

## Further ruling in relation to Core Participants

### Lord Justice Leveson:

1. When determining core participant status for the Inquiry, I was concerned to consider each of the three evidence gathering modules separately. In the event, I granted core participant status to the Commissioner of the Metropolitan Police, to various newspaper groups and to the National Union of Journalists for all modules but reserved the position in relation to the group appearing for specific members of the public who complained that they had been victims of unlawful, unethical or inappropriate behaviour at the hands of the press. In good time before the conclusion of Module 1, therefore, I gave notice that I would consider applications in relation to Module 2 and a hearing to deal with those applications was conducted on 25 January 2012. In the event, I granted an application pursued on behalf of those members of the public who had been core participants jointly represented by Collyer Bristow in Module 1. I did so, in part, because the group bring a perspective to the Inquiry different to all the other core participants: for the avoidance of doubt, I make it clear that neither they nor their lawyers do 'represent' the public. They are, however, representative of aspects of public concern. Given its regulatory responsibility for the police, I also granted an application by what was the Metropolitan Police Authority (now the Mayor's Office for Policing and Crime). I refused three individual applications.
2. Two late applications have now been made: both were previously refused in relation to Module 1. I adopt and repeat the approach to these applications which I set out in my ruling of 14 September 2011 and have sought to maintain in ex tempore and written rulings thereafter.

### *Surrey Police*

3. The first application is from the Chief Constable of Surrey Police whose force was responsible for the investigation of what was found to be the murder of Milly Dowler. In a ruling dated 2 November 2011, refusing the application in relation to Module 1, I observed that the narrative for this aspect of the Inquiry would "inevitably be general" and went on (at para. 5):

"Thus, as the Chief Constable recognises, I will not be making findings of fact in relation to any individual case and although the question why no step was taken to investigate the interception of Milly's phone may well be asked (if only to provide the context), I do not

intend to investigate the rights or wrongs of that decision (if such a decision was made)."

4. For the Chief Constable, Mr John Beggs Q.C. makes the point that specific events (and decisions) surrounding the misuse of Milly Dowler's mobile telephone have assumed a greater significance to the Inquiry since the emergence of the factual issue as to the responsibility for the deletion of her voice mail messages. It is further correct that, in the light of the confusion surrounding what actually happened, I have required the Metropolitan Police and the Guardian to provide a very much more detailed chronology as to events which would need to be considered both by the Dowlers and News International. I am aware that Surrey Police have had considerable input into that work both jointly with the Metropolitan Police and individually. It is, indeed, a subject to which I will have to return not least because of the real public interest in the matter and the importance (along with a very small number of other individual issues which Module 1 has thrown up) of there being a definitive explanation of what has happened even if (as I recognise) the investigation and analysis strays slightly beyond the generality with which I have otherwise sought to clothe Module 1. Provided appropriate care is taken in relation to certain details, however, I do not believe that this work will stray into territory that might prejudice on-going police investigations.
5. In addition to involvement in this aspect of the Inquiry, Mr Beggs also points to the fact that four current and former senior Surrey police officers have received notices under s. 21 of the Inquiries Act 2005. These are Lord Blair, Mr Bob Quick, Chief Constable Lynne Owens and Sir Denis O'Connor. Although each has played a different role in the subject matter of this module (Lord Blair and Mr Quick as senior officers at the Metropolitan Police, Sir Denis O'Connor as Her Majesty's Chief Inspector of Constabulary), I recognise that each has also been asked about issues relating to press relations in relation to Surrey Police or the case of Milly Dowler. In the case of the present Chief Constable, she was also at Surrey and involved in press relations at the relevant time. Other Surrey officers may also give evidence either orally or in writing. Given the need to return to the facts of this specific case and the unique place that it occupies in the background to the Inquiry, I see force in the argument that this particular application must be considered in a different light to those which are pursued in relation to other specific but individual complaints.
6. In the circumstances, I am now prepared to conclude that the Chief Constable of Surrey Police has a significant interest in an important aspect of one of the matters to which the Inquiry relates and may be subject to explicit or significant criticism during the proceedings or in the report. I do not believe that it would be appropriate to conclude that it is fair or proper to require her to be jointly represented and, in the circumstances, I grant this application and invite the Chief Constable to nominate her legal representative in order that I can make the necessary designation within Rule 6(1) of the Inquiry Rules 2006.

