

NI Group Limited
S. P. Toms
First Statement
"SPT1"
14 October 2011

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

**WITNESS STATEMENT OF
SIMON PHILIP TOMS**

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

1.1 I am currently acting as the interim Director of Legal Affairs at NI Group Limited ("NI"). I was seconded to this role on 25 July 2011 by my employer, Allen & Overy LLP ("Allen & Overy"). At Allen & Overy, I am a solicitor in the London corporate group, where I qualified in September 2003. Nothing in this statement shall constitute a waiver of legal privilege in relation to any of the matters I discuss.

1.2 Since my secondment at NI only commenced at the end of July 2011, my knowledge of the matters covered by these questions is necessarily limited in nature.

(2) Explain what your responsibilities as in house legal advisor are.

2.1 As interim director of legal affairs, I am responsible for the legal function at NI and its subsidiaries (the "group") This includes:

- (i) overseeing a team of 14 in-house lawyers and advisers across both NGN and TNL who advise on both commercial and editorial issues at the group. In addition to these permanent members of staff, night lawyers assist the editorial teams in 'libel reading' the titles pre-publication. The NGN and TNL in-house legal teams report to me although they work very closely on a day-to-day basis with the editorial team. The commercial, IP and company secretarial teams also report to me;
- (ii) managing the legal risks of the group; and
- (iii) supporting the needs of the business through the in-house legal team and with external legal advisers where appropriate.

2.2 I have also had involvement in the work of the Management and Standards Committee (the "MSC"), which was established by News Corporation in July 2011. I am a point of liaison for NI with the MSC in responding to questions which are being considered by the MSC.

2.3 I report to the CEO of NI, Tom Mockridge.

(3) Explain whether you have ever been asked to advise upon the legality of methods of obtaining information including (but not limited to) phone hacking, computer hacking and "blagging"? If so, please give the best particulars that you can about who sought the advice, when, in what context and the advice that you gave.

3.1 I have never been asked to advise on the legality of obtaining information by phone hacking, computer hacking or blagging. I have organised discussions and general training sessions and have also been asked to advise on whether it is appropriate, in the light of the Bribery Act 2010, to make certain payments to sources in return for information. I have instructed external counsel (solicitors and leading and junior counsel) where appropriate to assist in delivering the training on and in advising on the application of the Bribery Act 2010.

(4) What training, guidance and policies have been provided to you by your employer in order to enable you accurately to advise upon the legality of methods of obtaining information (including keeping up to date)? Do you consider that it has been adequate?

4.1 As a qualified solicitor with a current practising certificate, I am required to attend a certain number of training sessions each year as a matter of continuing professional development. These sessions are either provided or, if external, paid for, by Allen & Overy. Since arriving on secondment at NI at the end of July 2011, I have been working with others in the in-house legal team and in the wider business to review and update NI's policies and procedures in relation to obtaining information for stories. As noted in paragraph 3.1 above, this includes reviewing and updating the procedure for requesting a payment to be made for a story as well as organising discussions and training sessions in relation to the Bribery Act 2010 and its application to sourcing stories in particular. An interim payments policy has been developed on this basis, which I understand is further described in the statement of the Chief Financial Officer, Susan Panuccio. In addition, NI re-issued News Corporation's Standards of Business Conduct to all employees in hard copy and the PCC Code to all journalists. NI is also in the process of reviewing and, where necessary, updating the policies and procedures in relation to editorial matters, data protection, document retention, employment, contract approvals and expenses.

(5) Explain whether you have ever been asked to advise upon the legality of paying public servants (including police constables) for information either in cash or kind. If so, please give the best particulars that you can about who sought the advice, when, in what context and the advice that you gave.

- 5.1 Since my arrival at NI at the end of July 2011, amongst a large array of other matters, I have been involved in organising and delivering training to journalists on the Bribery Act 2010 as noted in paragraph 3.1 above, which has included generic advice that journalists should not make payments to public servants.
- (6) What training, guidance and policies have been provided to you by your employer in order to enable you accurately to advise on issues of bribery and corruption? Do you consider that it has been adequate?**
- 6.1 As noted in my response to question 4, I have received training on these issues from my firm, Allen & Overy. In addition, I have commenced a programme of training for journalists on the three titles of NI delivered by external counsel in relation to the application of the Bribery Act 2010. All journalists will be required to attend this training over the coming weeks. We have re-issued the News Corporation Standards of Business Conduct in hard copy personally addressed to each employee, which includes a section on anti-bribery and corruption. We have circulated the News Corporation Global Anti-bribery Policy to all employees at NI by email. By the end of October 2011, we expect to distribute specific guidance from NI on the application of the Bribery Act 2010, including in relation to gifts and hospitality. Specific training will also be given to relevant parts of the business, including the commercial team.
- (7) Have you had input into any internal inquiry into phone hacking, computer hacking, "blagging" or bribery or corruption? If so, please describe the same, setting out your role and the outcome.**
- 7.1 As noted above, I am aware that the MSC has instructed Linklaters LLP ("Linklaters") to undertake a review into reporting practices across all four titles (subject to some restrictions in place due to the ongoing police investigation). The role of NI's in-house legal team in this review is limited and my own involvement in it so far has been limited to acting as a liaison between NI and representatives of the MSC and its advisers, including Linklaters and Olswang LLP ("Olswang").
- (8) How do you understand the system of corporate governance to work in practice at The Times, The Sunday Times, The Sun and The News of the World, with particular emphasis on systems to ensure lawful, professional and ethical conduct?**
- 8.1 The News Corporation Standards of Business Conduct apply to all employees of NI and its subsidiaries. In addition, journalists are required to abide by the PCC Code. The Editor of each title has oversight and responsibility for the conduct of journalists on his title supported by the Managing Editor, in-house legal advisers, and the human resources and finance functions of the company. The editorial lawyers for NGN and TNL play a key role in pre-publication advice and 'libel reading' in relation to each title. The legal team also works with the Managing Editors to organise training for journalists on legal and PCC Code

