

<p>1 Wednesday, 14 December 2011 2 (10.00 am) 3 Housekeeping 4 LORD JUSTICE LEVESON: Yes, Mr Sherborne? 5 MR SHERBORNE: Sorry, sir, I was waiting before you said 6 good morning to everyone. There's one matter I wanted 7 to raise and I didn't want to interrupt -- 8 LORD JUSTICE LEVESON: There's a matter which I want to 9 raise too, but you might as well go first. 10 MR SHERBORNE: I'm very grateful. The matter I want to 11 raise relates to Milly Dowler and the storm of 12 misreporting which has followed the Met Police statement 13 on Monday, despite sir as you will recall the fact that 14 Mr Garnham that said the investigations of the 15 Metropolitan Police were still ongoing and far from 16 complete. Your Lordship said that there would need to 17 be a proper investigation. Of course there is the 18 evidence and Inquiry in this room and there is the 19 extraordinary reporting outside. 20 At 5.15 yesterday, Mr Mark Lewis received 21 a telephone call from a journalist who identified 22 himself as a reporter on the Daily Mail Hardcastle 23 column, and this journalist asked Mr Lewis whether, and 24 I quote: 25 "In view of these revelations, will the Dowlers be</p> <p style="text-align: center;">Page 1</p>	<p>1 In one sense, in one sense only, I recognise that 2 precisely what happened may not ultimately drive the 3 issues that I have to consider within my terms of 4 reference. However, I do entirely understand the 5 significance of the issue, and I recognise that it is 6 likely to be in the public interest that this be 7 resolved in an orderly manner rather than by cross 8 articles. By that I'm not talking about the temper; I'm 9 talking about the interplay of articles between 10 different journals and periodicals. 11 So what I don't want to do is to use the time that 12 I have further to stoke the fire. I want to do this in 13 an orderly fashion. 14 MR SHERBORNE: Sir, I understand that. Of course, it's very 15 important. There are two things I would say. I'm not 16 intending to stoke the fires of reporting, but it's very 17 important not to lose sight of the fact that, firstly, 18 the accessing of Milly's voicemails by the 19 News of the World is not in dispute. It was admitted, 20 and it is an outrage. But secondly, it is not the only 21 reason why this Inquiry is being heard into the 22 practices, culture and ethics of the press. 23 LORD JUSTICE LEVESON: Oh, Mr Sherborne, if anybody had any 24 doubt about that, I anticipate that the last month has 25 dispelled that doubt.</p> <p style="text-align: center;">Page 3</p>
<p>1 giving their money back?" 2 Mr Lewis's reaction was understandably to question 3 the moral compass of this journalist, although maybe not 4 in those precise words, and one can understand his 5 reaction, not just because of what the Dowlers must be 6 going through at the moment, but also because it ignores 7 the evidence which we do know despite the Metropolitan 8 Police statement asking questions about who precisely 9 caused the deletions which led to the false moment of -- 10 LORD JUSTICE LEVESON: Mr Sherborne, I'm going to cut you 11 off because the topic you've raised is the topic that 12 I was going to raise, and I don't particularly want to 13 add further to the reporting on the reporting on the 14 reporting before I get to grips with what actually has 15 happened. 16 So I said when Mr Garnham spoke earlier this week 17 that I would want to return to the topic, and I do, and 18 what I want to say is this: I want to know next week, 19 before we break for Christmas, precisely what is 20 proposed should come before the Inquiry, and that 21 requires a consideration on the part of the Metropolitan 22 Police. It also requires consideration by the Guardian, 23 and I'm very happy to consider also the reflections that 24 you want to make and those, if any, that 25 Mr Rhodri Davies wants to make as well.</p> <p style="text-align: center;">Page 2</p>	<p>1 MR SHERBORNE: Finally can I say this, and I should as 2 a matter of fairness report this, that the Press 3 Complaints Commission do do some things right, and it's 4 fair that in this room I say that, because they did ring 5 the Dowlers to see if there was anything they could do 6 to help and this matter relating to the approach from 7 the Daily Mail has been reported to them. 8 I know that the editor of the Daily Mail and his 9 team are busy toiling away on the witness statements 10 that we asked for three weeks ago in relation to the 11 plummy-voiced executive, but perhaps they can also look 12 into why one of their journalists telephoned Mr Lewis 13 and put that question to him yesterday. 14 LORD JUSTICE LEVESON: Well, thank you. I'm sure that the 15 representatives of the Mail will read the transcript, 16 assuming that the transcript works, which it presently 17 isn't. Or at least mine isn't. 18 MR SHERBORNE: Sir, I don't think anybody's is. I can 19 repeat it to Mr Caplan, perhaps privately, when he 20 arrives. 21 LORD JUSTICE LEVESON: Which would have been a perfectly 22 appropriate approach in any event. 23 MR SHERBORNE: It would, sir. 24 LORD JUSTICE LEVESON: Right. Mr Rhodri Davies? 25 MR DAVIES: Can I just say something which may be connected</p> <p style="text-align: center;">Page 4</p>

<p>1 but brief. I'm not going to make any statement about 2 this now except to say that, of course, the last thing 3 we wish to do is to cause any additional pain or 4 distress to the Dowler family. At the same time, we do 5 think that it is important to be accurate about what 6 happened.</p> <p>7 In that regard, there's one thing I think I could 8 usefully raise. It seems to us that there are three 9 sources of information, documentary information on this. 10 There is the papers from the Surrey Police, which we 11 have and which we can provide to the Inquiry, or they 12 can, very shortly. Secondly, there are a couple of 13 entries in Mr Whittamore's notebooks which the Inquiry 14 has and the core participants have the spreadsheets. 15 But lastly, there is, and Mr Garnham referred to this 16 I think on Monday, an entry in Mr Mulcaire's notebook. 17 At the moment we haven't seen that. I don't know 18 whether the Inquiry has. Mr Garnham understandably 19 takes the view that he can't volunteer that to anyone, 20 but it would assist us, and therefore the Inquiry, we 21 think, in getting to the bottom of this, if the Inquiry 22 might make a request to the police that that should be 23 provided.</p> <p>24 LORD JUSTICE LEVESON: Yes. I understand, thank you. 25 Mr Garnham, I think this is largely going to come</p> <p style="text-align: center;">Page 5</p>	<p>1 gives me to obtain it, and I will worry about redactions 2 and protections later.</p> <p>3 MR GARNHAM: Thank you, sir.</p> <p>4 LORD JUSTICE LEVESON: Mr Jay, just before you start with 5 Mr Crone -- no, no, I was going to speak to you. Is 6 there anything that I've said there that causes you any 7 concern that I'm straying beyond that which I should be 8 doing?</p> <p>9 MR JAY: Sir, no.</p> <p>10 LORD JUSTICE LEVESON: Thank you. Right. Mr Crone, I'm 11 sorry that we've kept you.</p> <p style="text-align: center;">MR THOMAS GERALD CRONE (on former oath) Questions by MR JAY</p> <p>14 MR JAY: Mr Crone, may I pick up one question from 15 yesterday. May I invite your attention, please, to 16 file 3, which I'm calling sort of the generic file, 17 under tab 3, the Select Committee's report published on 18 9 February 2010, paragraphs 55 and 56 at page 23 on the 19 internal numbering at the top right-hand side.</p> <p>20 A. Yes.</p> <p>21 Q. You remember, Mr Crone, that we had a debate, if that's 22 the right word, about what you were saying to the Select 23 Committee about blackmail. Can I just draw to your 24 attention what the Select Committee said: 25 "In oral evidence to us, Tom Crone denied that</p> <p style="text-align: center;">Page 7</p>
<p>1 down to your clients.</p> <p>2 MR GARNHAM: Yes.</p> <p>3 LORD JUSTICE LEVESON: I am sure they also see the value in 4 preventing a continual dialogue of allegation, 5 counter-allegation, suggestion, inference.</p> <p>6 MR GARNHAM: We certainly do, sir.</p> <p>7 LORD JUSTICE LEVESON: It is absolutely open to you, if you 8 wish, to express a concern about the impact on your 9 ongoing investigation.</p> <p>10 My present view is that this has achieved such 11 a significance that it can't be left alone, and that 12 although obviously I don't want to prejudice any 13 investigation that's ongoing, I think doing nothing is 14 probably not an option.</p> <p>15 MR GARNHAM: Two things in response. I said what I said on 16 Monday not in order to raise an issue for debate, but 17 simply to ensure that the Inquiry was not being misled 18 by comment and absence of comment on the story.</p> <p>19 But secondly, we are already in the process of 20 starting to put together something to provide to you, 21 sir, that we hope will be as comprehensive an analysis 22 of the background to this as we can provide.</p> <p>23 LORD JUSTICE LEVESON: Thank you very much. If there is any 24 material that I ought to be getting, then I am perfectly 25 prepared to use the considerable authority that the act</p> <p style="text-align: center;">Page 6</p>	<p>1 Mr Thurlbeck's behaviour could constitute blackmail or 2 that Mr Justice Eady considered that it may amount to 3 such."</p> <p>4 And then footnote 58 is the answer we were looking 5 at yesterday. The Select Committee say: 6 "Having examined the judgment, we cannot agree." 7 Would you like to comment on that?</p> <p>8 A. Sorry, I'm just reading -- 58?</p> <p>9 Q. 55.</p> <p>10 A. Yes. Didn't you refer to 58 as well?</p> <p>11 Q. Footnote 58.</p> <p>12 A. Oh, I see. I beg your pardon.</p> <p>13 No, I'm aware of their conclusion. I'm aware of 14 their conclusion.</p> <p>15 Q. Then they continue, paragraph 56: 16 "A culture in which the threats made to women A and 17 B could be seen as defensible is to be deplored. The 18 fact that News of the World executives still do not 19 fully accept the inappropriateness of what took place is 20 extremely worrying." 21 I'm afraid, Mr Crone, that they are bracketing you 22 within the category of News of the World executives.</p> <p>23 A. Yes, they are.</p> <p>24 Q. Does that not trouble you at all?</p> <p>25 A. Yes, I think it does.</p> <p style="text-align: center;">Page 8</p>

