- 19 A. And I had absolutely every confidence in their opinion. 20 And experience. 21 Q. In fact we know if Mr Silverleaf was right it was 22 extremely good protection because it was highly unlikely 23 he was saying that Mr Taylor would get above £250,000, 24 but did you know that at the time? 25 A. I can't recall knowing what Mr Silverleaf's figure was, Page 29</p>	<p>1 the particular relevant file with him, and anything in 2 that file that he would feel the chief executive might 3 ask to see or be referred to. So I'm pretty sure that 4 he would have had in his file every relevant document 5 that he felt that James may have asked to see, or to be 6 referred to. 7 Q. If you can't remember, tell us, but can you remember 8 what documents, if any, were shown to Mr Murdoch during 9 that meeting? 10 A. I have said before that I can't recollect whether he 11 handed over the "for Neville" email, as such, for him to 12 see. I can't remember whether he did that. I am aware 13 of what Mr Crone has said in his testimony, and I have 14 no reason to disbelieve that he did what he said he did. 15 Q. Was the word "culture" mentioned? Particularly in the 16 context of paragraph 6 of leading counsel's opinion. 17 Can you recall? Culture of illegal information access 18 used at the company. 19 A. I can't remember. That's one word. I mean, I just 20 can't remember. I don't believe a note was taken of 21 that meeting. 22 Q. The only evidence we have of it is JCP13, Mr Myler. 23 A. Yes. This is a note that Mr Pike took from a call with 24 Mr Crone. 25 Q. Absolutely. And the only three people at the meeting, Page 31</p>
<p>1 no. 2 Q. And then the email stream continues going backwards 3 through the documents but forwards in time. We can see, 4 it speaks for itself, that on Saturday 7 June -- which 5 would make 3 June the Tuesday -- at 14.00 hours, 31 6 minutes and 41 seconds apparently -- 7 LORD JUSTICE LEVESON: Two hours after you'd got Mr Crone's 8 email. 9 MR JAY: It's forwarded to JRM: 10 "James, update on the Gordon Taylor Professional 11 Football Association case. Unfortunately it's as bad as 12 we feared. The note from Julian Pike of Farrers is 13 extremely telling regarding Taylor's vindictiveness but 14 again that speaks for itself. It would be helpful if 15 Tom Crone and I could have five minutes with you on 16 Tuesday." 17 And then the reply comes back not very long after, 18 at 14.34 hours, but again it's not for me to ask 19 a question to you about that, Mr Myler. Maybe I can ask 20 someone else. 21 At the meeting on 10 June, can you recall what was 22 provided to Mr Murdoch? 23 A. Not specifically in terms of what was handed over. 24 I know that whenever Mr Crone went to a meeting with the 25 chief executive, or indeed an editor, he tended to have Page 30</p>	<p>1 we know, were Mr Crone, Mr Murdoch and you; that is 2 right, isn't it? 3 A. Yes. 4 Q. The note says: 5 "JM said he wanted to think through options." 6 A. Yes. 7 Q. Could you help us with that at all? 8 A. I believe and I assume that that means he wanted to 9 think about the conversation that had taken place and 10 the previous conversations or correspondence that had 11 been sent to him, so that he could consider finally what 12 he perhaps wanted to do. 13 Q. What authority, if any, did Mr Murdoch give at the 14 meeting to settle the claim? 15 A. It was my view that Mr Murdoch wanted to settle the 16 claim and didn't want the option of a trial. 17 Q. But what instructions, if any, did he give as to the 18 level of settlement? 19 A. I don't believe that he wanted to pay a million pounds, 20 but I think he was happy to go away to see what 21 negotiation could take place to settle the claim. 22 Q. But that rather suggests that Mr Murdoch didn't give 23 a ceiling on the authority. Can you remember whether he 24 gave an authority at a particular figure? 25 A. I can't remember if there was a particular figure, but Page 32</p>

8 (Pages 29 to 32)

<p>1 I do recall that I think I left the meeting believing 2 that he wanted to settle. Not at any price, but that 3 settling was the best option. 4 Q. So why did Mr Murdoch want to think through the options? 5 Or maybe that relates to something which took place 6 towards the beginning of the meeting rather than the end 7 of the meeting. Do you follow me? 8 A. I do, but I couldn't second guess what that means. 9 Q. Although the note, of course, relates to something which 10 occurred after the meeting, because it's a conversation 11 between Mr Crone and Mr Pike. What about the fourth 12 line? I'm not going to read it all out, and of course 13 it doesn't really matter what you say, frankly, in 14 a private context, but just help us with where you were 15 coming from there. 16 A. I don't know. I've been trying to think what that might 17 mean. Forgive my intemperate language. 18 Q. You don't have to. 19 A. I don't know. 20 LORD JUSTICE LEVESON: You don't like what's happening. 21 A. Perhaps the Northern gene was kicking in and I was being 22 rather blunt. 23 MR JAY: One possible explanation is that you were extremely 24 angry about what was going on here, that you well knew 25 that the other side had you over a barrel and that you</p> <p style="text-align: center;">Page 33</p>	<p>1 Q. And then the final bit: 2 "If intriguing progress." 3 Could you help us with that? 4 A. No. No, I can't. 5 Q. Was the thinking at least this, Mr Myler, that the 6 potential reputational damage to the company was 7 enormous. Although it was risky, because silence might 8 not be attained, it was better to pay Mr Taylor at an 9 overvalue with a view to attempting to secure a degree 10 of silence? 11 A. I think that's fair, yes. 12 Q. If I were to use the term "cover-up", would you embrace 13 that or shrink from it? 14 A. No, I wouldn't embrace that. I don't believe it -- 15 I don't believe it was a cover-up. I think that we were 16 dealing with a very difficult negotiation and newspapers 17 deal with if not as difficult as this, but they deal 18 with very complex and significant negotiations 19 throughout the course of their business very regularly, 20 and I don't believe it's wrong or unreasonable of any 21 business to try to protect the reputation of itself, 22 particularly after what had happened in the course of 23 2006 and 2007. 24 LORD JUSTICE LEVESON: It might be slightly semantic, 25 mightn't it, Mr Myler? What one person might describe</p> <p style="text-align: center;">Page 35</p>
<p>1 were coming to the point where, no, they could, as it 2 were, as you say here, and frankly let's see them in 3 court. Is that a possibility? 4 A. I think that's a very fair possibility, if not 5 a probability, yes. 6 Q. That may be understandable, but he then says: 7 "On the end of drip, drip, do a deal with them." 8 Could you help us with that? 9 A. I don't know. I mean perhaps it was where did this end, 10 you know, where did it end and does it end? I don't 11 know. 12 Q. And then: 13 "Paying them off plus then silence fails." 14 The interpretation we were given in evidence was 15 that you were concerned that if Mr Taylor was paid off 16 on the basis of a confidentiality stipulation, it 17 wouldn't necessarily do the company any good because his 18 silence might not be attained, and moreover, the 19 evidence would come out anyway. Do you see that? 20 A. It is what happened. 21 Q. But is that what you were saying then? Was that your 22 state of mind, in other words? 23 A. I think it follows from that phrase that maybe I used 24 that that was -- you know, this is just never-ending, 25 potentially.</p> <p style="text-align: center;">Page 34</p>	<p>1 as a cover-up another person would describe as 2 an attempt to limit reputational damage? 3 A. Absolutely, sir. 4 MR JAY: After all of this, namely settlement achieved with 5 Mr Taylor, did it remain your view that the one rogue 6 reporter defence was correct? 7 A. No, it couldn't -- it couldn't be correct inasmuch as 8 the "for Neville" email had indicated that at least 9 another reporter had transcribed it, and it named 10 another reporter. 11 Q. Leading counsel had counted up, I think, three people, 12 hadn't he, without of course naming them? You are aware 13 of that, aren't you, Mr Myler? 14 A. Sorry, remind me? 15 Q. In the context of -- it's paragraph 3 of leading 16 counsel's opinion, JCP20. 17 A. Paragraph 3? 18 Q. 3. Six lines down. I'm going to miss out some names: 19 "The material obtained from the Metropolitan Police 20 has disclosed that at least three NGN journalists appear 21 to have been intimately involved into Mr Mulcaire's 22 illegal researching into Mr Taylor's affairs." 23 Were you aware of that allegation, or, rather, that 24 opinion? 25 A. No, because I don't recall seeing Mr Silverleaf's</p> <p style="text-align: center;">Page 36</p>

