

Schedule 1 to witness statement of Paul Dacre

Schedule of actions taken by the Editors of the Daily Mail and The Mail on Sunday to ensure compliance by editorial staff and freelancers with data protection law since the publication of *What Price Privacy?* in May 2006

Summer 2006

1. Following the publication in May 2006 of "*What Price Privacy?*" the Editor-in-Chief and the Editor of The Mail on Sunday, in conjunction with their managing editors, reviewed the policies and procedure in place to ensure editorial staff and freelancers understood and were complying with the Data Protection Act 1998 ("DPA"), and in particular section 55. In June 2006 the Daily Mail's managing editors issued verbal warnings to the heads of department and reporters emphasising the importance of complying with the DPA when sourcing personal information.
2. On 11 July 2006 Alex Bannister, Group Managing Editor, sent a letter to all heads of department at the Daily Mail which impressed upon them that it is "absolutely essential that we abide by the DPA" and that it is the responsibility of the department heads that where information is sourced from third parties, such enquiries are made by reputable companies and individuals operating within the law. Shortly afterwards on 14 July 2006, the Daily Mail managing editors re-circulated to all heads of department the PCC's Guidance note on the "Data Protection Act, Journalism and the PCC" issued in co-operation with the Information Commissioner in March 2005.
3. In addition to reminding journalists of their responsibilities when sourcing personal information, the managing editors of the Daily Mail and The Mail on Sunday wrote in August 2006 to all external agencies used by editorial for research and information, including tracing or inquiry agents, genealogists, credit reference agencies and database holders. Citing the Information Commissioner's report "*What Price Privacy?*" the letters sought written confirmation from the external agencies that any information provided to ANL is obtained without contravening the DPA.
4. Following reports that Clive Goodman and Glen Mulcaire had been charged on 10 August 2006 with conspiring to intercept communications, Mr Wellington, Managing Editor of The Mail on Sunday, wrote to all staff at The Mail on Sunday on 11 August 2006 on the use of illegal or unethical inquiry methods in the following terms: "You

are reminded again that this Company has a strict policy regarding the use of illegal or unethical inquiry methods including the interception of telephone calls or messages. Such practices are unacceptable and are disciplinary offences under the Company's rules. This applies equally whether you are engaging in such practices yourself, instructing subordinates or commissioning outside agencies to work for us. You must be certain that anyone providing information for this newspaper has not used illegal or unethical methods to obtain it". Mr Wellington attached the recent statement by the PCC on this issue and link to the PCC Guidance Note on the DPA.

5. Similarly, on 16 August 2006 the Daily Mail managing editors wrote to all Daily Mail editorial staff and regular freelancers reminding them of their "*obligations under the terms of [their] contract and the PCC Code with regards to the acquisition of information through clandestine devices and subterfuge*". The memorandum expressly reminded staff and freelancers that: "*It is a condition of your employment that you observe high professional and ethical standards in the performance of your duty, and that in all respects you observe the Code of Practice of the PCC. Copies of the Code may be obtained from the Managing Editors' office. You will also observe any more rigorous standards imposed by your head of department*". After quoting the Editors' Code the letter stated "*Quite aside from the legal position with regard to the DPA, it is an essential condition of your employment with the Daily Mail that you adhere to the spirit and letter of the PCC Code. If you have any queries on any of this, they should be referred immediately to [the Managing Editors'] office*".

December 2006

6. Following the publication of the Information Commissioner's follow-up report "*What Price Privacy Now?*" on 13 December 2006, Charles Garside, Assistant Editor of the Daily Mail, sent a further letter on 21 December 2006 to all writers and reporters working for the Daily Mail to their home addresses reminding them of the contractual requirements that they adhere to the Editors' Code and guidance concerning data protection. Mr Wellington sent a letter in the same terms to all staff at The Mail on Sunday. The letter stated "*It is your responsibility not to do anything illegal yourself, nor commission anyone else to do so, nor knowingly process information that has been obtained illegally. The Act does permit journalists and other professions to gather information deemed private if there is a public interest justification. If you have exhausted all normal journalistic inquiry methods and believe there is a justifiable need for assistance from a search agency you must consult your department head. In*

addition, you must ensure that any outside agency we use is a reputable one that has been checked and approved for use by Associated Newspapers. This company does not do business with information suppliers who cannot demonstrate full compliance with the terms of the DPA". On 22 December 2006 Mr Garside sent a memorandum to all department heads and commissioning editors at the Daily Mail enclosing the above letter and emphasising that "it is important that all department heads and commissioning editors understand the terms of the DPA. Please come and see Alex Bannister or myself with any questions or queries".