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<p>1 Q. Are you going to change your evidence on this issue or 2 do you stick to it?</p> <p>3 A. I think the evidence I gave yesterday is the correct 4 evidence.</p> <p>5 Q. It follows from that that you are still unrepentant, is 6 that not right?</p> <p>7 A. No, I think that what I said yesterday was pretty close 8 to agreeing with the conclusion which the CMS committee 9 came to.</p> <p>10 Q. May I pick up, please, where we left off yesterday 11 evening. Where we were yesterday evening, so that we 12 have our temporal bearings, as it were, is that we have 13 the application made under Part 8, the third-party 14 disclosure in the Gordon Taylor litigation. It's made 15 in January 2008, and you were sent the MPS third-party 16 disclosure which was made to the claimant, Mr Taylor, in 17 April 2008, and it's at that point of course that you 18 saw various materials, including an email, since 19 described as the "for Neville" email but not no doubt 20 described in those terms by you at the time. That's 21 right, isn't it?</p> <p>22 A. Yes.</p> <p>23 Q. At that time did you make enquiries of reporters still 24 at News International as to whether the matters 25 contained in or suggested by the email were true?</p> <p style="text-align: center;">Page 9</p>	<p>1 generic file 3 under tab 7, Mr Crone.</p> <p>2 LORD JUSTICE LEVESON: I ought to explain that I have 3 a problem, that my file 3 is not tabulated. Is there 4 a page number?</p> <p>5 MR JAY: It's going to be a nightmare for you if it isn't 6 tabulated.</p> <p>7 LORD JUSTICE LEVESON: Is there a cross-referencing number? 8 No. Why does the law seem incapable of ensuring that 9 everybody has the same bundle? Or more particularly why 10 the judge never has the bundle that everybody else has.</p> <p>11 MR JAY: The only important person doesn't have the right 12 bundle. Let's see what we can do because you're not 13 going to be able to navigate your way through that 14 bundle unless we -- I could probably --</p> <p>15 LORD JUSTICE LEVESON: No, no. But yours doesn't have the 16 unique reference numbers on?</p> <p>17 MR JAY: No. I'll be able to find it quite quickly, 18 I think.</p> <p>19 LORD JUSTICE LEVESON: The trouble is none of these have 20 tabs on. None of the Crone bundles.</p> <p>21 MR JAY: Just bear with me a moment, Mr Crone. Does yours 22 have tabs?</p> <p>23 A. Yes. If this is the only document, I have a copy 24 myself, so I could pass --</p> <p>25 LORD JUSTICE LEVESON: No, no, no, don't.</p> <p style="text-align: center;">Page 11</p>
<p>1 A. Certainly between receipt of the -- between sight of the 2 email and speaking to Mr Myler, which was several weeks 3 later, I did.</p> <p>4 Q. I'm not going to ask precisely who you spoke to, but 5 approximately how many reporters did you speak to?</p> <p>6 A. Four. Oh, that's precise.</p> <p>7 Q. Are you able to tell us what they said? In very general 8 terms.</p> <p>9 A. There was a certain amount of confusion, I have to say, 10 from one of them in particular, but he later came back 11 and gave me a slightly different account from the first 12 one he gave me, which actually made more sense because 13 the original account from this person was that it was 14 a project which had emanated from Mr Miskiw, who was 15 then, I think, based in Manchester, and it was all 16 driven by him and he knew --</p> <p>17 Q. I think you're probably going too far, Mr Crone. I'm 18 going to stop you there.</p> <p>19 A. Okay.</p> <p>20 Q. The question was intending to get a more general answer.</p> <p>21 A. The general answer would be that all four of them 22 certainly ended up denying knowledge of the email.</p> <p>23 Q. Thank you. You provided a briefing note to Mr Myler, 24 I think. We've had a look at this within the Select 25 Committee disclosure. You'll find this again in the</p> <p style="text-align: center;">Page 10</p>	<p>1 MR SHERBORNE: While Mr Jay is doing that, can I just check 2 that none of the core participants other than 3 News International have the bundles that you're 4 referring to? Oh, I'm told News International don't 5 have the bundle either. Sorry, Mr Davies and I are 6 having a sotto voce conversation. As I understand it, 7 simply the Inquiry and, sir, you have the bundles, and 8 the witness, obviously.</p> <p>9 LORD JUSTICE LEVESON: I think the bundle is merely 10 a collection of material put together that is otherwise 11 in the --</p> <p>12 MR SHERBORNE: I'm not sure that is correct. I think that's 13 largely correct, but as I understand it, it's not 14 entirely correct.</p> <p>15 MR JAY: I understand that an index was provided.</p> <p>16 MR SHERBORNE: We did receive an index yesterday afternoon 17 after Mr Crone's evidence.</p> <p>18 MR JAY: Okay, well.</p> <p>19 LORD JUSTICE LEVESON: We'll look at that, thank you.</p> <p>20 MR JAY: It's the bundle which may look like this.</p> <p>21 LORD JUSTICE LEVESON: I have it. And this one does have 22 tabs. Right. I made the mistake of thinking that it 23 was Mr Crone file (iii), because that's what you said it 24 was.</p> <p>25 MR JAY: I said the generic one.</p> <p style="text-align: center;">Page 12</p>

<p>1 LORD JUSTICE LEVESON: Right. I now have it. Thank you 2 very much. 3 MR JAY: It's JCP2. 4 LORD JUSTICE LEVESON: Yes, I have it. 5 MR JAY: Which is your briefing note, is this right, which 6 was sent to Mr Myler, I know from other evidence, on 7 24 May 2008; is that correct? 8 A. Yes, that is correct. 9 Q. You were obviously bringing him up to date. The 10 background in paragraph 4, you say that: 11 "Taylor served a fully pleaded claim on us, which 12 did not seem to be supported by any evidence, and we 13 filed a defence denying any involvement in accessing or 14 making any use of information from voicemails." 15 Do you see that? 16 A. Yes. 17 Q. And then paragraph 5, you refer to the Part 8 18 application and then in 6 you begin to refer to the 19 various information which was obtained. First of all, 20 there was an agreement, February 2005. Secondly, in 21 paragraph 7, there's the Information Commissioner's 22 material obtained pursuant to Operation Motorman. And 23 then there is reference to -- sorry, it's the end of 24 paragraph 6 -- the email with the voicemail 25 transcriptions. Is that right?</p> <p style="text-align: center;">Page 13</p>	<p>1 a problem because I'm supposed to be on holiday, but 2 I can come in. He said, "Don't do that, give me a note, 3 make it as concise as possible, keep absolutely 4 factually concise, but set out everything that, you 5 know, you think should be in there". 6 And if you look at the email I sent to Colin Myler, 7 which is the covering email, I say: 8 "There it is, Colin, as concise as I could do it. 9 Julian is getting a copy." 10 Q. Was it your intention or belief that this briefing note 11 would be passed on to someone else, beyond Mr Myler? 12 A. I was certainly happy and envisaged that it could be 13 passed to James Murdoch. 14 Q. Wasn't it at least relevant that your enquiries had 15 apparently demonstrated that the journalists were 16 denying any involvement? 17 A. Yes, it was relevant, because it was something 18 I imagined would come up during our meeting. Well, 19 whenever I was attending a meeting. 20 Q. But your note says at paragraph 10: 21 "Recognising the inevitable, I authorised our 22 solicitors, Farrers, to make a formal offer." 23 So whatever the journalists were apparently saying, 24 you were bashing ahead with a settlement on the basis 25 that the continued defence of the claim was really</p> <p style="text-align: center;">Page 15</p>
<p>1 A. Yes. 2 Q. Did you set out in this briefing note, indeed we see 3 that you didn't, the result of your discussions with the 4 four journalists? 5 A. No. 6 Q. Why not? 7 A. I was -- well, it's headed "Background, current 8 position, where we go". I thought that those 9 conversations would be more appropriate to talk about 10 rather than set out. 11 Q. But this is a strictly private and confidential and 12 legally privileged note. Your expectation was that it 13 would never see the broader light of day; that's right, 14 isn't it? 15 A. Well, the provenance -- if that's the right word -- the 16 provenance of the note is that this was a Saturday, my 17 last Saturday before going off on a week's holiday. 18 I had, I think, made Mr Myler aware of the documents 19 that had come in during the previous week. He and 20 I discussed them and he decided this had to be brought 21 to the attention of James Murdoch, who was the chief 22 executive, with a view to settling the case, which was 23 the recommendation from the lawyers, including me. 24 He then said that James could see us the following 25 Tuesday. I said that's going to be a little bit of</p> <p style="text-align: center;">Page 14</p>	<p>1 untenable, isn't that correct? 2 A. That's exactly what the note sets out. 3 Q. Yes. Are you sure that there were these conversations 4 with the journalists? 5 A. Yes. 6 Q. Are we to infer that you were not placing much weight on 7 what they were saying? 8 A. Well, they were all denying it. The note -- the email 9 spoke for itself without any doubt at all, and it meant 10 what I have set out in the briefing note. 11 Q. But are we to infer that you weren't placing much weight 12 on what the journalists were saying? 13 A. No, I don't think that's necessarily fair. The fact 14 that they were denying it was relevant, but I just 15 didn't put it in the note. 16 Q. Of course, the offer to Mr Taylor of 150,000 was made at 17 that stage without leading counsel's advice, wasn't it? 18 A. Yes. I think so. 19 Q. And it was beyond the level of your authority, wasn't 20 it? 21 A. I'm not sure whether counsel had -- whether I'd been 22 told by Julian Pike that that had all been discussed, 23 I can't remember that. But it certainly was with my 24 authority, yes. 25 Q. Sorry, it was within or without?</p> <p style="text-align: center;">Page 16</p>