<p>1 opinion, so I -- this doesn't ring any immediate bells 2 with me. Certainly with the naming of them, I hadn't 3 seen that he'd named people. 4 Q. But you knew the terms of the email, didn't you, the 5 "for Neville" email, as it's been called? 6 A. Yes, yes. 7 Q. And you had plenty of background knowledge of the 8 context? 9 A. Yes. 10 Q. So what Mr Silverleaf is saying here, even if you didn't 11 read it at the time, is not really a surprise to you, is 12 it? 13 A. No. No. 14 Q. Can I deal briefly then with your dealings with the PCC? 15 I hope you have a bundle which contains relevant PCC 16 documentation? 17 A. If you tell me which bundle it is. 18 Q. It has an index at the start called "Index to evidence 19 bundle for News International and the PCC". 20 A. This appears to be your bundle, sir. 21 LORD JUSTICE LEVESON: Oh, the one that I was missing 22 yesterday? 23 A. Yes. I think it may be the one that you handed me, but 24 do you need it back? 25 LORD JUSTICE LEVESON: No, no, you make sure you have it if</p> <p style="text-align: center;">Page 37</p>	<p>1 "Were Mulcaire and any other external contributors 2 aware that when using their material, the newspaper had 3 to work within the terms of the code and the law? 4 "Answer: So far as Mr Mulcaire is concerned, 5 I cannot say with certainty that he was aware that he 6 had to work within the terms of the code. I'm sorry 7 I can't be more specific, but as you'll see from my 8 response later in this letter, I do believe that 9 Mr Mulcaire was operating in a confined environment run 10 by Clive Goodman." 11 So that was your state of mind then, wasn't it? 12 A. Well, I'd been at the newspaper for three weeks. 13 LORD JUSTICE LEVESON: Yes, this must be right, mustn't it: 14 you have people to help you compile -- 15 A. Yes, of course. 16 LORD JUSTICE LEVESON: -- a response -- 17 A. Yes. 18 LORD JUSTICE LEVESON: -- because you hadn't had the chance 19 to go through everything yourself. This is a long 20 letter. 21 A. Yes. 22 LORD JUSTICE LEVESON: It might be fair to ask what you did 23 to ensure that the contents of this nine-page letter 24 were actually accurate or did you simply rely on your 25 staff to make sure that they were being accurate in</p> <p style="text-align: center;">Page 39</p>
<p>1 you need it. 2 A. Thank you. 3 LORD JUSTICE LEVESON: And I'll worry about it later. This 4 is headed "Index to evidence bundle for 5 News International and the PCC". Do you have one of 6 those? It's this sort of weight. 7 A. I have 3, I have one that's unmarked, which is here. 8 Maybe it's this one. 9 LORD JUSTICE LEVESON: Maybe that one. 10 A. What is the first page? It's "Bundle for Colin Myler", 11 it says. 12 MR JAY: Does it say "Index for evidence bundle for 13 News International and the PCC"? 14 A. No. Okay. We'll hand you another copy, which I'm 15 afraid is not tabbed. Is yours tabbed? 16 LORD JUSTICE LEVESON: Mine is tabbed. Let him have mine 17 and I'll use the one that's not tabbed and work it out. 18 MR JAY: I'm privileged with tabs. (Handed) 19 If you could go to tab 39, Mr Myler, page 40377, 20 you'll see I hope there a letter you wrote to the PCC on 21 22 February 2007. Are you with me? 22 A. Yes. 23 Q. The letter is quite a lengthy one, but can I just alight 24 on a few points? Question 1 you see towards the bottom 25 of the page:</p> <p style="text-align: center;">Page 38</p>	<p>1 response to the PCC? 2 A. First of all, I'm responding to a letter that Mr Toulmin 3 had sent to me on February 7. 4 LORD JUSTICE LEVESON: Yes. 5 A. Then it took until the 22nd to respond. Can I just have 6 time to read my response to him? 7 LORD JUSTICE LEVESON: Please. Absolutely, take that time. 8 A. Thank you. 9 LORD JUSTICE LEVESON: I'm very sorry that you haven't in 10 advance. 11 Mr Jay, how many documents are you going to take 12 Mr Myler to? 13 MR JAY: Five. 14 LORD JUSTICE LEVESON: I wonder if it's not sensible to give 15 him a list and let him read them quietly without all of 16 us watching. 17 A. If you don't mind, I don't mind. 18 MR JAY: It's going to be best if you follow Lord Justice 19 Leveson's advice, Mr Myler. 20 A. Thank you. 21 Q. If you could make a note, if I could ask you to read 22 documents tab 36 -- 23 A. Sorry, I don't have a pen. Thank you. 36, yes. 24 Q. 35. 25 A. Yes.</p> <p style="text-align: center;">Page 40</p>

<p>1 Q. 34. 2 A. Yes. 3 Q. And 33, in that order, please. 4 A. Thank you very much. I'm sorry. 5 LORD JUSTICE LEVESON: No, no, it's not for you to apologise 6 if this bundle didn't get to you. But I think it's very 7 important that you just have a chance to read them and 8 to think back yourself into the time. 9 A. Yes, thank you very much. 10 LORD JUSTICE LEVESON: This isn't intended to be -- 11 A. Okay, thank you. 12 LORD JUSTICE LEVESON: -- a trick -- 13 A. No, of course not. Thank you very much. 14 LORD JUSTICE LEVESON: -- business. We'll retire for a few 15 minutes to allow that to happen. 16 (11.07 am) 17 (A short break) 18 (11.24 am) 19 MR JAY: Mr Myler, we're on the first letter in this batch, 20 22 February 2007, where you over the course of the eight 21 or nine pages explain to the PCC the steps that you were 22 beginning to take to remind staff of the code and the 23 contractual changes which you were implementing, and 24 it's similar, indeed identical, to the evidence you have 25 given us.</p> <p style="text-align: center;">Page 41</p>	<p>1 a very difficult time and intense period for them too. 2 Q. Thank you. Can I ask you, please, to look under tab 36, 3 which is a letter you wrote on 10 May 2007, page 40442. 4 A. Yes. 5 Q. Which deals with the issue of cash payments. You say in 6 the first substantive paragraph: 7 "So far as your first paragraph is concerned we have 8 finessed our rules on cash payments in order to take all 9 steps possible to avoid a repetition of a Goodman-style 10 occurrence. 11 "Though clearly, however stringent the rules may be, 12 there can be no absolute protection against a determined 13 wrongdoer. 14 "That said, the protocol, policy and process now in 15 place, for which every member of staff is required to 16 strictly adhere, are as follows: 17 "1. Cash payments are to be kept to a minimum and 18 are the exception." 19 Was that the stated policy, Mr Myler? 20 A. Yes. Yes. 21 Q. "2. Requests for cash payments must be accompanied by 22 a compelling and detailed written justification signed 23 off by the relevant department head." 24 Was that the policy which you implemented? 25 A. I think that was in part already in place. I think the</p> <p style="text-align: center;">Page 43</p>
<p>1 A. Yes. 2 Q. On the last page of this letter, page 40385, question 4, 3 you say: 4 "I believe it's very important to understand the 5 Goodman/Mulcaire case in perspective. Although, as I've 6 said earlier, there can be no question of complacency, 7 this was an exceptional and unhappy event in the 163 8 years of history of the News of the World involving one 9 journalist. The gravity of the affair has been 10 recognised, two people are in prison, Clive Goodman has 11 been dismissed and his editor has resigned. These 12 events have had a profound impact on the 13 News of the World and its staff." 14 So it's confined to one rogue reporter, isn't it? 15 A. Yes. 16 Q. And that was your belief at the time, wasn't it? 17 A. Yes. 18 Q. You'd only just arrived, after all. This is four weeks 19 or so into your job. Were we sort of at the potential 20 unexploded bombs under the floor, at least as regards 21 your thinking? 22 A. I hope you don't take that out of context, Mr Jay. No, 23 there were significant issues to be dealt with within 24 that period and as a matter of courtesy and importance, 25 it was important to respond to the PCC, which was also</p> <p style="text-align: center;">Page 42</p>	<p>1 process when I arrived was that any request for a cash 2 payment had to be agreed and signed off by the 3 departmental head, I believe. 4 Q. Point 3: 5 "Information supplied on cash payment request 6 documents must be accurate and comprehensive." 7 A. Yes. 8 Q. Was that the policy which was applied at all material 9 times after your arrival? 10 A. I believe so. 11 Q. What did you mean by "comprehensive" in the context of 12 the information to be supplied? 13 A. That the information wouldn't just, you know, be a name. 14 It would be about what that person had provided, to be 15 paid. 16 Q. What information had to be comprehensive, though? 17 A. What -- exactly what that person had done to be proposed 18 to be given a cash payment. 19 Q. So if it was private surveillance, you would expect to 20 see comprehensive details, would you, of the nature of 21 the surveillance? 22 A. Yes. 23 Q. But was that applied, that policy, to your knowledge? 24 A. To my knowledge. Nothing was brought to my attention 25 that, as far as I'm aware, caused a managing editor or</p> <p style="text-align: center;">Page 44</p>

<p>1 deputy managing editor to be concerned to bring it to my 2 attention. 3 Q. Point 4: 4 "In the exceptional event of a requirement for 5 a cash payment to a confidential source, the following 6 applies: 7 "(a) if the department head/staff member requesting 8 the payment asserts that the identity of the source must 9 be withheld, he/she is required to demonstrate clear and 10 convincing justification for such confidentiality." 11 A. Yes. 12 Q. So that was the policy. Was that the policy before you 13 arrived? 14 A. I don't know what the policy was. I can't be clear 15 about the policy before, to be honest. 16 Q. Did the clear and convincing justification have to be in 17 writing? 18 A. Preferably it would be in writing, but if it were 19 something perhaps where the departmental head that was 20 requesting anonymity may have preferred a conversation 21 with the managing editor and the managing editor may 22 have accepted and agreed to that -- 23 Q. What did -- pardon me. 24 A. Sorry, that would, I would have thought, have been in 25 more extreme circumstances, not the norm.</p> <p style="text-align: center;">Page 45</p>	<p>1 Then there are three other points. 2 You replied to that, I think, at tab 34, which is 3 our page 40725. You start by dealing with Guardian 4 reports, don't you? 5 A. Yes. 6 Q. Four lines into the letter: 7 "The relevant Guardian reports alleged that 'one 8 senior source at the Met' said that officers on the 9 Goodman enquiry 'found evidence of News Group's staff 10 using private investigators who hacked into thousands of 11 mobile phones'. The Guardian went on to say that 12 'another source with direct knowledge of the police 13 findings put the figure at two or three thousand 14 mobiles'. 15 "These allegations by the Guardian were not just 16 unsubstantiated and irresponsible, they were wholly 17 false." 18 And then you refer to what various police officers 19 had said, including the former Assistant Commander 20 Andy Hayman, who had limited the number of mobile phones 21 hacked into to "a small number -- perhaps a handful", 22 and then you refer to that material. 23 Can you ask you this: putting to one side what the 24 police might or might not have found, had your internal 25 enquiries demonstrated that the Guardian reports were</p> <p style="text-align: center;">Page 47</p>
<p>1 Q. But what did have to be in writing, this is point (b), 2 "the reason for making the payment to a confidential 3 source", it would have to be in the form of a memo to 4 the managing editor's office? 5 A. Mm. 6 Q. Okay. Tab 35 now, Mr Myler. We're forward in time to 7 27 July 2009. The question from the PCC was, bullet 8 point 1, really, level with the lower hole punch: 9 "Does it remain your position that the illegal 10 behaviour of Clive Goodman was a rogue exception and 11 that no other journalists or executives of the newspaper 12 were aware of the practice of phone message tapping by 13 anyone employed by the paper? And two, can you provide 14 the commission with full case details of the process 15 undertaken by the newspaper after the arrests of 16 Goodman/Mulcaire [the date is wrong, but that doesn't 17 matter, it's August] to establish the extent to which 18 phone message tapping was prevalent at the 19 News of the World." 20 Then the third point I can paraphrase. It's the 21 royal journalist point, and Mr Taylor et al were not 22 royal figures. The request was to identify the 23 individuals. 24 The fourth point was the relationship between 25 Mr Mulcaire and Mr Thurlbeck, arising out of the email.</p> <p style="text-align: center;">Page 46</p>	<p>1 unsubstantiated and irresponsible? 2 A. In what respect? 3 Q. In the respect of hacking into thousands of mobile 4 phones? 5 A. I didn't have any direct information that our internal 6 enquiries had gone to that point, and as I said earlier, 7 one of the things that weighed heavily with me when 8 I came in was the fact that the police hadn't 9 interviewed anybody else other than Goodman in their 10 enquiries. 11 Q. But in order to say that the Guardian's allegations were 12 unsubstantiated and irresponsible, you really needed to 13 have positive evidence which contradicted what they were 14 saying and am I right in saying you didn't have such 15 evidence? 16 A. No I was relying on what the police said. 17 Q. But you weren't relying on any information you had 18 obtained by way of internal enquiries within your 19 newspaper, were you? 20 A. Other than the appeal that Mr Goodman -- I had to 21 conduct with the head of human resources and the 22 allegations that he made, and then talking to those 23 individuals who he made allegations against. There was 24 no evidence provided to me to support what the Guardian 25 had said at all.</p> <p style="text-align: center;">Page 48</p>