7. In late December 2006 and early January 2007, the managing editors of the Daily Mail and The Mail on Sunday wrote again to the external agencies used by the titles for research and information seeking further assurances that the information provided to ANL is done so in accordance with the DPA, and referred the agencies to the Information Commissioner's latest report. The responses received all confirmed compliance with the DPA.
8. Mr Bannister and Mr Wellington subsequently wrote to those agencies who had not provided any response to their letters seeking assurances, stating that until such time as the agency provided written confirmation, journalists at the Daily Mail and The Mail on Sunday were instructed not to make any further use of their services.

2007

9. In March 2007 the managing editors of the Daily Mail and The Mail on Sunday instructed that the standard form wording in relation to all new employment contracts for staff journalists be amended to explicitly require journalists to comply with the requirements of the DPA.
10. In light of the Information Commissioner's report and the proposal by the Department for Constitutional Affairs to increase the maximum penalty under s.55 of the DPA to a custodial sentence, the managing editors and senior executives at the Daily Mail and The Mail on Sunday were asked by the Editor-in-Chief to consider what further action if any should be taken to strengthen ANL's data protection policies. As a result of this review, in April 2007 the Editor-in-Chief decided to ban the use of inquiry agents. All ANL staff reporters were informed that with immediate effect ANL were suspending the use of all external agencies used by ANL titles for research and information. The letter, sent to all staff and contract reporters at their home address, reaffirmed the

requirement that private personal data could only be sought by journalists themselves in limited circumstances where there was an overwhelming public interest in using that personal data. The letter stated *"You will recall that we have written to all staff on previous occasions restating the Company's instruction that, when sourcing information for stories, nothing should be done which contravenes the DPA. Information deemed private and confidential under the DPA can only be sought in certain limited circumstances when there is an overwhelming public interest. ... We have sought and received assurances from outside agencies which have been used for research and information that they were fully aware and complied with the DPA legislation. Nevertheless, after due consideration the Company has now taken the decision to further restrict the use of outside agencies. With immediate effect, we are suspending all use of outside search agencies. For the avoidance of doubt this includes the agencies normally described as genealogists"*. In view of the seriousness of the matter staff were required to sign the letter stating that they understood and would strictly comply with this instruction, and return the signed letter to the managing editors' offices.

11. The same letter was sent to regular freelancers in early May 2007. Lists of those who had signed and returned the letter were kept by the managing editors and those who had not returned the forms were chased by the managing editors. On 21 December 2007 Mr Wellington sent a letter in like terms, requiring a signature, to those freelancers employed by The Mail on Sunday who had not been previously contacted by the Daily Mail managing editors.
12. All agencies used by ANL for research and information were informed of the decision to suspend the use of all external search agencies by letter dated 27 April 2007 from Mr Bannister. The letter stated: *"For the avoidance of doubt, while this suspension is in force, you should not accept any commission from anyone representing or claiming to represent any Associated Newspapers title... Consequently you should be aware that any work undertaken by you for Associated Newspapers after 1 May 2007 is unauthorised and therefore will not be paid"*.
13. As a result of data security concerns within DMGT, in June 2007 the Data Protection Committee reviewed its approach to data compliance in all aspects of its business and drew up a Data Protection Compliance plan, with the assistance of the law firm Taylor Wessing LLP. Key elements of the plan were to review ANL's DPA policies and training schemes and to institute a data protection audit by Taylor Wessing for

ANL and its divisions, under the supervision of the Data Protection Committee, which would provide an independent assessment as to whether policies and procedures are in place and being adhered to. Previously audits had been carried out by Olswang LLP on new businesses, but there was no systemic approach.