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<p>1 A. Oh, did you ask whether it was within my authority? 2 Q. The question was: it was outside your authority, wasn't 3 it? 4 A. My authority -- and there's a bit of confusion about 5 this, I think. My authority in requisitioning cheques 6 goes up to £5,000 without a countersignature. If I need 7 a cheque -- or if I needed a cheque above £5,000, I had 8 to have it countersigned by my line manager in senior 9 management. 10 Q. I understand that. 11 A. I settled cases over 20-something years, usually for 12 more than £5,000, and it wasn't something that I would 13 go off and necessarily seek authority in advance for, 14 although normally I would have discussed with the editor 15 before making offers like that. 16 In this instance, I can't remember whether 17 I discussed it with Mr Myler, but it was certainly 18 discussed in detail with Farrers, and I think counsel 19 was on hand at all times. If not senior counsel, then 20 junior counsel. 21 Q. Mr Crone, the position is that leading counsel didn't 22 advise until 3 June, did he? 23 A. Didn't advise in writing, no. 24 Q. Are you saying, and we certainly don't see it in this 25 briefing note, that you'd had some sort of steer from</p> <p style="text-align: center;">Page 17</p>	<p>1 certainly were going to occur. There was a question 2 mark over exemplaries, but I think the prevailing view 3 from the outside was that he would succeed on those. 4 Q. The engine behind all of this was, was it not, 5 a desperate attempt to settle this case virtually on any 6 terms, wasn't it, Mr Crone? 7 A. I don't think any terms, no. But we wanted to settle 8 it. 9 Q. Virtually on any terms. You weren't going to pay -- 10 A. I think if he'd said -- if he had stuck to, which 11 I don't think he'd identified the figure at this stage, 12 but if he'd stuck to a million pounds, I don't think 13 he'd have got that. No. In fact, I'm sure he wouldn't. 14 Q. You get leading counsel's opinion on 3 June. It's 15 JCB20. We of course read it carefully before. 16 Presumably when this opinion was received, we know you 17 were back from holiday, you read it carefully, didn't 18 you? 19 A. I certainly read it, yes. More than once, probably. 20 Q. Did any part of the opinion cause you any concern when 21 you read it? Either the first time or the second? 22 A. The bit I highlighted most, I think, or most 23 emphatically, was the -- there's a reference to 24 a powerful case -- paragraph 6, I think. 25 Q. Mm. He's telling you pretty firmly that the defendant</p> <p style="text-align: center;">Page 19</p>
<p>1 counsel as to the value of the claim? 2 A. No. There's nothing in there. 3 Q. Are you saying that the offer of £150,000 was within or 4 without your authority? 5 A. I don't know the answer to that, but it certainly 6 wouldn't have been the first time -- that's probably 7 pretty high, but I'd been over 100 a few times and 8 no one had ever said to me afterwards, "You didn't have 9 authority to do that", internally. 10 Q. That's right. That rather suggests you didn't know what 11 the level of your authority was, did you? 12 A. It was a pretty grey area, yes. 13 Q. "Where we go", paragraph 11: 14 "Our position is very perilous." 15 Paragraph 12: 16 "We will be getting guidance from a senior QC next 17 week about our next step." 18 You say towards the end of paragraph 12: 19 "He is claiming both ordinary damages and exemplary 20 damages and will succeed on both claims." 21 That was your firm view, wasn't it? 22 A. That arose from discussions with the outside lawyers. 23 Q. That arose from discussions with outside lawyers? 24 A. With the outside lawyers. I might have put that quite 25 strongly, but we certainly discussed -- ordinary damages</p> <p style="text-align: center;">Page 18</p>	<p>1 is going to lose, but it's the sentence more or less in 2 the middle of paragraph 6: 3 "In addition, there is substantial surrounding 4 material about the extent of NGN journalists' attempts 5 to obtain access to information illegally in relation to 6 other individuals. In the light of these facts, there 7 is a powerful case that there is or was a culture of 8 illegal information access used at NGN in order to 9 produce stories for publication." 10 What was your reaction to that when you read it? 11 A. I discussed that paragraph with Julian Pike on the basis 12 that I was interested to know exactly what Mr Silverleaf 13 felt justified those quite strong statements, and 14 I probably speculated that what he's really looking at 15 there, and the sentence before the one you read out, is 16 the material that had been disclosed to us coming out of 17 the Operation Motorman. 18 Q. But you knew all about that anyway, didn't you? 19 A. I think the first time I knew of things referred to 20 there was during that -- was from that disclosure. 21 Q. But Operation Motorman was fully -- just wait for the 22 question, Mr Crone -- was fully set out in two reports 23 in 2006, and here we are in June 2007 -- 24 A. No, not to this extent. Who? Who? Names of 25 journalists.</p> <p style="text-align: center;">Page 20</p>