<p>1 Q. Can I ask you more specifically then, the first bullet 2 point which was put to you by the PCC on 27 July you 3 answer on page 40726. Do you see that? 4 A. The first response? 5 Q. Yes. 6 A. Yes. 7 Q. "Our internal enquiries have found no evidence of 8 involvement by News of the World staff other than 9 Clive Goodman in phone message interception beyond the 10 email transcript which emerged in April 2008 during the 11 Gordon Taylor litigation and which has since been 12 revealed in the original Guardian report." 13 Then you refer to the email and the inferences you 14 drew from it. I'm not going to read out some names, but 15 if you look at the next paragraph: 16 "Email searches of relevant people ... failed to 17 show any trace of the email being sent to or received by 18 any other News of the World staff member. Those who 19 might have been connected to the relevant story denied 20 ever having seen or knowing about the relevant email and 21 no evidence has been found which contradicts these 22 assertions." 23 That wasn't quite leading counsel's view, was it, in 24 paragraph 3 of his opinion? 25 A. Mr Silverleaf, you mean?</p> <p style="text-align: center;">Page 49</p>	<p>1 According to what you told me earlier today. 2 A. About the? 3 LORD JUSTICE LEVESON: About the rogue reporter defence. 4 A. Well, the rogue reporter defence failed to hold once the 5 "for Neville" email was discovered. And I made that 6 clear to the Select Committee I think in July of 2009, 7 I think it was, about its significance. 8 MR JAY: But I think it's being pointed out to you really 9 for the second time, because I did it, Lord Justice 10 Leveson has done it, that although it is true you are 11 referring to the email, you were effectively discounting 12 the evidence and saying that the single rogue reporter 13 defence is true, continues to be true. Do you see that? 14 A. But -- yes, and that clearly, perhaps, was an error, 15 because this letter was dated 5 August and I'd appeared 16 before the Select Committee in the month previously. So 17 I'm sure that the PCC were aware of that, if that -- 18 clearly that was following my evidence to the Select 19 Committee, which was very heavily covered. 20 Q. It might be said that the PCC were carrying out an 21 investigation and hoping for a full and frank answer 22 from you, and it might be said that you didn't give them 23 quite a full and frank answer. Can I suggest that? 24 A. Well, I had no reason not to give them a full and frank 25 answer.</p> <p style="text-align: center;">Page 51</p>
<p>1 Q. Yes. 2 A. No. Because he named the same people; correct? 3 Q. Mm. 4 A. Yes. 5 Q. I think you told us 45 minutes ago now that certainly 6 your state of mind after June 2008 is that you no longer 7 believed the single rogue reporter defence; that's 8 right, isn't it? 9 A. Yes, because the "for Neville" email was evidence of 10 that. I made that clear. 11 Q. You made that clear, you're right to say, to the PCC but 12 weren't you effectively saying that in your view there 13 was no evidence which went beyond Mr Goodman? 14 A. Other than before the discovery of the "for Neville" 15 email, yes. 16 Q. Okay. Then in the next bullet point -- 17 LORD JUSTICE LEVESON: But actually, that response to which 18 you've just referred, the junior reporter was merely 19 transcribing and the other two persons named denied ever 20 seeing or knowing about the relevant email, you 21 personally were concerned that it was no longer tenable, 22 but here you merely assert that it's the right answer. 23 A. I can only abide by what I wrote at the time. Or what 24 was written at the time. 25 LORD JUSTICE LEVESON: But it's not what you thought.</p> <p style="text-align: center;">Page 50</p>	<p>1 Q. Okay, Mr Myler. 2 A. For that, I apologise. 3 Q. The second bullet point covers matters we know about 4 including the Burton Copeland investigation. The third 5 bullet point is the royal journalist point. Again you 6 give a rather emollient answer to that question: 7 "At trial, the prosecution neither produced nor 8 referred to any evidence that others at 9 News International, apart from Clive Goodman, knew of or 10 were involved in Glenn Mulcaire or Clive Goodman's 11 illegal activities. We do not know what evidence, if 12 any, there may have been to support the judge's 13 reference to others, nor do we know who he was referring 14 to." 15 Not merely emollient, but may I suggest slightly 16 disingenuous, Mr Myler. Would you agree? 17 A. Well, first and foremost, Mr Jay, I wasn't here for the 18 trial, I didn't attend the trial, and I had to rely on 19 those who did attend the trial. And however way you 20 describe the flowery or emollient language that was 21 used, I had to rely on the people who were there to 22 provide me with the information. Again, I apologise for 23 the use of language, if you don't think it's 24 appropriate, but I had to rely on those who were there. 25 LORD JUSTICE LEVESON: I can understand that, Mr Myler, but</p> <p style="text-align: center;">Page 52</p>

<p>1 this was a devastating indictment of News of the World. 2 Did you ever read the transcript which had been obtained 3 just as a matter of interest? 4 A. I don't think I did. 5 MR JAY: Okay. And then the final letter from the PCC to 6 you -- 7 A. Is this 33, sorry? 8 Q. It is 33. 3 September 2009, 40741. The PCC are, if 9 I may say so, on the point, because Mr Toulmin -- yes, 10 he writes to you and says: 11 "Thanking you for the letter, I'm just writing to 12 ask for two small points of clarification. I've now 13 obtained a copy of the judge's sentencing remarks in the 14 Mulcaire/Goodman case. These include the reference to 15 Mulcaire dealing with others at News International, 16 which was highlighted by Paul Farrelly MP during your 17 appearance before the Select Committee. 18 "Confronted with the same point at the Select 19 Committee on 2 September, Assistant Commissioner 20 John Yates said it did not seem extraordinary for 21 Mulcaire to have had dealings with a number of different 22 people at the paper, given his role as a private 23 investigator. The key point therefore seems to be not 24 whether he had contact with other people but whether 25 these people were aware that the information that he had</p> <p style="text-align: center;">Page 53</p>	<p>1 in the Guardian not quite amounting to their billing or 2 words to that effect. You know the one we mean. 3 I mean, do you feel that you were entirely frank and 4 open with the PCC in this correspondence? 5 A. Absolutely. I had no reason not to be full and frank 6 and open with them. And I had no belief that they 7 didn't think that I was not being anything other than 8 full and frank with them. 9 Q. Some more general questions, Mr Myler. Can I ask you, 10 please, to comment, if you will, on a piece of evidence 11 Mr Neil Wallis gave on Monday. It's at page 98 of the 12 afternoon's transcript. 13 A. Is it in this tab? 14 Q. It isn't. If you need to look at it I will give you my 15 copy, but the point is quite a simple one. It's not 16 going to come up on the screen because I've only just 17 thought about it. 18 A. Okay. 19 Q. The question was in relation to tips. This is from 20 sources. The question was: 21 "How does it work? The tip is provided, the 22 material is offered up, however you want to describe it, 23 and then the staff journalist would write up the story; 24 is that correct?" 25 And the answer was:</p> <p style="text-align: center;">Page 55</p>
<p>1 passed to them had been obtained illegally. Anything 2 that you can do to clarify this point would be welcome. 3 Would it be correct to assume that your internal 4 enquiries would in any event have sought to establish 5 whether others at the paper were aware of Mulcaire's 6 illegal activities. 7 "Secondly, I just wanted to tie down the point about 8 Clive Goodman being the royal editor while most of the 9 targets were nothing to do with the Royal Family, 10 because only the charges to which he rather than 11 Mulcaire pleaded guilty relate to individuals who were 12 nothing to do with the Royal Family. Might he in any 13 case have been expected to suggest other stories in his 14 capacity as editor of the Blackadder column? It would 15 be helpful if you could confirm whether or not he held 16 this position at the relevant point." 17 The bundle doesn't unfortunately contain your reply 18 to the letter, but we will dig it out in due course, but 19 do you remember whether you replied to it? 20 A. I'm sure I did, yes. I'm sure I did. 21 Q. The PCC are certainly on the point, but unfortunately 22 based perhaps in part on what you told them, they then, 23 as we know, promulgated a report in 2009, which was 24 subsequently withdrawn. This is at tab 21, just refer 25 to it, dated 9 November 2009. They refer to the claims</p> <p style="text-align: center;">Page 54</p>	<p>1 "No, I wouldn't have thought so. You offer me 2 a tip, I decide I'm interested in it. I then task 3 a reporter to go and make that story work, see if that 4 story will work." 5 Do you agree with Mr Wallis' description of the 6 process? 7 A. No. You see if the story is true. 8 Q. Rather than whether it will work? 9 A. You establish if it's accurate, yes. 10 Q. Because it might be -- it's true I didn't pick this up 11 with Mr Wallis after he gave that answer. It might be 12 said, well, the way it works is that we see whether the 13 story fits into our conception of what it might look 14 like. 15 A. No. 16 Q. And then we proceed to see whether the story can be 17 written that way. Is that the process? 18 A. That might have been Mr Wallis' process, but the reality 19 is that, you know, you don't just take a phone call from 20 somebody and say "This is happening". You say, "Thank 21 you very much, we'll establish whether or not it's true 22 and accurate". 23 Q. Can I just test that with you a little bit further? I'm 24 sorry to go back to Mr Mosley's case, but it might be 25 said that the thought process which went on there was</p> <p style="text-align: center;">Page 56</p>