issues and supports the HR function and Managing Editors in relation to any disciplinary issues, including any breaches of the News Corporation Standards of Business Conduct.

- 8.2 In the case of The Times and The Sunday Times, the board of directors of Times Newspapers Holdings Limited ("TNHL") comprises independent directors appointed in accordance with undertakings given to the Secretary of State in 1981. My understanding is that these undertakings were intended by the Secretary of State to ensure the editorial independence of these titles. My initial impression from the one board meeting of TNHL that I have attended is that the involvement of these independent directors adds in practice to the accountability of the Editors of The Times and The Sunday Times. For example, at that TNHL board meeting, I provided an update on the compliance work NI has been undertaking since the end of July, including the appointment of a Chief Compliance Officer, the training NI has organised in relation to the Bribery Act 2010 (to which I refer in paragraph 3.1) above and the review and updating of policies and procedures.
- 8.3 Olswang have been instructed by the MSC to review NI's journalistic policies, practices and systems. This is a continuing piece of work. It involves speaking to individuals within the business (both editorial and corporate) and external commentators. The completed review may lead to changes to the current policies, practices and systems at NI.
- 8.4 Since starting my secondment at the end of July 2011, a number of changes to NI's corporate governance systems have been initiated. I understand that paragraphs 2.8.4 and 6.1 of Tom Mockridge's statement to the inquiry provides details of those changes and so I will not repeat them here, other than to note that the role of Chief Compliance Officer has been created. The position is being filled on an interim basis by Victoria Rankmore, a solicitor from Allen & Overy who started the role at the end of September 2011, while a permanent appointment is made. The Chief Compliance Officer has the responsibility for overseeing all policies and procedures within the group and monitoring compliance with these.
- (9) What is your role in ensuring that the corporate governance and all relevant policies are adhered to in practice? If you do not consider yourself to have responsibility for this, please tell us who you consider to hold that responsibility.**
- 9.1 As interim Director of Legal Affairs, my responsibilities since I joined at the end of July 2011 include reviewing the corporate governance policies of the companies in the group and monitoring compliance with them. This involves working closely with the interim Chief Compliance Officer and in-house legal team. The in-house legal team advises the business on questions in relation to the application of existing policies, organise training sessions to ensure that policies are well understood and work with the HR team and Managing Editors to deal with any matters arising from non-compliance with NI's policies. I have also been involved in reviewing and updating existing policies where necessary. My role involves working closely with the Company Secretary to prepare board packs for board meetings of

NI group companies to ensure that directors have the information they need to fulfil their duties.

(10) Explain whether the documents and policies referred to above are adhered to in practice, to the best of your knowledge.

10.1 To the best of my knowledge the policies which are in place are adhered to by NI's employees, save for the limited number of cases where breaches have been drawn to my attention as a result of continuing disciplinary proceedings.

(11) Explain whether these practices or policies have changed, either recently as a result of the phone hacking media interest or prior to that point, and if so, what the reasons for the change were.

11.1 I can only comment on changes made since I joined NI. At the beginning of August 2011, NI commenced an interim internal review of all of NI's policies and procedures. This has resulted in some short term changes and the introduction of a training programme. These changes are designed to ensure NI's policies and procedures are up to date and understood by all of NI's employees. The training is designed to refresh employees' knowledge of the policies and update them on changing areas of policy and law. In addition, as I noted above, Olswang has been instructed by the MSC to undertake an external review of NI's policies and procedures. The outcome of this external review may result in additional changes to the policies, practices and systems at NI.

(12) Explain where the responsibility for checking sources of information (including the method by which the information was obtained) lies: from reporter to news editor/showbiz editor/royal editor to Editor, and how this is done in practice (with some representative examples to add clarity).

12.1 It is my understanding that this is the responsibility of the journalists and ultimately the Editors of each of NI's titles. I understand that the Editors will cover this in their own statements.

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

13.1 In my view an Editor should take appropriate steps so that journalists working on a title have sourced stories appropriately.

(14) Explain the extent to which you consider that ethics can and should play a role in the print media, and what you consider 'ethics' to mean in this context.