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<p>1 Q. Paragraph --</p> <p>2 A. "... overwhelming evidence of the involvement of</p> <p>3 a number of senior NGN journalists."</p> <p>4 Q. Paragraph 3 of Mr Silverleaf's opinion doesn't name</p> <p>5 journalists in the context of Operation Motorman?</p> <p>6 A. No.</p> <p>7 Q. Nor did the Information Commissioner's reports, did</p> <p>8 they?</p> <p>9 A. No, I didn't say it did. But he refers to "senior NGN</p> <p>10 journalists". That doesn't come out of the "for</p> <p>11 Neville" email nor the other document relating to the</p> <p>12 Gordon Taylor case. That could only have come out of</p> <p>13 the Operation Motorman documents.</p> <p>14 Q. Mr Crone, that simply isn't right. There is no</p> <p>15 reference in the Operation Motorman reports to the</p> <p>16 identity of journalists at any newspaper --</p> <p>17 A. But there were in the documents. There most certainly</p> <p>18 were.</p> <p>19 Q. You hadn't seen --</p> <p>20 A. There was a table, a league table of names, how many</p> <p>21 times used -- Whittamore used them --</p> <p>22 Q. Mr Crone, we've studied the table very, very carefully.</p> <p>23 It's in the second report. Although we have a number of</p> <p>24 journalists for each title, the journalists are not</p> <p>25 named, are they?</p> <p style="text-align: center;">Page 21</p>	<p>1 A. Correct, but that's a different source of information.</p> <p>2 The strongest comments were in paragraph 6, as far as</p> <p>3 I was concerned, and that seemed to me to relate to --</p> <p>4 for the most part, to Motorman rather than to the Taylor</p> <p>5 documents. I mean the relevant Taylor documents. And</p> <p>6 I think what I was suggesting to Julian Pike was that</p> <p>7 actually, you know, our position in the Gordon Taylor</p> <p>8 litigation was not necessarily going to be dictated by</p> <p>9 Operation Motorman documents because, strictly speaking,</p> <p>10 we thought they weren't directly relevant --</p> <p>11 LORD JUSTICE LEVESON: I'm sorry, Mr Jay. Could I see,</p> <p>12 please, an unredacted copy of this opinion?</p> <p>13 MR JAY: We don't have one, but we can ask for one.</p> <p>14 LORD JUSTICE LEVESON: Oh, I thought it had been redacted</p> <p>15 purely for the purposes of protecting an investigation.</p> <p>16 MR JAY: It had been redacted by News International, or</p> <p>17 rather Mr Pike, in the bundle of documents he supplied</p> <p>18 to the Select Committee.</p> <p>19 LORD JUSTICE LEVESON: I see. The reason it's relevant is</p> <p>20 because it may go to Mr Crone's evidence just now. What</p> <p>21 it presently reads is:</p> <p>22 "There is overwhelming evidence of the involvement</p> <p>23 of a number of senior NGN journalists in the illegal</p> <p>24 enquiries into [blank]."</p> <p>25 Now, what is that blank may actually determine</p> <p style="text-align: center;">Page 23</p>
<p>1 A. Well, I've seen something where they're all named and it</p> <p>2 came out of the disclosure. But that was my</p> <p>3 understanding, anyway. I'd got it at that time from</p> <p>4 that source via Farrers, so it must have come out of</p> <p>5 that disclosure.</p> <p>6 Q. I'm a bit confused, Mr Crone. The disclosure which the</p> <p>7 police provided, are you saying that that contained</p> <p>8 names of journalists?</p> <p>9 A. I saw the document. It either came -- all right, let</p> <p>10 me -- it must have come out of that. Yes, it did. It</p> <p>11 came out of the Operation Motorman disclosure. I can't</p> <p>12 imagine where else it could possibly have come from.</p> <p>13 It was a document which had obviously been prepared</p> <p>14 as part of the Information Commissioner's prosecution,</p> <p>15 I think it was his prosecution, of Whittamore. And that</p> <p>16 is why -- and that was sent to Mr Silverleaf, I'm almost</p> <p>17 certain, although I didn't look at the exact briefing,</p> <p>18 the exact instructions he was sent. That is why he's</p> <p>19 referring, as I've said, to specific things that didn't</p> <p>20 come out of the other two documents.</p> <p>21 Q. But of course, in paragraph 3, the reference to "three</p> <p>22 NGN journalists" is a reference to the journalists who,</p> <p>23 as leading counsel says, "appear to have been intimately</p> <p>24 involved in Mr Mulcaire's illegal researching into</p> <p>25 Mr Taylor's affairs". That's correct, isn't it?</p> <p style="text-align: center;">Page 22</p>	<p>1 whether this could possibly be a reference to Motorman.</p> <p>2 MR JAY: May I assist in the way in which I've read it?</p> <p>3 LORD JUSTICE LEVESON: No, because actually he then goes on</p> <p>4 to deal with Motorman and doesn't talk about senior</p> <p>5 journalists but just journalists' attempts to obtain</p> <p>6 access to information illegally in relation to other</p> <p>7 individuals. So I read it as you read it, but there is</p> <p>8 a definitive answer. You will have to move on but</p> <p>9 Mr Rhodri Davies, would you consider that, please? I'm</p> <p>10 not seeking to put anything into the public domain. I'm</p> <p>11 merely wanting to ensure that I correctly understand</p> <p>12 Mr Crone's evidence and that Mr Crone has had an</p> <p>13 opportunity to deal fairly with the point that's being</p> <p>14 made.</p> <p>15 MR DAVIES: It may be that if I have 60 seconds, I can help.</p> <p>16 LORD JUSTICE LEVESON: Then I'm happy to wait 60 seconds.</p> <p>17 Or even a few seconds longer. (Pause)</p> <p>18 MR DAVIES: I think I can help to this extent. After the</p> <p>19 words "the illegal enquiries into", there are names of</p> <p>20 two people. Two individuals. They have been redacted,</p> <p>21 we think, for privacy reasons, particularly in relation</p> <p>22 to one. I'd be reluctant to go any further than that.</p> <p>23 LORD JUSTICE LEVESON: I don't ask you to go any further.</p> <p>24 But what I would be interested to know is whether that</p> <p>25 is Mulcaire-linked or Motorman-linked.</p> <p style="text-align: center;">Page 24</p>