14 (Pages 53 to 56)

<p>1 that the story looks to us as if it's probably true, and 2 after all we know all about Sir Oswald Mosley and who he 3 was, so we won't bother with the fine detail, we just 4 proceed with publishing it on that basis. So what 5 drives the story is a certain preconception of what 6 ought to be the truth.</p> <p>7 We see how that played out in Mr Mosley's case. But 8 that might just be a microcosm of a general tendency in 9 your newspaper as to how to proceed. Would you accept 10 that?</p> <p>11 A. Absolutely not. There's no suggestion that anybody 12 works on the basis that a story ought to be true. You 13 establish if the story is true. And that and only that 14 will decide whether or not it's a contender to be 15 published.</p> <p>16 Q. So you very robustly reject that proposition; is that 17 correct?</p> <p>18 A. I reject absolutely a proposition that, you know, we sat 19 down and thought about a certain subject and how it 20 should be and then set about trying to fit that recipe. 21 It wasn't like that at all.</p> <p>22 Q. Thank you.</p> <p>23 LORD JUSTICE LEVESON: It's not enough that it sounds to be 24 true?</p> <p>25 A. Not at all. It has to be true.</p> <p style="text-align: center;">Page 57</p>	<p>1 I sent one of our best reporters out there. Within 2 hours he found out that we had been fooled, totally 3 fooled, taken in. It didn't happen.</p> <p>4 The celebrity's lawyer called me after I'd called 5 him, and said, "The story isn't true and we are 6 immediately going to apologise and can we sit and talk 7 about a donation to whichever charity you want or to the 8 person himself?"</p> <p>9 The response that I had was, "The only condition 10 that he will agree to not proceeding to trial is if, in 11 the apology, you accept that you knew the story not to 12 be true before you published", and I said, "I can't 13 agree to that because that's not true"; and it went to 14 trial and we lost, there were significant damages, we 15 did appeal and it changed the law of judge's directions 16 on libel.</p> <p>17 So the point of -- forgive me for taking the time, 18 but the reason why I explain that story is because any 19 editor who would publish something knowing before he 20 published that it wasn't true would be foolish and 21 reckless.</p> <p>22 LORD JUSTICE LEVESON: With great respect, that wasn't quite 23 what I was asking about. There are different states of 24 mind.</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 59</p>
<p>1 LORD JUSTICE LEVESON: I'm just bearing in mind some rather 2 colourful illustration that was given in one of the 3 seminars by a former editor, not, I understand, an 4 editor for a very long time, who took the view that you 5 looked at the story and if it sounded right, then 6 I think the phrase was "you lob it in".</p> <p>7 A. Mm. In which part of the library of fiction did that 8 appear?</p> <p>9 LORD JUSTICE LEVESON: Well, I'm merely saying what he said.</p> <p>10 A. Perhaps I could recount --</p> <p>11 LORD JUSTICE LEVESON: I wouldn't -- I am not going to hold 12 it against him or anybody, because I said I wouldn't, 13 but in the light of your emphatic answer, it allows me 14 at least to ask --</p> <p>15 A. Thank you.</p> <p>16 LORD JUSTICE LEVESON: -- what you say about that 17 proposition.</p> <p>18 A. Yesterday you took me back to the example of the 19 Sunday Mirror story and the footballers, and a few years 20 ago I was involved in another case that resulted in the 21 High Court involving a very well-known pop celebrity. 22 We had run a story that alleged that he had gone back to 23 a very significant problem of bulimia. Very quickly the 24 story wasn't true. It came from America, from a very 25 distinguished freelancer we hadn't had any trouble with.</p> <p style="text-align: center;">Page 58</p>	<p>1 LORD JUSTICE LEVESON: Obviously if you know something, 2 knowing it not to be true, then you are being extremely 3 foolish.</p> <p>4 A. Yes.</p> <p>5 LORD JUSTICE LEVESON: At the other end of the spectrum is 6 knowing something that you know is true or that you're 7 satisfied on a full analysis of the evidence is true.</p> <p>8 A. Yes.</p> <p>9 LORD JUSTICE LEVESON: But there are two intermediate 10 stages. The nearest to knowing it's not true is being 11 reckless: don't care whether it's true or not, it sounds 12 right, lob it in.</p> <p>13 A. Yes.</p> <p>14 LORD JUSTICE LEVESON: And the next one is being negligent, 15 not doing enough to check.</p> <p>16 A. Yes.</p> <p>17 LORD JUSTICE LEVESON: I only ask you to comment upon it 18 because it was something that was said which certainly 19 achieved a certain amount of publicity at the time.</p> <p>20 A. Yes. Well, I've never been of the "lob it in" school of 21 journalism, and I may have been accused of being 22 negligent, but I haven't gone into a situation intending 23 to be negligent.</p> <p>24 LORD JUSTICE LEVESON: Is there a "lob it in" school of 25 journalism?</p> <p style="text-align: center;">Page 60</p>

<p>1 A. I don't think there is. I think that there were some 2 aspects through particularly the McCann era, the early 3 days when Madeleine went missing, that were truly 4 appalling, and by any standards of journalism they 5 should never have appeared in stories in this country. 6 And I think that the industry did not like what those 7 newspapers were doing, those newspapers were held to 8 account publicly, and I think most journalists that 9 I know today, and certainly editors that I know, have 10 incredibly high standards of ethics, of professional 11 ability, and total understanding and respect for the law 12 and certainly the PCC. And yes, we get it wrong. 13 Editors make decisions daily and they will not get them 14 right. But the manner in which we are perhaps all 15 tarnished as being reckless and negligent, it's a Wild 16 West out there, that if a story sounds right, lob it in, 17 it's just not there. In my experience. 18 LORD JUSTICE LEVESON: Well, I ask you because it was 19 a journalist that said it. It wasn't me. 20 A. No, of course not, sir. Of course not. And thank you 21 for allowing me to explain. 22 MR JAY: Can I ask you this, another general question, about 23 photographs. 24 A. Yes. 25 Q. Which of course are extremely powerful, as the</p> <p style="text-align: center;">Page 61</p>	<p>1 Q. We've heard evidence of paparazzi photographs which were 2 obtained in intrusive, indeed sometimes threatening 3 circumstances. That's something which is not unfamiliar 4 to you, is it? 5 A. No. 6 Q. Wouldn't you know from looking at the photograph, quite 7 often, that it might have been obtained in such a way? 8 A. That it was in breach of the privacy? 9 Q. Yes. 10 A. Yes. Yes. 11 Q. And are you saying that in all cases when confronted 12 with such a photograph and a decision whether or not to 13 publish it, you would say no if you felt that it was -- 14 A. If it was in breach of an individual's reasonable 15 expectation of privacy, in other words if a celebrity, 16 for example, had gone to a specific resort or an island 17 where, as a result of doing that, it was abundantly 18 clear that that expectation was reasonable, and it was 19 private, you would be in breach immediately if you used 20 those photographs. 21 Q. Yes. You're giving us the same clear case to 22 demonstrate the point, but we've heard evidence of cases 23 where the photograph was obtained either intrusively or 24 certainly insensitively, or in worst cases as a result 25 of harassment of the subject. Those would be matters</p> <p style="text-align: center;">Page 63</p>
<p>1 House of Lords explained in the Campbell case, and 2 indeed as an editor you would fully empathise with that 3 view. Is this right, that the majority of photographs 4 of celebrities will be obtained from freelancers? 5 A. Mostly. A lot of them, yes. Not all, but most, yes. 6 Q. What steps, if any, are taken to ascertain whether such 7 photographs were obtained in breach of the PCC code or 8 the privacy of the subject of the photograph? 9 A. I can only speak from the way I dealt with my picture 10 desk and the picture editor, and that was that before he 11 would bring them to me, he would have made sure that the 12 photographs were taken properly, not in breach of the 13 code, and if they were some kind of a sensational set, 14 that he would just want me to see knowing that maybe 15 they'd go to another newspaper that might use them. If 16 they were in breach of those conditions, we wouldn't use 17 them. 18 Q. Have there been occasions, then, when you have as it 19 were rejected photographs because you've believed, known 20 or suspected that they were in breach of the code? 21 A. Yes, I have. 22 Q. How would you know that they were in breach of the code, 23 taken in breach of the code? 24 A. Because an individual was, on this particular occasion, 25 was on a private beach.</p> <p style="text-align: center;">Page 62</p>	<p>1 which you, as an experienced editor, would know about, 2 isn't that correct? 3 A. Yes. 4 Q. Is it your position that you would reject the 5 publication of such photographs if you knew or suspected 6 that the photographs had been obtained in such a way? 7 A. Unless there was a public interest defence in using 8 photographs that had been taken under subterfuge or 9 whatever, but that were evidence of supporting the story 10 that met the criteria legally, lawfully and within the 11 PCC code, I wouldn't be interested in them, no. 12 Q. The ultimate responsibility for the publication of these 13 photographs would be the editor's, wouldn't they? 14 A. Yes. 15 Q. Have there been cases -- we've seen one in relation to 16 a different newspaper, I should make it clear, in the 17 evidence we heard about four weeks ago now from 18 Sienna Miller -- where you've been given photographs 19 which have been doctored in some way? 20 A. Doctored? 21 Q. You know the Sienna Miller example which we heard 22 evidence about. 23 A. No. Forgive me. 24 Q. When she was playing with a disabled child and the 25 photograph was presented in such a way that she appeared</p> <p style="text-align: center;">Page 64</p>