14. On 3 July 2007 the PCC held a seminar on subterfuge and newsgathering at the Crowne Plaza Hotel in Blackfriars, which included a presentation from Mick Gorrill from the Information Commissioner's office on the DPA. Senior staff attended. See, for example, an email from Mr Wellington asking senior staff to attend and to let his secretary know if they could not attend or had already attended a similar PCC seminar.
15. In July 2007 the Daily Mail managing editors drew up guidance for journalists in relation to the DPA, which would become part of ANL's policy promulgated in September 2008. The policy stipulated that journalists must contact the Editor or deputy Editor in the event that they come into possession of apparently illicitly obtained material or believe there is a potential public interest in obtaining information which they know or suspect to have been illicitly obtained. Where it is decided that there is a clear and compelling public interest to justify obtaining or trying to obtain such information, the reasons should be recorded in writing where possible.
16. In August 2007 clause 10 of the Editors' Code was strengthened in response to concerns raised by the Information Commissioner in relation to illegal trading in personal information and the conviction of Clive Goodman.
17. The first audit of ANL and its divisions, which consisted mainly of a series of face to face interviews with relevant executives, was carried out in the second half of 2007.
18. From December 2007 all new freelance contracts contained an express clause requiring compliance with the DPA.

2008

19. On 2 January 2008 the managing editors circulated to all editorial staff a note from Kevin Beatty, the Chief Executive of A&N Media, underlining the importance of implementing and observing good data protection practice and enclosing a copy of the Data Protection Security Policy.

20. On 3 January 2008 the Editor-in-Chief had the first of two meetings with Richard Thomas, the Information Commissioner (as he then was), to discuss measures taken by ANL and across the industry to ensure journalists understood and complied with the DPA.
21. On 6 March 2008 the Editor-in-Chief asked the managing editors at the Daily Mail and The Mail on Sunday to write once again to all editorial staff to reinforce to them their duty to understand and obey the DPA. The letter sent to all staff at their home addresses stated *"An amendment imposing jail sentences in place of fines for breaches of the DPA is currently before Parliament and could become law by May. The DPA makes it illegal to access a range of private information about an individual without that individual's consent. It is also illegal to use an agency or a private detective to access such information on your behalf. That is why the use of search agencies and genealogists has been banned to avoid anything slipping through the net. This is for your protection as breaking the law is against the terms of your contract of employment. If there is any doubt about this you must consult your head of department, your Managing Editor or the legal department. We have already written to freelance contributors reminding them that they must comply with the above policy in any work they do for this Company. You must ensure that you do not commission any Contributor to do anything in breach of the policy nor accept any copy or information that has been produced by means involving a breach of the law"*.
22. On 26 March 2008 Mr Wellington wrote again to all staff at The Mail on Sunday at their home addresses to remind them of their obligation to follow and uphold the Editors' Code and *"that misrepresentation or subterfuge may only be used when there is a strong public interest and the material cannot be obtained by other means. In practice you must check with your department head or a more senior executive before using any misrepresentation or subterfuge or before commissioning any contributor to do so. You should also draw it to an executive's attention if you become aware that any material supplied to this paper has been obtained by subterfuge"*.
23. Periodic reminders of the prohibition were circulated by heads of department and the managing editors to staff. For example, on 3 June 2008 Andrew Morrod, then head of the Femail section of the Daily Mail, sent a letter to all Femail staff and casuals to emphasise *"the paper's position that all outside search agencies, private detectives and genealogists are absolutely out of bounds to all Daily Mail staff and freelancers –*

whether those freelancers are directly commissioned by Femail executives, or by staff writers themselves. You must not use such search agencies nor commission any freelance or news organisation to do anything in breach of the policy, nor accept any copy or information that has been produced by means involving a breach of the law. Anyone who is proved to have broken the strict rules of the DPA could have their contract with the Mail terminated. I know that you work under highly demanding circumstances and face pressure in terms of time and information gathering. But we must all be vigilant that these strictures are observed to the letter”.