<p>1 MR DAVIES: Yes. I can't answer that. It may be that we 2 can answer that, but I can't answer it now. 3 LORD JUSTICE LEVESON: You can't answer in the time that you 4 asked for? 5 MR DAVIES: Yes. 6 LORD JUSTICE LEVESON: I would like the answer at some 7 stage. I don't seek to invade the privacy of the people 8 whose names you've redacted, but I'm sure you recognise 9 the importance of the point. 10 MR DAVIES: Yes. 11 LORD JUSTICE LEVESON: Thank you. Right. 12 MR JAY: I'm still on the point, Mr Crone, of culture of 13 illegal information access, a matter you were confronted 14 with through leading counsel's advice on 3 June 2008. 15 You say there was discussion about that with Mr Pike. 16 Was there discussion about that with the editor, 17 Mr Myler? 18 A. I certainly discussed counsel's opinion with him. 19 Q. Again, the question was a bit more precise. Was there 20 a discussion about the reference to a culture of illegal 21 information access? 22 A. To the best of my recollection, and it is just my 23 recollection, which is clearly fallible, I highlighted 24 the paragraphs which I thought were strongest and most 25 relevant in this opinion, and left -- and brought a copy</p> <p style="text-align: center;">Page 25</p>	<p>1 that primarily on what came out of Operation Motorman. 2 LORD JUSTICE LEVESON: It can't have been helped by what you 3 were learning about what had happened in relation to -- 4 A. No, I agree entirely, which is dealt with, I think, in 5 paragraph 3. Yes. But I don't think the documents most 6 relevant to the Taylor litigation, which is the ones 7 I referred to in my briefing note, the email plus the 8 short holding contract, I don't think they justify what 9 counsel says in paragraph 6, because they -- if you look 10 at who could possibly be linked to the email in 11 particular, and the other one, you are talking about 12 probably three/four journalists. 13 LORD JUSTICE LEVESON: And they'd given you answers which 14 you at least were not prepared to accept at face value? 15 A. That's probably right, yes. 16 LORD JUSTICE LEVESON: I put the question quite carefully. 17 MR JAY: If the Operation Motorman material was so 18 important, you'd had all that material in 2006. The 19 journalists weren't named individually, but you didn't 20 need to know the names for the purpose of identifying 21 a culture, and we know, don't we, that you denied 22 liability in the defence, didn't you? 23 A. Um ... in relation to? To Taylor? 24 Q. Yes. 25 A. Yes, in relation to the Taylor documents, we didn't have</p> <p style="text-align: center;">Page 27</p>
<p>1 up or sent my secretary up with a copy for Mr Myler, so 2 that if he didn't want to read the whole thing, at least 3 he would read the bits I highlighted, and then 4 I followed that up some time later by going up and 5 talking to him about it. 6 LORD JUSTICE LEVESON: Let's be blunt, Mr Crone. If this is 7 the paragraph that hit you hardest -- 8 A. There were probably a couple of others. 9 LORD JUSTICE LEVESON: Yes. Then it's absolutely inevitable 10 that that would be the paragraph you'd want to discuss 11 with the editor, isn't it? 12 A. That and the other ones, yes. But I wouldn't 13 necessarily have to go through every single paragraph. 14 I would have a conversation with him about what 15 I thought was important. 16 MR JAY: You see what I was leading up to. Surely, 17 confronted with this opinion, you had a discussion with 18 Mr Myler along the lines, "Look, this is what leading 19 counsel is saying: there is a culture or was a culture 20 of illegal information access within our company"; would 21 you agree with that? 22 A. Yes. But Motorman was 2001 to 2002, I think, wasn't it, 23 which was a long time before this. But I thought that 24 was -- my understanding from counsel, which I think was 25 shared by Julian Pike, was that he was clearly basing</p> <p style="text-align: center;">Page 26</p>	<p>1 any direct evidence that there was NGN involvement. 2 Q. I don't think you're seeing the point, Mr Crone, that if 3 the Motorman material was going to be or had the 4 importance which you say leading counsel took into 5 account on 3 June 2008, well, that material was all in 6 the public domain at the time your defence was filed, 7 wasn't it? 8 A. I'm referring to the material that came out of the 9 disclosure in relation to Motorman. I'm going back to 10 that, I'm afraid -- 11 Q. Going back to that point -- 12 A. -- which you clearly haven't seen. 13 Q. Let's assume for the purposes of argument, which 14 I frankly would not accept, that the Operation Motorman 15 material yielded by the disclosure gave the names of 16 journalists. That did not make any difference, did it, 17 to the question either of culture or to the issues 18 directly germane to the Taylor litigation; would you 19 agree with that? 20 A. Yes, because the -- no, I wouldn't, because the Motorman 21 material threw a very wide net against named 22 journalists. You haven't seen it, but there is 23 a document, albeit four or five years before. Whereas 24 the Taylor material threw a net which covered three or 25 four people.</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 Q. I'm really not following that. First of all, the</p> <p>2 Motorman material I would suggest to you, at least the</p> <p>3 Motorman material in the possession of the police,</p> <p>4 didn't contain anything about named journalists, since</p> <p>5 we are looking at the Motorman which after all was all</p> <p>6 about data protection, aren't we?</p> <p>7 A. Yes, and who used Whittamore's services.</p> <p>8 Q. But the police didn't know that, did they?</p> <p>9 A. Yes, they did. I haven't invented this document. There</p> <p>10 is a document. You haven't got it and that is a</p> <p>11 problem --</p> <p>12 LORD JUSTICE LEVESON: We actually have seen the whole</p> <p>13 thing, Mr Crone. We've actually seen the complete</p> <p>14 Motorman files. So we do know names and we do know</p> <p>15 targets and we do know everything. It's not in the</p> <p>16 public domain for privacy reasons.</p> <p>17 A. Mm.</p> <p>18 LORD JUSTICE LEVESON: But the point that Mr Jay is making</p> <p>19 is the fact that Motorman identified X hundred</p> <p>20 journalists was a fact which had been known since "What</p> <p>21 price privacy?". The precise names didn't matter. What</p> <p>22 he was saying was the overwhelming number of invasions</p> <p>23 of privacy that he saw must have been or would have been</p> <p>24 unlawful. What Mr Jay is trying to get at, I think, is</p> <p>25 to say that actually whether it's A, B, C, D, E, F</p> <p style="text-align: center;">Page 29</p>	<p>1 Mr Rhodri Davies, that actually to put names to it is an</p> <p>2 extra detail, but it might be considered to be a frill.</p> <p>3 MR DAVIES: I understand.</p> <p>4 LORD JUSTICE LEVESON: I understand the point, and if there</p> <p>5 is a difference, then it may be we shall obtain it. We</p> <p>6 shall ask for the relevant document. But I don't</p> <p>7 suppose it's the document we've all seen, which is</p> <p>8 everything.</p> <p>9 MR DAVIES: No, I'm sure not.</p> <p>10 MR JAY: Again, if one looks at what leading counsel is</p> <p>11 saying --</p> <p>12 A. Which paragraph?</p> <p>13 Q. 3. Four lines down:</p> <p>14 "In January this year, Mr Taylor obtained orders</p> <p>15 against the police and the Information Commissioner for</p> <p>16 disclosure of information relating to the accessing of</p> <p>17 his voicemail messages."</p> <p>18 So the information or the request for information</p> <p>19 had to be targeted.</p> <p>20 Then Mr Silverleaf deals with the fruits of that</p> <p>21 application for third-party disclosure. First of all he</p> <p>22 deals with the information obtained from the police, do</p> <p>23 you see that? It's a sentence I've read out already:</p> <p>24 "The material obtained from the police has disclosed</p> <p>25 that at least three journalists appear to have been</p> <p style="text-align: center;">Page 31</p>
<p>1 doesn't really matter if it's the number that the report</p> <p>2 identified.</p> <p>3 A. Well, perhaps we are kind of crossing paths here a bit.</p> <p>4 I'm looking at paragraph 6 of leading counsel's written</p> <p>5 opinion and there are references in there that I think</p> <p>6 have to be -- and this is the -- it all started with</p> <p>7 a conversation I had with Julian Pike, I'm sorry, and</p> <p>8 this is what it was about. The references in there</p> <p>9 I think have to come from the document which you don't</p> <p>10 seem to have.</p> <p>11 MR DAVIES: Could I just draw attention to the fact that</p> <p>12 paragraph 3 of Mr Silverleaf's opinion he says is that</p> <p>13 Mr Taylor obtained orders against the Metropolitan</p> <p>14 Police and the Information Commissioner for disclosure</p> <p>15 of information, so it looks as if Mr Taylor had</p> <p>16 information which went beyond that which was in the</p> <p>17 reports, because he made a disclosure application.</p> <p>18 LORD JUSTICE LEVESON: Yes.</p> <p>19 MR DAVIES: And that had been, I presume, disclosed to NGN.</p> <p>20 I'm afraid I can't tell the Inquiry what's in that</p> <p>21 because I don't think we've been asked to produce it,</p> <p>22 and it certainly wouldn't have been our disclosure</p> <p>23 originally, but I think one should be aware that that</p> <p>24 disclosure appears to have taken place.</p> <p>25 LORD JUSTICE LEVESON: I'm conscious of the point,</p> <p style="text-align: center;">Page 30</p>	<p>1 intimately involved with Mr Mulcaire's illegal</p> <p>2 researching into Mr Taylor's affairs."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And then he says separately:</p> <p>6 "The disclosure for the Information Commissioner</p> <p>7 comprises material obtained by the Commissioner during</p> <p>8 an inquiry called Operation Motorman into the practices</p> <p>9 of journalists described generally ..."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. "... in seeking information from inquiry agents which on</p> <p>13 the face of it required illegal access to data sources."</p> <p>14 A. Yes.</p> <p>15 Q. So there's no suggestion there that individual</p> <p>16 journalists were named, is there?</p> <p>17 A. No, there isn't.</p> <p>18 Q. Okay. Can I go back to the point as to what you told</p> <p>19 Mr Myler? I think you agreed with me that you drew to</p> <p>20 Mr Myler's attention the sentence in leading counsel's</p> <p>21 opinion which referred starkly to a culture of illegal</p> <p>22 information access; are we agreed?</p> <p>23 A. Yes.</p> <p>24 Q. Did he say he was going to do anything about that?</p> <p>25 A. Well the culture, if it comes from Motorman, occurred</p> <p style="text-align: center;">Page 32</p>

<p>1 four to five years before, and I that that was the 2 conversation we had, because Julian Pike agreed with me 3 that obviously refers to Operation Motorman. What the 4 strictly relevant Taylor documents showed was that there 5 were three or four journalists. You see, the damning 6 phrases from Mr Silverleaf, to me, are -- and this is 7 what keeps being quoted in the press: 8 "There is overwhelming evidence of the involvement 9 of a number of senior NGN journalists in the illegal 10 enquiries." 11 Right, that is Motorman. To me, anyway. 12 "In addition, there is substantial surrounding 13 material about the extent of NGN's journalists' attempts 14 to obtain access to the information illegally in 15 relation to other individuals." 16 Well, that's almost certainly Motorman. 17 Q. So he's saying Motorman twice, which doesn't make much 18 sense. If you look at the order in paragraph 3 -- just 19 wait, Mr Crone. 20 A. Sorry. 21 Q. If you look at the order in paragraph 3, Mr Silverleaf 22 deals with the Taylor documents first, then he deals 23 with Motorman. If you look at the order in paragraph 6, 24 it's true we don't have the blanked out words, but the 25 deduction I'd certainly made was that related to</p> <p style="text-align: center;">Page 33</p>	<p>1 without taking it higher, no. And I did take -- 2 I discussed it with Mr Myler. 3 Q. Did he have authority to settle a case at the level of 4 £350,000? 5 A. I don't know, but he -- as I understood it, by that time 6 he had had a discussion with James Murdoch, on 27 May, 7 and I wasn't entirely -- I can't remember, but 8 I certainly wasn't clear on whether or not he had been 9 given authority to go to a certain figure or higher, 10 higher than 150 -- 11 Q. We know from JCP7 that Mr James Murdoch's position on 12 27 May, if the note is an accurate record of it, was 13 that he wanted to wait for leading counsel's opinion. 14 Do you see that? 15 A. Before -- yes. That was the strategy, actually, to -- 16 because when I left on 24 May, the fact that we were 17 getting leading counsel's opinion was a big factor in my 18 conversations with Mr Myler. And I -- 19 Q. So there was no question of Mr James Murdoch wanting to 20 settle the case without having leading counsel's 21 opinion, which some might say is not an unreasonable 22 position to adopt. Wouldn't you agree with that? 23 A. The only information I have on that is what is in JCP7. 24 Plus my recollection is at some stage between perhaps 25 when I was on holiday, on my first day back, which would</p> <p style="text-align: center;">Page 35</p>
<p>1 Mulcaire issues, and then he deals separately with 2 Motorman. 3 LORD JUSTICE LEVESON: Well, we're going to find the answer 4 to this question out, actually, which doesn't impact on 5 the redaction. It's obviously very important and then 6 we'll be able to see it. Of course you, Mr Crone, saw 7 the document before it was redacted. 8 A. Yes. The opinion? 9 LORD JUSTICE LEVESON: Yes. 10 A. Yes. 11 LORD JUSTICE LEVESON: Right. 12 MR JAY: Okay. Confronted by this opinion, was the strategy 13 now in effect to settle this case at virtually any 14 price? 15 A. The strategy was unchanged by the opinion, but it was 16 reinforced by it, which was to settle the case. I don't 17 think, as I said before, any price was going to work, 18 but hopefully an acceptable price. 19 Q. I think the sequence of events is that following receipt 20 of that advice, a Part 36 offer was made in the sum of 21 £350,000 with an indication that a little bit more might 22 do a deal; is that right? 23 A. Yes. 24 Q. Was that within or without the level of your authority? 25 A. I would not instruct Farrers to make that sort of offer</p> <p style="text-align: center;">Page 34</p>	<p>1 have been January 3 -- sorry, June 3, Mr Myler said that 2 he'd spoken to James Murdoch and they were awaiting 3 senior counsel's opinion. 4 Q. So the offer of £350,000, although made with the benefit 5 of leading counsel's opinion, wasn't, it seems, made 6 with the benefit of any steer from Mr James Murdoch. 7 Are we agreed about that? 8 A. The only person I spoke to about it was Colin Myler. 9 Q. Did he say to you that he'd obtained authority to offer 10 £350,000? 11 A. I can't remember. I can't remember him saying that. 12 Q. And then there was a meeting on 10 June. The only 13 evidence we have about it is JCP13, which refers to the 14 meeting. It's not a note of the meeting. Mr Pike's 15 notes of a telephone conversation he had with you on 16 10 June, which probably took place shortly after the 17 meeting; is that correct? 18 A. I think so, yes. 19 Q. Can you help us, please, with the third line? Does that 20 represent what you think was the position at the end of 21 the meeting? 22 A. No, but I think Mr Myler was frustrated with Mr Taylor's 23 demands, and what Mr Myler thought was his unwillingness 24 to negotiate seriously, just to say, I think, "Give me 25 a million pounds or else", and I think what that</p> <p style="text-align: center;">Page 36</p>