<p>1 inebriated and that was the caption.</p> <p>2 A. I have never, to my knowledge, been involved with any</p> <p>3 set of photographs that have been doctored.</p> <p>4 Q. Okay. Can I ask you a more general question, and this</p> <p>5 is the final question I have: it's clear, isn't it, that</p> <p>6 the editor of a newspaper has enormous power and</p> <p>7 enormous responsibility in relation to decisions which</p> <p>8 can affect the private lives of individuals; would you</p> <p>9 agree?</p> <p>10 A. Absolutely.</p> <p>11 Q. Would you also agree that sometimes those decisions have</p> <p>12 to be made swiftly and are hard decisions?</p> <p>13 A. Yes.</p> <p>14 Q. What improvements, if any, in the system might you</p> <p>15 suggest to enable those decisions to be taken better?</p> <p>16 A. Emollient language, Mr Jay. I think it's all about --</p> <p>17 it's all about personal standards, really, and I think</p> <p>18 that, you know, you don't learn on the job, as it were,</p> <p>19 as an editor, but certainly experience is probably the</p> <p>20 most important factor in it.</p> <p>21 I think one of the lessons that I've learned over</p> <p>22 the years is that you do, if you can, take time out.</p> <p>23 That you discuss, that you broaden the debate, and</p> <p>24 listen to other people's views. And perhaps I can put</p> <p>25 it another way: that you make decisions sometimes that</p> <p style="text-align: center;">Page 65</p>	<p>1 A. Unacceptable, yes.</p> <p>2 LORD JUSTICE LEVESON: Hounding a house to get a reaction</p> <p>3 from somebody who it was felt had a useful story?</p> <p>4 A. No, absolutely. I do think, sir, it is important to try</p> <p>5 to -- some of the stories that have been put before this</p> <p>6 place really do belong in a place that was a long time</p> <p>7 ago. Those actions were perhaps regarded at the time as</p> <p>8 being it's okay. There's no place for that now, and</p> <p>9 I think the industry has understood that, reflected and</p> <p>10 changed its attitudes to that. Indeed, I think if you</p> <p>11 look and talk to any major proprietor of a freelance</p> <p>12 picture agency, most of them are going out of business</p> <p>13 pretty fast.</p> <p>14 LORD JUSTICE LEVESON: The reason I'm asking you about these</p> <p>15 is because I think you're the first editor who's given</p> <p>16 evidence and I'm anxious to test certain propositions</p> <p>17 and I'll do it with others as well. Some of the</p> <p>18 examples are much, much more recent than that. You</p> <p>19 mentioned the McCanns.</p> <p>20 A. Mm.</p> <p>21 LORD JUSTICE LEVESON: How about the complaint made by</p> <p>22 Mr Grant about the approach to the mother of his</p> <p>23 recently born child?</p> <p>24 A. Mm.</p> <p>25 LORD JUSTICE LEVESON: Is that acceptable or not acceptable?</p> <p style="text-align: center;">Page 67</p>
<p>1 disappoint your executives about why you don't want to</p> <p>2 publish a certain story, and then you hope that the</p> <p>3 experience that follows from not publishing a story</p> <p>4 explains to them why you chose not to publish it. In</p> <p>5 other words, it was the right decision not to do so.</p> <p>6 So you have to take -- you have to reflect and you</p> <p>7 have to take advice from people whose counsel you value.</p> <p>8 MR JAY: Thank you, Mr Myler.</p> <p>9 LORD JUSTICE LEVESON: Could I just go back to the</p> <p>10 photographs example?</p> <p>11 A. Yes.</p> <p>12 LORD JUSTICE LEVESON: You may not have seen or heard the</p> <p>13 evidence that I listened to some weeks ago, you may have</p> <p>14 read about some of it. There were examples, Mr Jay</p> <p>15 mentioned Sienna Miller, I think she spoke of being spat</p> <p>16 at to get a reaction.</p> <p>17 A. Mm.</p> <p>18 LORD JUSTICE LEVESON: Presumably that is not something of</p> <p>19 which you would approve?</p> <p>20 A. Totally. Absolutely not.</p> <p>21 LORD JUSTICE LEVESON: Jumping out of bushes to take</p> <p>22 photographs when a famous person is with his or her</p> <p>23 children?</p> <p>24 A. No.</p> <p>25 LORD JUSTICE LEVESON: Unacceptable?</p> <p style="text-align: center;">Page 66</p>	<p>1 A. Is this where there was harassment outside the house?</p> <p>2 LORD JUSTICE LEVESON: Correct.</p> <p>3 A. Unacceptable, yes. I think that if you make an approach</p> <p>4 to ask somebody to be photographed and they make it</p> <p>5 clear that they're not interested, they don't want it,</p> <p>6 increasingly my experience has been that the public's</p> <p>7 knowledge of how to deal with that, if they feel that</p> <p>8 that request from them to the individual photographer</p> <p>9 outside their premises is not going very far, the</p> <p>10 knowledge now of phoning the PCC and asking the PCC to</p> <p>11 put a cease and desist order out there is far more</p> <p>12 commonplace than people realise, and it is effective,</p> <p>13 because the cease and desist does go to the editor and</p> <p>14 that then tends to be passed around to the relevant</p> <p>15 desks.</p> <p>16 LORD JUSTICE LEVESON: It's a pity that it's necessary --</p> <p>17 A. Yes, perhaps it is.</p> <p>18 LORD JUSTICE LEVESON: -- if everybody actually appreciated</p> <p>19 the rules.</p> <p>20 A. Yes, it is, and maybe it's a time for the industry to</p> <p>21 reflect on certain matters of decency. I know there</p> <p>22 might be some guffaws of moral indignation that the</p> <p>23 former editor of the News of the World can be talking in</p> <p>24 these terms, but that actually is what I believe and</p> <p>25 I think we might, as an industry, be a better industry</p> <p style="text-align: center;">Page 68</p>

<p>1 for that reflection. And I do believe that reflection, 2 actually, has taken place. 3 LORD JUSTICE LEVESON: I have no doubt at all that the 4 events of the last five months have caused many to 5 reflect. 6 A. Yes. 7 LORD JUSTICE LEVESON: And, again to prove that I do read 8 the newspapers, the recent observations of Mr Clifford 9 go some way to that effect. The real question is: will 10 it last? And how we should go about creating a system 11 that ensures that it does last? 12 A. Absolutely. It's fundamental to whether or not the 13 industry survives. 14 LORD JUSTICE LEVESON: Well, the industry has other problems 15 as well, and I well understand that. 16 A. Yes, it does. It does have commercial and economical 17 issues. But I think one of the things that this Inquiry 18 so far has brought to the public's attention is the 19 despicable way, in many respects, or in some respects, 20 that some members of this profession have behaved, and 21 it would be desperately unfair for the public to believe 22 that everybody behaved in that way, because they do not. 23 But it is true to say, I think, that there are huge 24 challenges facing this industry. We are an industry 25 historically that is quite dysfunctional. The</p> <p style="text-align: center;">Page 69</p>	<p>1 Kate were talking about, count how many television 2 cameras were there. It's as if they're not part of this 3 issue, they're not part of this problem. They are. And 4 unless the industry really does come together and unite 5 and engage with courts, with the judiciary, with 6 politicians and agree that things do have to change, 7 from both sides and all sides, not just on ours, I think 8 it's a pretty gloomy and grim future, but I hope that 9 doesn't happen and I hope that through this Inquiry they 10 will be able to unite and come together on common ground 11 where they can change many things for the better. 12 LORD JUSTICE LEVESON: I have made it abundantly clear, and 13 I think I've said it publicly in this Inquiry, in fact 14 I know I have, that this is a problem for the press. 15 It's not my problem. 16 A. Yes. Precisely. 17 LORD JUSTICE LEVESON: But their solution has to be 18 a solution that satisfies the legitimate needs and 19 requirements of others. 20 So let me give you a simple example of something 21 that might be suggested. And I'm not saying it will be, 22 I'm just postulating a possibility. That whether or not 23 an editor knows where a photograph came from and how it 24 was taken, he is responsible, even notwithstanding his 25 best efforts to ensure that it is entirely compliant and</p> <p style="text-align: center;">Page 71</p>
<p>1 competition between us, not just commercial but in terms 2 of getting the most, the best story, is such that we're 3 not very good at even coming together to agree on 4 saluting the great and the good. We can't agree on 5 a system for the British Press Awards, we can't agree 6 where it should be held. You go into a judging session 7 sometimes, which I did many times, and it's also almost 8 like a war zone. You have the broadsheets on one side 9 and the tabloids on the other and they say, "We should 10 win" and they say, "We should win". 11 The saddest thing is that the collective brain power 12 amongst those who produce newspapers is pretty 13 magnificent, and if only they could drop some of that 14 commercial rivalry, understand and face the problems and 15 issues that affect all of them. This is not about 16 broadsheet, broadcast media against the red tops. These 17 are issues that effect all of them. 18 I mean, I've found it quite extraordinary that the 19 way in which TV was reporting Gerry McCann's and Kate's 20 testimony, where they quite rightly talked about what 21 they regarded as intrusive behaviour by photographers, 22 particularly when they were in the car, the TV 23 broadcasters were reporting this as if it was in the 24 third person. 25 If you look back at the occasions that Gerry and</p> <p style="text-align: center;">Page 70</p>	<p>1 doesn't intrusively affect somebody's rights, he is 2 responsible if he publishes it. If he has some right 3 back against the photographer, that's a matter for him, 4 but he's responsible for it. 5 A. Yes. 6 LORD JUSTICE LEVESON: And that responsibility has to be met 7 with a potential sanction, I don't know how, I'm not 8 pretending to have solved it, but if that's what's 9 established, then he carries the can. Or she. 10 A. I think there's an acceptance, an acknowledgment that 11 that definitely needs to happen. I mean, my experience 12 of the PCC is that self-regulation does work. I hope 13 that through this Inquiry you can see that 14 self-regulation is and continues to be the way forward. 15 LORD JUSTICE LEVESON: Mr Myler, the PCC doesn't regulate 16 anybody. 17 A. No, no, I'm talking about self-regulation works, but the 18 current manner in which it works needs to be 19 strengthened. 20 LORD JUSTICE LEVESON: Oh, well -- 21 A. Considerably so. 22 LORD JUSTICE LEVESON: If you have some thoughts upon that 23 you can put them into writing and I'd be pleased to read 24 them. 25 A. Thank you.</p> <p style="text-align: center;">Page 72</p>