- 14.1 I believe it is important that journalists should operate ethically when gathering information for news stories. This means acting in a responsible and legal way to gather information from sources in order to report stories.
- (15) Explain the extent to which you, as a legal adviser, felt any financial and/or commercial pressure from the proprietors of your newspapers or anyone else, and whether any such pressure affected any of the decisions you made as legal adviser.**
- 15.1 I have never felt any financial or commercial pressure from anyone at NI in respect of my decisions or advice since I have been performing the role of Director of Legal Affairs.
- (16) Explain the extent (if any) to which you, as a legal adviser, had a financial incentive in The Times, The Sunday Times, The Sun or The News of the World printing exclusive stories.**
- 16.1 As a secondee, my salary continues to be paid by Allen & Overy rather than NI. Accordingly, I have no financial incentive in any title printing exclusive stories.
- (17) Explain whether, to the best of your knowledge, The Times, The Sunday Times, The Sun or The News of the World used, paid or had any connection with private investigators in order to source stories or information and/or paid or received payments in kind for such information from the police, public officials, mobile phone companies or others with access to the same: if so, please provide details of the numbers of occasions on which such investigators or other external providers of information were used and of the amounts paid to them.**
- 17.1 As certain conduct relating to the News of the World is the subject of a continuing police investigation and as the News of the World was closed before I was seconded to NI, I do not propose to comment further on that title.
- 17.2 As regards the other titles, other than the information which is generally in the public domain, I am not aware of payments being made to private investigators. I am also not aware of payments being made to source stories or information from police, public officials or mobile phone companies on behalf of The Times, The Sunday Times or The Sun.
- (18) What was your role in instructing, paying, advising on, or having any other contact with such private investigators and/or other external providers of information including advising on any of these activities?**
- 18.1 Please refer to my answer to question 17.
- (19) If such investigators or other external providers of information were used, what policy/protocol, if any, was used to facilitate the use of such investigators or other external providers of information (for example, in relation to how they were identified, how they were chosen, how they were paid, their remit, how they were**

told to check sources, what methods they were told to or permitted to employ in order to obtain the information and so on)?

19.1 Please refer to my answer to question 17. The only policies which I am aware of which could be relevant are the policies relating to financial matters and the entering into of contracts, copies of which I understand have already been provided to the inquiry on behalf of NI. Since becoming the CEO of NI, Tom Mockridge has required that Editors seek his approval prior to the engagement of any private investigators.

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

20.1 Please refer to my answer to question 17.

(21) Explain whether there are any situations in which neither the existing protocol/policy nor the practice were followed and, what precisely happened/failed to happen in those situations. What factors were in play in deciding to depart from the protocol or practice?

21.1 Please refer to my answer to question 17.

(22) Explain the extent to which you are aware of protocols or policies operating at The Times, The Sunday Times, The Sun or The News of the World in relation to expenses or remuneration paid to other external sources of information (whether actually commissioned by your newspaper or not).

22.1 At the end of August 2011, a new approval procedure was introduced for the payment of cash payments to individuals for information leading to stories which involves the journalist, desk head, Editor and Managing Editor. In addition, since 5 September 2011, NI has introduced a more detailed payment policy to ensure that the procedures take account of the UK Bribery Act 2010. There is also an expenses policy which applies to all employees which must be adhered to in order for an employee to be reimbursed expenses legitimately incurred by that employee. I understand that details of these procedures are set out in paragraphs 5.1 to 5.2.3 of Susan Panuccio's statement to the inquiry.

(23) Explain whether you, or The Times, The Sunday Times, The Sun or The News of the World (to the best of your knowledge) ever used or commissioned anyone who used 'computer hacking' in order to source stories, or for any reason.

23.1 I am not aware that any NI title has ever used or commissioned anyone who used "computer hacking" in order to source stories. I have been made aware of one instance on The Times in 2009 which I understand may have involved a journalist attempting to access information in this way. However, I also understand that this was an act of the

journalist and was not authorised by TNL. As such, I understand it resulted in the journalist concerned being disciplined.

(24) Documents

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

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

Other than the general policies and guidance to which I refer in this statement, I do not possess any training documents, policies, protocols, handbooks, guidance, codes of conduct or practice relating specifically to my role as interim Director of Legal Affairs at NI.

24.2 *Your job description and/or the person specification for your role*

There is no formal job description or person specification for my role.

24.3 *Any document containing communications between you and private investigators in the course of your employment*

There are no such documents.

24.4 *Any document containing communications between you and the Editor, Sub-Editor, or any journalist concerning the legality of any method of obtaining information including (but not limited to) phone hacking, computer hacking and "blagging"*

There are no documents containing communications between me and editorial staff (including journalists) concerning the legality of obtaining information by phone or computer hacking. I have outlined in paragraph 3.1 above the circumstances in which I have advised on the Bribery Act 2010 in relation to payments to sources. The terms of the advice which I gave in these circumstances are privileged and NI does not wish to waive that privilege at this time.

24.5 *Any document requesting your advice or containing advice from you concerning the payment in cash or kind of public officials (including police officers) for information*

There are no such documents.

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

Signed

Dated 14/10/2011