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<p>1 indicates is that Mr Myler would have been happy to say, 2 "or else". 3 Q. We're dealing with Mr Myler, but I was actually asking 4 you about the third line. 5 A. The third line says "CM". 6 Q. No, the third line is: 7 "JM said he wanted to think through the option." 8 A. Oh, the first line is my name. Um ... I'm not clear 9 about what that exactly means, really. That's what 10 Mr Pike has written down as a very short indication of 11 things that were discussed, but I am pretty clear that 12 I left that meeting knowing that Mr Murdoch was prepared 13 to settle the case if necessary for a bit more than the 14 350. 15 Q. At the meeting with Mr Murdoch -- 16 LORD JUSTICE LEVESON: It suggests here that "meeting with 17 JM and CM", that suggests simply by using the word 18 "with" that you were involved, but do I gather from what 19 you're -- 20 A. I was there. 21 LORD JUSTICE LEVESON: Oh, you were at the meeting? 22 A. On June 10. 23 LORD JUSTICE LEVESON: And do you not have a file note of 24 that meeting? 25 A. No, I don't think I do.</p> <p style="text-align: center;">Page 37</p>	<p>1 page of the "for Neville" email. 2 Q. Did you take a copy of your briefing note, which we've 3 seen earlier? 4 A. Probably, yes. 5 Q. Did you supply any of those documents to Mr Murdoch? 6 A. I can't remember whether they were passed across the 7 table to him, but I'm pretty sure I held up the front 8 page of the email. 9 Q. Paragraph -- 10 A. I'm also pretty sure that he already knew about it. In 11 terms of it had been described to him already, which 12 I think the other documents that have come out suggest 13 that anyway. 14 Q. We might come to that. 15 Paragraph 6 of leading counsel's opinion, was that 16 communicated in any shape or form to Mr Murdoch? 17 A. I think it probably was, but my -- that's my 18 recollection. That's my recollection. 19 Q. It might be quite important, Mr Crone. Can I ask you to 20 think about that answer? I'm not saying you're right, 21 I'm not saying you're wrong, but I do, I think, require 22 you to do the best you can assisting the Inquiry. 23 A. Yes. What was certainly discussed was the email. Not 24 described as "for Neville", but the damning email and 25 what it meant in terms of further involvement beyond --</p> <p style="text-align: center;">Page 39</p>
<p>1 LORD JUSTICE LEVESON: Okay. 2 MR JAY: You were the only lawyer there, I think. Is that 3 correct? 4 A. That's correct. 5 Q. Because there were only three people there, so let's be 6 clear about it: the editor, the chairman and yourself? 7 That's right, isn't it? 8 A. Yes. 9 Q. Can I take it in stages? I think you told me a little 10 bit earlier that Mr Myler was supplied with a copy of 11 leading counsel's opinion; is that correct? 12 A. That's my memory. 13 Q. Do you know whether Mr Myler read it or not? 14 A. I don't know whether he read it all, but we certainly 15 discussed it some time later and he'd obviously read 16 some of it, to the best of my recollection. 17 Q. Mr Myler, you believe, had read some of that opinion; is 18 that right? 19 A. Yes. 20 Q. What documents, if any, did you take into the meeting 21 with Mr James Murdoch? 22 A. I think I certainly took a copy and possibly spare 23 copies of the opinion. I probably took the pleadings, 24 because that certainly is what I would normally do. And 25 I think I took a copy plus spare copies of the front</p> <p style="text-align: center;">Page 38</p>	<p>1 further involvement in phone hacking beyond Goodman and 2 Mulcaire. And what was relayed to Mr Murdoch was that 3 this document clearly was direct and hard evidence of 4 that being the case. At the same time, I think I must 5 have referred at some stage to Operation Motorman, 6 because that would explain the quite hard references in 7 senior counsel's opinion. 8 Q. It follows from that you must also have mentioned the 9 word "culture" in the context of illegal information 10 access? 11 A. I can't remember -- 12 MR DAVIES: Sorry. I object to that. We haven't waived 13 privilege as to the advice given at this meeting and 14 I haven't objected to questions about what documents 15 were there and such like, but once one goes in detail 16 into the discussions between Mr Crone, who was the legal 17 adviser, and the two other gentlemen present, one is, 18 I'm afraid, trespassing into privileged matters. 19 MR JAY: I think I could -- 20 LORD JUSTICE LEVESON: There's an issue about jigsaw 21 privilege here, but perhaps not for now. 22 MR JAY: No. 23 Can I ask you this, because I was dealing with the 24 information which was provided. Did you draw to 25 Mr Murdoch's attention the end of paragraph 6 of leading</p> <p style="text-align: center;">Page 40</p>

10 (Pages 37 to 40)

<p>1 counsel's opinion, namely that a public trial -- or 2 rather, "To have this paraded at a public trial would, 3 I imagine, be extremely damaging to NGN's public 4 reputation"?</p> <p>5 A. I can't remember that specifically, no, drawing that to 6 his attention.</p> <p>7 Q. But that would be so obvious it would almost go without 8 saying, wouldn't it?</p> <p>9 A. I would think so, yes. That's the way I recollect it. 10 It may have been mentioned, though. I don't remember.</p> <p>11 Q. It's almost so obvious that it goes without saying that, 12 really, this case had to be settled, I would suggest if 13 necessary at an overvalue, in order to avoid that 14 ghastly prospect, namely the parading of these matters 15 at a public trial, which would be damaging to your 16 company's reputation; is that correct?</p> <p>17 A. Yes. Reputational damage. Also the likelihood of 18 further, very expensive litigation and further 19 reputational damage arising from that, yes.</p> <p>20 Q. This might also be interpreted as a, to use a blanket 21 term, a culture of cover-up. Would you accept that?</p> <p>22 A. No, I don't think I would.</p> <p>23 Q. You don't think you would?</p> <p>24 A. It's a culture of avoiding reputational damage through 25 bad publicity, but it certainly isn't a culture of</p> <p style="text-align: center;">Page 41</p>	<p>1 lady. I think I'd already flagged that up and there's 2 documentary proof of that now. So it wasn't terribly 3 surprising when he mentioned it. I don't think my 4 demeanour changed in the slightest. I'm not sure I got 5 up and left at that stage, but I had to go anyway 6 shortly afterwards, and I left. I don't think the 7 demeanour changed.</p> <p>8 Q. Okay. Can I ask you a general question? In relation to 9 the issues we've just discussed, going back certainly to 10 May 2008 and possibly the earlier part of the month, did 11 you have discussions with Mr Chapman about these 12 matters?</p> <p>13 A. About the settlement of the Taylor litigation?</p> <p>14 Q. Yes, and the issue of culture, of illegal information 15 access?</p> <p>16 A. I don't think I did.</p> <p>17 Q. Okay. You told me yesterday that you were not the 18 guardian of ethics at News International and NGN. Who 19 was?</p> <p>20 A. Well, it would have to go to the chief executive 21 I think, ultimately, in terms of being the guardian of 22 ethics. I don't know who would be identified as the 23 person most involved with compliance and ethics.</p> <p>24 Q. Usually in an organisation, one is able to identify 25 someone who is responsible for compliance. It's true</p> <p style="text-align: center;">Page 43</p>
<p>1 cover-up if the damning documents are in the police 2 possession and in fact came from the police.</p> <p>3 Q. Okay. Well, the case did settle, we know, at £425,000 4 plus costs, and presumably you breathed a sigh of 5 relief; is that right?</p> <p>6 A. Temporarily.</p> <p>7 Q. Pardon me?</p> <p>8 A. Temporarily.</p> <p>9 Q. It was temporary, because there was a lunch --</p> <p>10 A. I was expecting another claim, frankly.</p> <p>11 Q. There was a lunch shortly afterwards, I think it started 12 off in El Vino's and ended up in a pub in Fetter Lane, 13 of course it doesn't matter exactly where it was, and 14 you learned towards the end of that occasion that there 15 were indeed two further phone hacking cases in the 16 pipeline, didn't you?</p> <p>17 A. Which didn't come as a surprise, certainly.</p> <p>18 Q. Didn't come as a surprise?</p> <p>19 A. No.</p> <p>20 Q. Precisely what happened at that meal is probably not 21 going to assist the Inquiry, but it may be that what 22 started off as pretty convivial ended slightly less so; 23 is that correct?</p> <p>24 A. No, I don't accept that, actually. No. Mr Lewis told 25 me that he was going to bring a claim on behalf of the</p> <p style="text-align: center;">Page 42</p>	<p>1 the chief executive is notionally responsible for 2 everything, but we're not really concerned with that 3 theoretical issue. Who was responsible for compliance? 4 It may well be more than one person. Can you assist us, 5 please?</p> <p>6 A. The company secretary, perhaps Mr Chapman more so than 7 me, but I'm not sure about that. But perhaps 8 Mr Chapman. I didn't see company -- sorry, corporate 9 compliance as really within my role. I kind of looked 10 after the content of the newspapers and the litigation 11 that arose from them, from a legal point of view.</p> <p>12 Q. But if that's right, and it wasn't within your role, my 13 question is directed to trying to find out within whose 14 role it was. Do you see that?</p> <p>15 A. Yes. I think the answer I gave about the chief 16 executive is the only one I could positively think of in 17 terms of feeling sure that probably is the case.</p> <p>18 LORD JUSTICE LEVESON: When you were getting all this 19 material about hacking and the offshoot of Motorman, 20 weren't you concerned that some consideration ought to 21 be given to how your company approached ethical 22 compliance?</p> <p>23 A. Um ...</p> <p>24 LORD JUSTICE LEVESON: Just to save legal risk, which 25 certainly was your concern.</p> <p style="text-align: center;">Page 44</p>