<p>1 LORD JUSTICE LEVESON: I won't ask you to elaborate at this 2 stage. 3 A. Thank you. 4 LORD JUSTICE LEVESON: Right, thank you very much indeed. 5 A. Thank you. 6 MR JAY: Thank you, Mr Myler. 7 The next witness is Mr Sanderson. 8 MR DANIEL SANDERSON (affirmed) 9 Questions by MR JAY 10 MR JAY: First of all, make yourself comfortable, 11 Mr Sanderson, and provide us with your full name. 12 A. My name is Daniel Mark Sanderson. 13 Q. Thank you. You have provided a witness statement which 14 starts at our page [5]2723, which extends over four 15 pages. Have you now signed a copy of that statement? 16 A. I have. 17 Q. And is that the evidence that you give to this Inquiry? 18 A. Yes. 19 Q. Can I ask you first about your career and about 20 yourself? You started, I believe, at a regional 21 newspaper; is that right? 22 A. That's right, yeah. 23 Q. Just tell us in your own words your career path until 24 the News of the World? 25 A. I started my journalistic career as a local newspaper</p> <p style="text-align: center;">Page 73</p>	<p>1 of Kate McCann's diary had emerged in Portugal; is that 2 correct? 3 A. That's correct. 4 Q. Did Mr Edmondson ask you to track down the person who 5 was in possession of the diary and was leaking extracts 6 of it in Portugal? 7 A. That's correct. 8 Q. What did you do to track down the diary, as it were? 9 A. I phoned -- I made contact with two newspapers in 10 Portugal. I was advised that one particular journalist 11 was in possession of a copy of the diary and made 12 contact with that person. 13 Q. Was that person a Portuguese journalist? 14 A. That's correct. 15 Q. Was there a discussion then about how much it might cost 16 to obtain the diary from -- I think it was a woman, from 17 her? 18 A. I believe that formed part of the conversation, yes. 19 Q. Yes. But you, of course, did not go out to Portugal 20 yourself, did you? 21 A. No. 22 Q. You say in your statement that you liaised with 23 Mr Edmondson, who was the news editor, was he? 24 A. That's correct. 25 Q. And were told to ask a freelance journalist called</p> <p style="text-align: center;">Page 75</p>
<p>1 called the Worthing Herald. From there I went to 2 a company called Kent News and Pictures. I was at Kent 3 News and Pictures for about eight months and then 4 I moved to a company called Ferrari Press Agency. From 5 Ferrari Press Agency, I was -- I started work at the 6 News of the World on a Saturday. I worked on a Saturday 7 for about a year, and then was offered a full-time job 8 at the News of the World. 9 Q. Yes. And the year you're referring to is that the 10 Saturday job started, I think, towards the latter part 11 of 2006; is that correct? 12 A. That's correct. 13 Q. And then the contract job in 2007, is that also correct? 14 A. That's correct. 15 Q. When did you become a staff reporter at the 16 News of the World? 17 A. That was in 2009, I believe. 18 Q. So in 2008, when the McCann diaries story came out in 19 September, you were in a very junior position; is that 20 correct? 21 A. I was. I was probably the most junior reporter at the 22 newspaper. 23 Q. Right. You tell us something about the background to 24 this McCann diary story, that on 28 July 2008, the story 25 appeared in the Sun newspaper which said that extracts</p> <p style="text-align: center;">Page 74</p>	<p>1 Gerard Cousins, who was based in Spain, to travel to 2 Portugal to meet the journalist and collect the diary; 3 is that right? 4 A. That's correct. 5 Q. And it's at that point that your involvement, as it 6 were, ceased until the diary arrived in the News of the 7 World's offices on Saturday, 6 September 2008; is that 8 correct? 9 A. That's correct. 10 Q. Can I ask you this, though, in relation to the diary: 11 were you aware that the ultimate source of the diary was 12 the Portuguese police? 13 A. I wasn't aware at the time, no. 14 Q. When, if at all, did you become aware of that fact? 15 A. I haven't -- I didn't speculate as to where the diary 16 came from at the time. Yeah. 17 Q. So is your evidence you didn't know from where the diary 18 came at the time? 19 A. All I knew at the time was that I'd read in the Sun 20 newspaper that there were extracts being circulated 21 around Portugal, and obviously somebody was responsible 22 for circulating those extracts, so I was then asked to 23 make enquiries as to how that was the case and who was 24 in possession of a copy of the diary. 25 Q. But you didn't believe, did you, that the McCanns had</p> <p style="text-align: center;">Page 76</p>

<p>1 put out the diary in some way?</p> <p>2 A. No, but I didn't speculate at the time where the diary</p> <p>3 had come from. It's the point I'm trying to make.</p> <p>4 LORD JUSTICE LEVESON: You may not have speculated, but it's</p> <p>5 quite an interesting question. Were you at all</p> <p>6 concerned about the provenance of the diary? We now</p> <p>7 know that the Portuguese law does not permit all this</p> <p>8 and that this diary was obtained quite wrongfully. I'm</p> <p>9 not suggesting you knew that at the time, but</p> <p>10 I appreciate you were doing the bidding of the news</p> <p>11 editor, but were you concerned about the provenance of</p> <p>12 the diary and the propriety of doing what you were being</p> <p>13 asked to do, or not; was it just a question of being</p> <p>14 told what to do and you did it?</p> <p>15 A. I don't want to give the impression that I just</p> <p>16 flippantly, you know, was told to find out the source of</p> <p>17 the diary and so I did that. You know, a diary is</p> <p>18 clearly a private document, but at the time, as I say,</p> <p>19 this was being publicly circulated around Portugal.</p> <p>20 What the newspaper planned to do with the diary once we</p> <p>21 were in possession of it I didn't know at the time.</p> <p>22 Does that answer your question?</p> <p>23 LORD JUSTICE LEVESON: I understand that, and it may be that</p> <p>24 copies are going around Portugal. But you did not</p> <p>25 concern yourself, you were simply doing the job that you</p> <p style="text-align: center;">Page 77</p>	<p>1 we know to have been Saturday, 6 September 2008, that</p> <p>2 there was no intention of publishing a story based on</p> <p>3 the diary until the McCanns' express consent had been</p> <p>4 contained?</p> <p>5 A. That was my understanding, that there would be</p> <p>6 a conversation between the News of the World and the</p> <p>7 McCanns to obtain their permission to publish the diary.</p> <p>8 Q. Were you told that by Mr Edmondson in those terms?</p> <p>9 A. Yes.</p> <p>10 Q. You said that you weren't going to speculate as to the</p> <p>11 source of the diary. You also said it was a private</p> <p>12 document. Did you think at all about the provenance of</p> <p>13 the diary?</p> <p>14 A. My understanding was that we were going to -- the</p> <p>15 News of the World was going to obtain permission from</p> <p>16 the McCanns.</p> <p>17 Q. But that's a separate issue, Mr Sanderson. There's the</p> <p>18 issue of obtaining consent and there's the issue of the</p> <p>19 provenance of the diary. Were you thinking at all about</p> <p>20 the possible provenance of the diary?</p> <p>21 A. Of course I was. My understanding of the situation was</p> <p>22 that -- at the time -- it's very, very difficult to</p> <p>23 speculate about the provenance of the diary until it was</p> <p>24 actually in the office, and, you know, I was a junior</p> <p>25 reporter at the time.</p> <p style="text-align: center;">Page 79</p>
<p>1 were asked to do?</p> <p>2 A. No, it's not -- every story I ever embarked on with the</p> <p>3 News of the World I considered things like privacy,</p> <p>4 public interest and, you know, whether I was adhering to</p> <p>5 the PCC code. It was clearly a private document,</p> <p>6 I understand that. But the reality of the situation is</p> <p>7 that at that stage we weren't in possession of the</p> <p>8 diary, so we didn't know what we were dealing with.</p> <p>9 The other point that I think it's very important to</p> <p>10 make is that as I understand it, the News of the World</p> <p>11 had no intention of publishing that diary --</p> <p>12 LORD JUSTICE LEVESON: I'm only interested -- now you're</p> <p>13 going to -- were you told this at the time or is this</p> <p>14 something again you learned later?</p> <p>15 A. Was I told what at the time?</p> <p>16 LORD JUSTICE LEVESON: About the intentions of the</p> <p>17 News of the World?</p> <p>18 A. No, no, I was told at the time that we would not be</p> <p>19 publishing the diary unless we had the specific express</p> <p>20 permission from the McCanns.</p> <p>21 LORD JUSTICE LEVESON: I see. We'll come back to some of</p> <p>22 those questions, I'm sure Mr Jay will, when you've</p> <p>23 actually read the translation of the diary.</p> <p>24 MR JAY: Were you told by Mr Edmondson before the diary</p> <p>25 arrived in the offices of the News of the World, which</p> <p style="text-align: center;">Page 78</p>	<p>1 LORD JUSTICE LEVESON: Mr Sanderson, I'm not going to be</p> <p>2 critical of you in relation to the decisions you've made</p> <p>3 about this. You were asked to do a job and you did it.</p> <p>4 A. Yes.</p> <p>5 LORD JUSTICE LEVESON: But one of the things I am required</p> <p>6 to think about is the culture, practice and ethics of</p> <p>7 the press, as I'm sure you are very, very aware.</p> <p>8 A. Yes.</p> <p>9 LORD JUSTICE LEVESON: Therefore, what junior members of</p> <p>10 staff are thinking about is actually not unimportant,</p> <p>11 and that's why you're being asked the questions.</p> <p>12 A. I know, and I fully appreciate that.</p> <p>13 MR JAY: Can you assist us then with your answer? Because</p> <p>14 we have a private diary and that diary has somehow</p> <p>15 entered the public domain. Those are the facts which</p> <p>16 you know.</p> <p>17 A. Yes, absolutely, but as I've said before, they were</p> <p>18 already in the public domain circulating in Portugal and</p> <p>19 I have to say I wasn't aware of the judge's comments</p> <p>20 that you're referring to at the time about it being, you</p> <p>21 know, a private document. I wasn't aware of that at the</p> <p>22 time.</p> <p>23 Q. I think you said earlier that you were aware that it was</p> <p>24 a private diary --</p> <p>25 A. I was aware it was a private diary. A diary is by</p> <p style="text-align: center;">Page 80</p>