24. On 4 June 2008 the Editor-in-Chief met with Mr Thomas, the Information Commissioner (as he then was), to update him on the steps taken by ANL to ensure compliance with the DPA, and in particular section 55. Mr Thomas expressed his satisfaction with the measures that had been taken to ensure compliance within Associated Newspapers.
25. ANL's current Data Protection Policy was introduced in September 2008 and has been available since its introduction on the Company's intranet. (A copy of ANL's Data Protection Policy, which was in place from February 2002 has been disclosed to the Inquiry.) Interactive general data protection training commenced for editorial managers and some editorial staff.
26. Industry guidance from organisations such as PressBof was circulated by the managing editors. In November 2008 PressBof guidance on “The DPA and why it's important to you” was circulated to staff. The Editor-in-Chief issued a press statement drawing attention to the guidance and underlining again the vital importance of the issues.

2009

27. In early 2009 the legal department carried out face to face training sessions on the implications of the DPA for writers, researches and commissioners with a worked case study. Sub-editors were also encouraged to attend. Heads of department were asked by the managing editors to ensure journalists signed up for training. Between February and May 2009, 164 journalists attended this training, in groups of no more than 12. (Copies of the slides used in those presentations and materials handed out have been disclosed to the Inquiry). An interactive general data protection online training module had been developed in 2007/2008 for use across DMGT, which some

editorial managers and staff completed in 2008. However, it was decided that in-house lawyers should carry out face to face training for journalists in data protection law, focusing on the issues raised for journalists by the Act.

28. In March 2009 the new edition of the Editors' Codebook, the official handbook to the Editors' Code of Practice, was launched. The Code Committee examined the current provisions of the Code on DPA and the guidance notes issued, as well as the wording of the Codebook.
29. On 11 November 2009 the PCC held an in-house seminar at ANL for all journalists on a number of recent PCC cases, including *Williams v London Lite*, *Rowling v Mail on Sunday*, *Harrison v Daily Mirror*, *A Woman v OK Magazine*.
30. In June 2009 the DMGT Information Security Management Committee was set up to manage information security issues within DMGT as a whole, to which the Data Protection Committee would report.
31. On 19 October 2009 the managing editors of the Daily Mail and The Mail on Sunday wrote to all staff and freelance contributors, in conjunction with informing them of changes to the Editors' Code, to remind them of their obligations to adhere to the Editors' Code and to follow the guidance ANL had circulated on many occasions regarding compliance with the DPA. The letter reiterated "*It is your responsibility not to do anything illegal yourself, nor commission anyone else to do so, nor knowingly process information that has been obtained illegal. The use of search agencies or inquiry agents has been banned to avoid the risk of any possible contravention of the DPA. This is for your protection as breaking the law is also in breach of employment contracts. You may be aware that such breaches may soon result in possible custodial sentences*".

2010

32. An interactive training module on data protection specifically aimed at journalists was developed by senior editors, the managing editors and the legal department.

2011

33. On 16 February 2011 Will Gore, public affairs director of the PCC, held an in-house seminar in two sessions on key developments at the PCC and recent cases concerning privacy and use by journalists of social networking sites. Approximately 50 journalists attended.
34. On 15 March 2011 senior executives attended a PCC seminar meeting on the subject of privacy and the public interest. The seminar was in part given by Mick Gorrill, head of enforcement at the Information Commissioner's office.
35. On 29 April 2011 Mr Wellington wrote to all staff at The Mail on Sunday at their home addresses on the subject of subterfuge and misrepresentation and reminded staff of the provisions of clause 4 and 10 of the Editors' Code and that misrepresentation is only justified where there is a public interest and the material cannot be obtained by other means. *"It is your responsibility not to do anything illicit yourself, nor commission anyone else to do so, nor knowingly process information that has been wrongly obtained. Strict adherence to the PCC Code and regulations including the DPA is, of course, a condition of employment here"*.