11 (Pages 41 to 44)

<p>1 A. Well, this -- the context of this particular document 2 and references to culture in terms of time was the same 3 context as going to see Mr Murdoch, who was the chief 4 executive. So it wasn't a question of me taking it 5 somewhere else, because the highest I would take it 6 would be to James Murdoch.</p> <p>7 MR JAY: But if that's right, Mr Crone, that would suggest, 8 maybe you are suggesting, that you unburdened Mr James 9 Murdoch with quite a lot of material so that he was in 10 a position to say something about these ethical issues 11 and compliance. Is that your evidence?</p> <p>12 A. I think he was made aware of the situation in the Taylor 13 case, which involved counsel's view, counsel's opinion. 14 He may not have had a copy of counsel's opinion, but 15 I don't think any seriously relevant part of it was not 16 told to him.</p> <p>17 Q. Was not what?</p> <p>18 A. Told to him.</p> <p>19 Q. Was not told to him, okay. I'm going to come back to 20 the issue of culture more widely at the end, but can 21 I just pick up some discrete points? First of all, did 22 you have any involvement in the publication of the 23 doctored Kate McCann diary, which I think was -- 24 certainly in September 2008, the exact date has 25 temporarily eluded me.</p> <p style="text-align: center;">Page 45</p>	<p>1 reporter?</p> <p>2 A. I can't remember whether I did it or I got Farrers 3 involved, but I think we were -- I think a letter may 4 have been written -- this is memory -- to Mr Atkins or 5 the people who had the film suggesting that it 6 misrepresented -- I think it misrepresented the role and 7 the part and the behaviour of the journalist concerned.</p> <p>8 Q. I'll just ask you a little bit more about that, 9 Mr Crone. Go to your file (iv), which is your 10 case-specific file.</p> <p>11 A. That's (iv), is it?</p> <p>12 Q. Yes, under tab 38, where we have Mr Atkins' evidence.</p> <p>13 A. There are no tabs, I'm afraid.</p> <p>14 Q. All right. If you can find it then, it's our page 15 ending 49001. It's going to be almost halfway through 16 the file.</p> <p>17 A. I'm close. Yes.</p> <p>18 Q. Paragraph 31 is within Mr Atkins' witness statement. 19 I'm just giving you the context. He's telling us that 20 he wanted to test the Sunday tabloids to see if their 21 journalists were willing to break the law and the code 22 to obtain private information about the celebrities 23 which was not in the public interest. He says five 24 lines into that paragraph he would "pose as an 25 intermediary who was selling the details of celebrities'</p> <p style="text-align: center;">Page 47</p>
<p>1 A. I was the lawyer on the News of the World that weekend 2 and I played some part in clearing it up afterwards. 3 The legal problem afterwards.</p> <p>4 Q. But can we look at the possible legal or privacy problem 5 before? Did you detect there to be a privacy issue?</p> <p>6 A. My understanding was that the representative of the 7 McCanns had given the okay, the permission, to the head 8 of the news desk at the News of the World to run the 9 diaries. Or extracts from the diaries.</p> <p>10 Q. Yes.</p> <p>11 A. I think he had emails to support that.</p> <p>12 LORD JUSTICE LEVESON: Oh?</p> <p>13 MR JAY: I've seen some documents which on one 14 interpretation of them broadly support what you're 15 saying, but I just want to understand what your position 16 is.</p> <p>17 Did you have any involvement with a film made by 18 Mr Atkins called, I think, Starsuckers? That was the 19 correct title of it.</p> <p>20 A. Yes. I think so. There was -- I think some advice was 21 given or some help given to one of our -- if I'm 22 thinking about the same thing -- one of our news 23 reporters who had been featured on this film, yes.</p> <p>24 Q. Did you attempt to persuade Mr Atkins not to publish the 25 film with the reference to that News of the World</p> <p style="text-align: center;">Page 46</p>	<p>1 private surgery operations".</p> <p>2 A. Yes, I have it.</p> <p>3 Q. He was really setting up a sort of sting, which the 4 News of the World might know a little bit about.</p> <p>5 Paragraph 36 on the next page, he says on 20 March 6 2009 he called the news desks of various papers, 7 including the News of the World.</p> <p>8 In paragraph 43 on the next page, 49003, 9 a journalist at the News of the World seemed to be 10 interested:</p> <p>11 "It sounds like definitely something that it's worth 12 meeting up to speak to you about."</p> <p>13 At paragraph 104, some pages further on, at 49016 --</p> <p>14 A. Yes. Sorry, what was the paragraph number?</p> <p>15 Q. 104.</p> <p>16 A. Thank you.</p> <p>17 Q. "Immediately after the medical records story broke, we 18 were told from various sources that the News of the 19 World were furious that we had invaded the privacy of 20 their journalist, and were considering legal action."</p> <p>21 Is that a fair representation of your anger?</p> <p>22 A. No. I can't remember privacy being part of it. 23 I thought it was misrepresentation because the 24 journalist I think had made it clear at some stage at 25 the beginning that it would have to comply with the PCC</p> <p style="text-align: center;">Page 48</p>

12 (Pages 45 to 48)