<p>1 definition a private document. I accept that, and, you 2 know, with hindsight it was clearly the wrong decision 3 to publish. 4 Q. When you come back to the office after the weekend on 5 Tuesday, 9 September 2008, Mr Edmondson shows you a copy 6 of the diary. It's all in Portuguese, so it's been 7 translated evidently from the original? 8 A. That's correct. 9 Q. Was there anything about the diary which caused you to 10 speculate as to its source or was your state of mind the 11 same as it had been previously? 12 A. Thinking back, I mean it had obviously been translated 13 from English to Portuguese. I mean, the source was -- 14 I suppose, thinking back, it must have come from the 15 Portuguese police, absolutely. 16 Q. Why do you say that? 17 A. From memory, when I was looking through the documents, 18 I believe there were comments on certain pages, I think. 19 I can't remember. 20 Q. Which -- obviously you don't speak Portuguese -- 21 A. No, but there were notes and comments, and I don't know, 22 it looked like some kind of official document, if that 23 makes any sense. 24 Q. So was it at that point that you realised that the 25 source was probably the Portuguese police?</p> <p style="text-align: center;">Page 81</p>	<p>1 A. That's right. I arranged for the diary to be translated 2 from Portuguese back into English, and as you can 3 probably imagine, that was quite a laborious task. 4 Q. Indeed. And when the translation comes back, do you 5 start writing up the story? 6 A. That's right, yeah, yeah. The translation was coming 7 through in sections and I was writing the story during 8 the week. 9 Q. I think it was your concern also to ascertain that the 10 diary was not a fake, so you were checking the 11 translation against Internet sources; is that right? 12 A. That's right. We looked at the diary and for every 13 entry we would cross-check that, we would 14 cross-reference that with stories that may have appeared 15 in the newspapers. 16 So, for example, I think there was an entry -- there 17 was one entry about the McCanns planning to visit the 18 Pope on a certain date, and we -- I cross-checked that 19 with reports that they had seen the Pope on that date. 20 Q. Yes. In relation to obtaining the agreement of the 21 McCanns, your evidence is, and this is page 52725, under 22 question 6, just above the lower hole punch: 23 "My understanding of the situation was that 24 Mr Edmondson had sought permission to publish the diary 25 from Mr Mitchell. I acquired this understanding because</p> <p style="text-align: center;">Page 83</p>
<p>1 A. Oh yes, no absolutely, absolutely. 2 Q. Did that cause you any concerns? 3 A. The whole thing caused me concern. The whole thing 4 caused me concern. 5 Q. Did you share those concerns with Mr Edmondson? 6 A. Did I share them with Mr Edmondson? It's very, very 7 difficult for me to try and explain, but essentially my 8 thinking throughout this whole process was that this 9 story was going to be published with the co-operation of 10 the McCanns. Does that make any sense? 11 Q. Yes. 12 A. So, you know, we were translating the document, we were 13 writing the story, we were checking with the McCanns 14 that they were happy with the story, it would be 15 published, the McCanns would know all about it. That 16 was my understanding of the situation throughout. 17 Because, don't forget, I wasn't aware necessarily of 18 what the newspaper planned to do with the diary once it 19 was in the News of the World offices. 20 Q. But once it was in the News of the World offices, the 21 position was that it was translated on a piecemeal 22 basis? 23 A. That's right. 24 Q. And the English translation came back to you; is that 25 correct?</p> <p style="text-align: center;">Page 82</p>	<p>1 Mr Edmondson told me he was going to speak to 2 Mr Mitchell about the story at the end of the week." 3 So the conversation was likely to take place, if it 4 was going to take place, on the Friday, 12 September; is 5 that right? 6 A. That's my understanding, yes. 7 Q. But it's not your understanding, is it, that there was 8 any earlier conversation between Mr Edmondson and 9 Mr Mitchell? 10 A. No. No. 11 Q. Had you completed the story, at least from your end, by 12 the end of the week? 13 A. Yes. 14 Q. So it follows, does it, that by the time the story was 15 given up by you to Mr Edmondson, you didn't know one way 16 or the other whether the McCanns' consent had been 17 obtained? 18 A. No, my understanding was that the McCanns' consent would 19 be obtained. 20 Q. Well, your understanding, at its highest, was that the 21 McCanns would be asked through their agent whether they 22 consented. Is that not the true position? 23 A. Sorry, can you repeat that? 24 Q. Your understanding was, at its highest, that the 25 McCanns' agent would be asked for consent at the end of</p> <p style="text-align: center;">Page 84</p>

21 (Pages 81 to 84)

<p>1 the week. Is that not correct?</p> <p>2 A. That's correct, yeah.</p> <p>3 Q. But you didn't know one way or the other whether the</p> <p>4 McCanns would give the green light to the publication of</p> <p>5 this story, did you?</p> <p>6 A. No, but my understanding was that if they hadn't given</p> <p>7 the green light, then the story wouldn't have been</p> <p>8 published.</p> <p>9 Q. Your understanding was that if they didn't give the</p> <p>10 green light, at a point after you provided the story to</p> <p>11 Mr Edmondson, then the story wouldn't be published?</p> <p>12 A. That was my understanding, yes.</p> <p>13 Q. Was the story, once you'd given it to Mr Edmondson, in</p> <p>14 other words your copy, between then and its publication,</p> <p>15 how at all was it changed by editors?</p> <p>16 A. How was the story changed?</p> <p>17 Q. Yes. Well, your copy, how was it changed?</p> <p>18 A. Well, from memory, I wrote a story based on the extracts</p> <p>19 from the diary and it was changed -- it was changed --</p> <p>20 what essentially happened was that all of my pieces were</p> <p>21 taken out, and the diary was just published in its</p> <p>22 entirety, or extracts of the diary were published in</p> <p>23 their entirety without any -- without any writing from</p> <p>24 me at all. Does that make sense?</p> <p>25 LORD JUSTICE LEVESON: So it wasn't a story that you'd</p> <p style="text-align: center;">Page 85</p>	<p>1 story to him before he'd had any conversation with</p> <p>2 Mr Mitchell; is that correct?</p> <p>3 A. That's true. Yeah, that's the case.</p> <p>4 Q. You also say in your statement under paragraph 5, but</p> <p>5 still on page 52725, you say:</p> <p>6 "However, with hindsight, the decision to publish</p> <p>7 Mrs McCann's diary was clearly the wrong one. Having</p> <p>8 read how the article made Mrs McCann feel, I intend to</p> <p>9 apologise to her for writing the story once I have given</p> <p>10 evidence."</p> <p>11 So you're giving that apology publicly and we</p> <p>12 understand that. But can you explain why it was clearly</p> <p>13 the wrong decision, in your own words?</p> <p>14 A. Yes, I have every intention of apologising to the</p> <p>15 McCanns for my involvement in the story. I know it's</p> <p>16 not your question but that is my intention. I felt --</p> <p>17 I did feel very bad that my involvement in the story --</p> <p>18 my involvement had made Mrs McCann feel the way that it</p> <p>19 had. So that's the first thing.</p> <p>20 Why was it the wrong decision to publish? Because</p> <p>21 they didn't have the permission to. They didn't have</p> <p>22 Mrs McCann's permission to publish that story.</p> <p>23 LORD JUSTICE LEVESON: Can we unpick that a bit, too? You</p> <p>24 read this diary?</p> <p>25 A. I did.</p> <p style="text-align: center;">Page 87</p>
<p>1 written at all. It just became the diary?</p> <p>2 A. Basically, yeah.</p> <p>3 LORD JUSTICE LEVESON: And was that the bits that you'd</p> <p>4 taken out of the diary or other bits?</p> <p>5 A. No, no, that -- so I filed this very long story that had</p> <p>6 explanations of bits of the extracts in, and the story</p> <p>7 that appeared in the paper, all of those explanations</p> <p>8 were taken out and it was just the diary. There was</p> <p>9 a bit on the front page that I'd written, but ...</p> <p>10 MR JAY: I see. So the front page contained your --</p> <p>11 A. It was like an introduction. It was an introduction.</p> <p>12 Q. And then the rest of it were just extracts from the</p> <p>13 diary; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. So your story, as it were, was somewhat mutilated, if</p> <p>16 I can --</p> <p>17 A. It was changed, yes.</p> <p>18 Q. It was changed. Of course, as your statement makes</p> <p>19 clear, and this is in relation to Mr Edmondson speaking</p> <p>20 to Mr Mitchell, you say:</p> <p>21 "I didn't actually ever have the conversation with</p> <p>22 Mr Edmondson specifically that he had received</p> <p>23 permission to publish from the McCanns."</p> <p>24 A. No.</p> <p>25 Q. So this was because, presumably, you'd handed over the</p> <p style="text-align: center;">Page 86</p>	<p>1 LORD JUSTICE LEVESON: Some of it is factual.</p> <p>2 A. What do you mean --</p> <p>3 LORD JUSTICE LEVESON: Some of it is factual, she's</p> <p>4 describing events that have happened?</p> <p>5 A. Yes.</p> <p>6 LORD JUSTICE LEVESON: But it's also an intensely personal</p> <p>7 document.</p> <p>8 A. Yes.</p> <p>9 LORD JUSTICE LEVESON: As you read it for the first time,</p> <p>10 did you think you had any business writing a word of it</p> <p>11 without making sure that this truly was what they</p> <p>12 wanted?</p> <p>13 A. Seeking their permission, seeking the McCanns'</p> <p>14 permission wasn't in my sphere of responsibility.</p> <p>15 LORD JUSTICE LEVESON: You see, it's all very well having</p> <p>16 a conversation with somebody saying, "Is it all right?"</p> <p>17 but a lot depends upon the tenor, and what's actually</p> <p>18 happening, what's being done.</p> <p>19 A. Mm.</p> <p>20 LORD JUSTICE LEVESON: And one can visualise somebody</p> <p>21 saying, "Yes, well, if you're simply going to say I kept</p> <p>22 a diary, that's fine".</p> <p>23 A. Sure.</p> <p>24 LORD JUSTICE LEVESON: But to reveal the most intimate</p> <p>25 moments may actually give rise to other considerations</p> <p style="text-align: center;">Page 88</p>