*Ms Elaine Decoulos*

7. The second late application is from Ms Elaine Decoulos. On 4 October 2011, she made an oral application (unsupported by documentation) for core participant status in relation to Module 1 which, in an ex tempore judgment, I refused. On 4 November 2011, a Divisional Court ([2011] EWHC 3214 (Admin) Moses LJ, Singh J) refused her application for permission to apply for judicial review. I understand that she is presently seeking to renew that application to the Court of Appeal (Civil Division) although it may not be inappropriate for me to express my concern about the delay given that, with the exception of a number of witnesses who cross all modules and who better appear towards the end of the evidence and what might be described as a number of loose ends, I have now effectively concluded hearing evidence in relation to Module 1 concerning relationships between the press and the public. I add only that, as Moses LJ observed (at para. 7 of his judgment), I invited Ms Decoulos to submit a statement to the Inquiry: although I understand from her communications with the Inquiry that she has been unwell, no statement has been submitted during the currency of Module 1 or at all.
  
8. In relation to Module 2, by e mail, Ms Decoulos has again requested core participant status. She points to the fact that many of those who complained about press treatment and were core participants for Module 1 (and who now continue to be so) did not complain about treatment at the hands of the police and, further, that many did not, in any event, give evidence during Module 1. My reasons for continuing the grant of core participant status in Module 2 are explained in my ruling of 25 January 2011. In any event, many of the witnesses who gave evidence during Module 1 did indeed speak of the unwillingness of the police to assist or become involved in the issues that they faced with the press. As for the fact that many did not give evidence, I do not consider it part of my duty to provide a commentary on the conduct of the Inquiry but I am prepared to make clear that, given the constraints of time, I allowed the legal representatives of these core participants to identify those best able (and willing) to illuminate the complaints of the core participants generally. The same is so in relation to Module 2 (in which I anticipate far fewer witnesses on the basis that some evidence on this topic has already been given). Again, the intention is only to obtain a representative selection of generic complaints to provide the background to the issues that I have to address and, for that purpose, I have similarly relied on those core participants and their legal representatives to assist me with the benefit of their knowledge of the background. In that regard it is worth noting that Collyer Bristow have instructed Bindmans to act as their agents as legal representatives given their knowledge of the judicial review proceedings between a number of the core participants and the Metropolitan Police.

9. In her e mails making her application for core participant status (dated 27 and 31 January 2012), Ms Decoulos explains the nature of her application for this module. Her first e mail puts the matter in these terms:

"I seek to be a Core Participant for Module 2 as well principally on the basis that the failure of the police to investigate my allegations about Suzanne Maltzahn and her sons caused me to be defamed and libelled across the British press and around the world. And my emails with the detective who initially tried to investigate my complaints have shockingly been deleted from this Yahoo email account. I believe this was likely done in June 2010."

10. In her later email, she repeats the complaint of defamation and libel observing that the failure of the police caused this to happen "and they knew it". She goes on:

"That is why they were finally going to re-open their investigation until 'someone' intimidated to them that an injunction was going to be taken out against me."

11. I have set out the detail of the complaint that Ms Decoulos has advanced because it dramatically underlines the very specific nature of her allegations; not surprisingly, these are focussed on a background which is very fact specific. It is the opposite of one of the general complaints, for example, that dealing with the police has frequently led to information being leaked to the press and that the police have persistently failed to deal appropriately with complaints about media harassment or intrusion. I appreciate that Ms Decoulos' complaint may also allow inferences to be drawn about the nature of the relationship between the police and the press and that arguments can be erected that the issues fall within paras. 5(2)(a)-(c) of the Inquiry Rules 2006. On the other hand, in the same way that I have refused other applications for core participant status which require detailed fact specific (and undoubtedly contentious) investigation, ranging from a murder inquiry to challenged convictions for sexual offences both of which have been said to have been affected by the press, I do not consider that core participant status is necessary or appropriate for complaints of the type that Ms Decoulos wishes to pursue. In this particular case, I am not sure that pursuing a complaint to the IPCC is not a far more appropriate avenue for her to press her case.

12. In refusing Ms Decoulos' recent application for core participant status in relation to Module 2, it is worth emphasising the overarching nature of this aspect of the Inquiry which is to look at the "culture, practices and ethics of the press including ... contacts and the relationship between the press and the police and the conduct of each" and "[t]o make recommendations [as to] the future conduct of relations between the police and the press". As Moses

LJ further observed in the context of identifying the need for the Inquiry to achieve solutions ([2011] EWHC 3214 para. 4):

“The purpose of the Inquiry is not to vindicate individuals’ sufferings or claims they may have due to mistreatment by the press, but rather for all of us as citizens concerned at the relations between the press, institutions and the public.”

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