1 which require a rather more careful consent.
 2 A. Absolutely. My understanding of the situation was that
 3 the news editor spoke to the McCanns' press secretary on
 4 a daily basis, so in terms of getting the McCanns'
 5 consent or having those conversations, that really was
 6 a job for the news editor. I didn't have the McCanns'
 7 mobile number, I didn't have the McCanns' press
 8 secretary's mobile number. The first time I spoke to
 9 the McCanns' press secretary was about three weeks ago,
 10 when I heard how the story had made Mrs McCann feel and
 11 I phoned him to tell him my intention to apologise.
 12 That's not just for this Inquiry, that's because I'm
 13 genuinely sorry.
 14 LORD JUSTICE LEVESON: I'm sure it is, but did you expect --
 15 I appreciate that the word copy approval is never given,
 16 but did you expect that in order to get a fully informed
 17 consent, effectively the McCanns would be shown what you
 18 had written?
 19 A. You would have expected that, yes.
 20 MR JAY: Can I ask you some general questions about culture
 21 in the News of the World? How would you define the
 22 culture in the News of the World when you were there,
 23 Mr Sanderson?
 24 A. It was a high pressure environment to work in.
 25 Q. Yes? Anything more that you could tell us?

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1 A. What would you like to know?
 2 Q. Well --
 3 LORD JUSTICE LEVESON: How it manifested itself. How the
 4 high pressure manifested itself.
 5 A. In order to work at the News of the World, you have to
 6 give a certain part of your life over to it. It's very,
 7 very hard work. The phone is constantly -- the phone is
 8 constantly on. You can be called evenings, weekends.
 9 There's no point making any plans with friends because
 10 if you do, they're likely to be cancelled because the
 11 news editor wants you to go on a job. It was very hard
 12 work. It was very hard work.
 13 MR JAY: Did you feel you had to buy into that, as it were?
 14 A. Yeah. I mean, you can't work at the News of the World
 15 if you're not prepared to work hard.
 16 Q. Was there a culture of bullying in your view?
 17 A. No. I didn't experience that.
 18 Q. You heard the question I asked Mr Myler based on
 19 Mr Wallis' evidence about a certain conception of the
 20 story driving the direction into which it's going to go
 21 and be written.
 22 A. Mm.
 23 Q. Do you feel that that was the position or not?
 24 A. No, I think that's nonsense.
 25 Q. Why do you say that?

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1 A. Because, it's like Mr Myler pointed out earlier on,
 2 a story only ever appeared in the News of the World
 3 if -- well, stories that I worked on, the first thing
 4 you did was you made sure it was true.
 5 Q. Is that the first thing you did and the last thing you
 6 did, or were there other things you did before
 7 considering whether it was appropriate to proceed with
 8 a story?
 9 A. You talked about -- you talked about picking up the
 10 phone and receiving a tip. To take you through the
 11 process, you know, the first thing you did when you
 12 received the tip was ascertain whether the tip was true.
 13 I mean, there were other things, like, for example,
 14 you picked up the phone and you saw -- you worked out
 15 whether the story was appropriate for the
 16 News of the World, so you used your values and
 17 experience of the newspaper to see whether that story
 18 that the person is phoning in with is appropriate to the
 19 News of the World. And then you went about proving that
 20 it was true. It was never that you sat there thinking,
 21 "Oh, well, you know, let's make up this story about this
 22 person". The story had to be true.
 23 Q. How did you go about verifying its truth?
 24 A. Well, there were numerous processes that you went
 25 through to prove a story was true. Do you want to know

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1 them or --
 2 Q. Yes.
 3 A. I mean, for example, with any story, if you met somebody
 4 with a story for the News of the World, the first thing
 5 that you did was you sit down and say, "Okay, you're
 6 telling me this story. What evidence have you got that
 7 what you're telling me is the truth?" Okay? So there
 8 would be things like text messages. You're telling me
 9 something, how can you then prove that that's true? Can
 10 you show me text messages that prove what you're saying
 11 is true? Can you show me credit card bills? You said
 12 you were somewhere, can you prove that for me? Are
 13 there other people who will back up your story? Will
 14 you sign an affidavit saying that what you're telling me
 15 is the truth?
 16 There were so many levels that you went through to
 17 prove that a story's true, because you're the first
 18 gatekeeper, if you like, and then that story that you've
 19 managed to establish is true then goes to the news
 20 editor and then goes up to the editor.
 21 Q. And then in terms of compliance with the PCC code, in
 22 particular privacy issues, but that's not the only
 23 issue, what process, if any, do you go through to
 24 satisfy yourself that those matters are being addressed?
 25 A. Well, the whole time that you're operating as

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<p>1 a journalist, you have the PCC code -- you're 2 considering the PCC code at every level. 3 Q. You've given us a very precise process, if I may say so, 4 in terms of verifying fact or verifying evidence. 5 A. I'm just trying to explain to somebody who might not 6 know the intricacies of the operation, that's generally 7 how you work. 8 Q. But in relation to the code, very often it's a balancing 9 exercise between rights of individuals and the public 10 interest. 11 A. Yes. 12 Q. Is that a process you were familiar with? 13 A. It's something that you have to think about as 14 a journalist every day. You have to consider the PCC 15 code, and I think Colin -- Mr Myler said earlier it's 16 about personal standards, and you have to maintain those 17 personal standards while you're operating as 18 a journalist. 19 Q. Were there occasions when, apart from the case we've 20 been discussing, when you felt uncomfortable in relation 21 to your obligations under the code on the one hand and 22 what you were being tasked to do in relation to 23 a particular story on the other? 24 A. No. 25 MR JAY: Okay. Thank you, Mr Sanderson.</p> <p style="text-align: center;">Page 93</p>	<p>1 But, you know. 2 LORD JUSTICE LEVESON: But not in any sense to change the 3 slant of the story? 4 A. Not in my experience. 5 LORD JUSTICE LEVESON: I see. All right. Thank you. 6 MR JAY: Thank you, Mr Sanderson. 7 I think the next witness is due to start at 2.00, so 8 we can have a slight longer -- 9 LORD JUSTICE LEVESON: Very good. All right, thank you. 10 Thank you very much indeed. 11 (12.45 pm) 12 (The luncheon adjournment) 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 95</p>
<p>1 LORD JUSTICE LEVESON: Facts are one thing. What about 2 comment? 3 A. What about comment? 4 LORD JUSTICE LEVESON: Yes. Newspaper stories do not merely 5 consist of a recitation of facts. They are then the 6 subject of comment, which actually then provides the 7 focus of the story, doesn't it? 8 A. Yes. 9 LORD JUSTICE LEVESON: Would that comment be yours or one of 10 your more senior manager's? 11 A. I'm sorry, I don't follow. 12 LORD JUSTICE LEVESON: I want to know to what extent did you 13 include within your stories comment and context which 14 was yours rather than the facts that you'd actually 15 simply been given. 16 A. You got the facts and then you wrote the story. 17 LORD JUSTICE LEVESON: With your own comments to it? 18 A. I was quite factual when I wrote my stories. I didn't 19 really add comment. 20 LORD JUSTICE LEVESON: You didn't add comment? Did you ever 21 see that comment was added? 22 A. Stories are sometimes changed by subeditors, so you'd 23 write a story, you'd send that through to the news 24 editor, they'd send it through to the subeditors, and it 25 would be changed to fit with the space of the page.</p> <p style="text-align: center;">Page 94</p>	

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