<p>1 code. Something like that. Whatever it was, it would 2 have to comply with the PCC code. I think that's in 3 there. Maybe you don't have the original film, do you? 4 Q. But what's the misrepresentation? 5 A. I think -- 6 Q. Just wait, Mr Crone. A degree of subterfuge is being 7 used by Mr Atkins in that he's posing as someone who he 8 isn't. He's making a telephone call to a journalist and 9 the journalist gives the answer. That's permissible 10 within the code if it's in the public interest, isn't 11 it? 12 A. Not to then present it as a journalist behaving 13 incredibly badly when she has said, "It has to comply 14 with the PCC code". 15 LORD JUSTICE LEVESON: But the words of the journalist, 16 which can be heard, speak for themselves, don't they? 17 Whatever they might or might not have said. 18 A. Sir, I can't remember what's on the film. I just 19 remember that the issue was that the journalist had 20 actually behaved pretty well, it seemed, from what she 21 had said, and the introduction and the presentation 22 suggested quite the opposite. I must say I don't recall 23 privacy being an issue, but if there is a document 24 suggesting otherwise, then so be it. 25 MR JAY: The upshot was that you were trying to persuade</p> <p style="text-align: center;">Page 49</p>	<p>1 A. That's not copy approval, is it? 2 Q. You're playing with words, Mr Crone. It amounts to the 3 same thing, doesn't it? 4 A. No, it doesn't. I think seeing the evidence is not copy 5 approval. 6 Q. It does cause even an impartial questioner, which I hope 7 I'm maintaining that impartiality, to smile, because if 8 you'd done this to Mr Mosley, given him the whole of the 9 video to look at as a luxury before publishing, you 10 might not have published it at all. It's all extremely 11 ironical, isn't it? 12 A. Well, I think you're misrepresenting that paragraph, 13 because I clearly wasn't asking for copy approval. 14 LORD JUSTICE LEVESON: And what about Mr Jay's question 15 Mr Crone? Were you seeking to see the whole thing so 16 that if you wanted, you could have sought injunctive 17 relief to prevent it being published? And if not, why 18 did you want to see the whole thing? 19 A. Well, yes. I can't remember whether it was me or 20 someone else, to be perfectly honest, but obviously 21 I was -- if it was someone else, then I was probably 22 instructing them, in other words an outside lawyer. 23 Our position in relation to that journalist was that 24 she hadn't behaved badly but she was being represented 25 in the programme as having behaved badly, along with the</p> <p style="text-align: center;">Page 51</p>
<p>1 Mr Atkins not to publish the film with any reference to 2 the News of the World journalist; is that right? 3 A. I think I was trying to achieve a fair presentation of 4 what she did or take her out altogether, because what 5 I was looking at was not a fair presentation. 6 Q. Presumably you did see the relevant part of the film, 7 did you? 8 A. I saw some film. Whether it was the final version or 9 not, I can't remember. 10 Q. But as has -- 11 A. Had he put out a trailer or something? 12 Q. As has been pointed out, the film spoke for itself, 13 didn't it? 14 A. It depends how much was included in the cuts. 15 Q. In paragraph 107 at 49017: 16 "Mr Crone's legal team demanded to come and see the 17 whole of Starsuckers prior to any public screening. We 18 pointed out that the News of the World had never given 19 copy approval to the subjects of any of their 20 investigations." 21 That's the delicious irony of all of this: you never 22 do, do you, Mr Crone? 23 A. Was I asking for copy approval? Doesn't look like it. 24 Q. You wanted to come and see the whole of Starsuckers 25 prior --</p> <p style="text-align: center;">Page 50</p>	<p>1 instruction to the programme and the other comments made 2 and the cuts -- the cut of the film and so on and so 3 forth. It was a libel issue, wasn't it? That was my -- 4 that's my recollection. In other words, by all means, 5 publish things about our people, but, you know, you have 6 the same duty to get it right as we do -- 7 LORD JUSTICE LEVESON: Of course you do, but if it's a libel 8 issue, then you could have taken proceedings for libel. 9 A. Well, possibly. But it hadn't gone out and we were 10 asking to see -- according to this, which is Mr Atkins' 11 account, demanded to come and see the whole of 12 Starsuckers prior to any public screenings. 13 I mean, I think it's just a normal course if you're 14 trying to prevent someone being damaged incorrectly, 15 badly, unjustly. 16 MR JAY: And if you'd seen something -- 17 A. And if you see irony in that, that's fine, but that's 18 what I was doing on behalf of -- 19 LORD JUSTICE LEVESON: But don't you see irony in it? That 20 you're seeking to prevent somebody being damaged 21 unfairly? I think that's how Mr Mosley might have seen 22 it as well. 23 A. Well, I have to say that when I was involved in 24 Starsuckers, and I can't remember when it was, I wasn't 25 thinking of Mr Mosley, but I was just trying --</p> <p style="text-align: center;">Page 52</p>

13 (Pages 49 to 52)

<p>1 LORD JUSTICE LEVESON: No, of course you weren't. 2 A. Sir I was just trying to do what I was tasked with 3 doing, which was to look after this girl's interests. 4 MR JAY: I don't think anybody is saying that you weren't 5 doing that, Mr Crone. 6 A. But that's as far as my behaviour goes in this. That's 7 it: looking after her interests. Doing my best. 8 Q. If you don't see the irony in any of this, I'll move on, 9 Mr Crone. Can I do that? 10 A. Yes. 11 Q. I'll ask you generally about culture, if I may. This is 12 a company for whom you worked for over 20 years, isn't 13 it? 14 A. Yes. 15 Q. And the picture which was emerging to your knowledge, 16 certainly from 2006 and possibly before, was of a news 17 desk which had, to put it neutrally, lost its way; would 18 you agree? 19 A. In terms of what came out afterwards, yes. Yes. 20 Q. But it was coming out to you at the time, wasn't it, 21 Mr Crone? 22 A. Really, I think from the time of the sentencing hearing 23 is probably when that started to probably emerge for me. 24 Q. Yes. And you've already explained to us that the one 25 rogue reporter defence was a defence which you never</p> <p style="text-align: center;">Page 53</p>	<p>1 different series of questions, which comes from other 2 evidence. I think that -- have you said, or do I have 3 this wrong, that using private detectives was to be 4 discouraged? 5 A. I think from the time -- from January 2007, that was the 6 understanding. 7 LORD JUSTICE LEVESON: You weren't to use private 8 detectives? 9 A. I can't remember the exact directive, if that's right, 10 which went out, but I think it may -- 11 MR JAY: I must apologise, I've missed out a whole section 12 of questions on this because I got diverted in my notes 13 and I need to come back. I don't want to interrupt, but 14 I haven't covered this all and I must. 15 LORD JUSTICE LEVESON: Right. 16 MR JAY: May we do that in five minutes' time? 17 LORD JUSTICE LEVESON: Yes, certainly, certainly. I'm very 18 comfortable to leave you and see whether my questions 19 are dealt with by you. 20 MR JAY: Sorry. 21 LORD JUSTICE LEVESON: We'll have a break for the shorthand 22 writer. 23 (11.25 am) 24 (A short break) 25 (11.32 am)</p> <p style="text-align: center;">Page 55</p>
<p>1 personally believed; that's true, isn't it? 2 A. Correct. 3 Q. I mean do you feel that someone, at least, should have 4 placed his or her hand on the ethical tiller to get this 5 company back in the right place? 6 A. Yes. 7 Q. Do you feel that appropriate steps were taken or not? 8 A. No. 9 Q. What might appropriate steps have been? 10 A. I think to identify who seemed to be the obvious 11 personnel involved and to part company with them. 12 Q. But instead we see, is this right, a different strategy, 13 namely: avoid reputational damage, settle cases at an 14 overvalue and hope that it all goes away. Is that 15 right? 16 A. It's not far off it, yes. 17 Q. But insofar as it's not far off it, tell me where I've 18 got it wrong. 19 A. It was certainly -- it was certainly the thinking that 20 the problem was trying to be contained, whereas 21 a different route would possibly have been to face up to 22 it, face up to it, take some steps which would have 23 obviously become public, and deal with that way. 24 MR JAY: Yes, thank you, Mr Crone. 25 LORD JUSTICE LEVESON: Mr Crone, I just have a slightly</p> <p style="text-align: center;">Page 54</p>	<p>1 MR JAY: Mr Crone, we're back, I'm afraid, to your second 2 witness statement, section 5, which is five or six pages 3 from the end. This deals with the issue of surveillance 4 of lawyers. 5 A. Yes. yes. 6 Q. You say in answer to the questions: 7 "My involvement in relation to the matters raised 8 above was limited to a short period in I think the first 9 half of 2010." 10 Well, you're right about the dates. You say: 11 "I did not commission private investigators to carry 12 out surveillance, as has been alleged by members of the 13 Select Committee. As best I can remember them, the 14 facts and background are as follows." 15 I am going to cover the facts and background in 16 a moment, but can I take this out of sequence, if you 17 don't mind, and move two pages further on in this 18 statement. Three lines from the top of the page. 19 I hope we're on the same page. 20 A. Yes. 21 Q. Having set out your reasons for doing what you were 22 going to do, which we will cover, you say: 23 "I raised the matter with the head of the 24 News of the World news desk ..." 25 Are you with me?</p> <p style="text-align: center;">Page 56</p>

<p>1 A. Yes.</p> <p>2 Q. Is that Mr Edmondson?</p> <p>3 A. Yes.</p> <p>4 Q. "... with a view to see whether it was practicable or</p> <p>5 possible for him to assign one of his journalists to</p> <p>6 ascertaining the nature of the relationship."</p> <p>7 Do you mean journalist or private investigator?</p> <p>8 A. Journalist.</p> <p>9 Q. "He said he could get Derek Webb to have a look at</p> <p>10 Mr Lewis and Ms Harris in this context and I agreed with</p> <p>11 that course."</p> <p>12 Once he mentioned Derek Webb's name, were we on the</p> <p>13 page of private investigator or on the page of</p> <p>14 journalist?</p> <p>15 A. My understanding about Derek Webb was that he worked</p> <p>16 fairly regularly for the news desk and that he was</p> <p>17 a freelance journalist. I knew he'd been a police</p> <p>18 officer, he was an ex-police officer, but my</p> <p>19 understanding is that he, certainly in his role, which</p> <p>20 was pretty regular, I think, for the news desk, he was</p> <p>21 operating as a freelance journalist.</p> <p>22 Q. He had carried out specialist surveillance operations</p> <p>23 for the News of the World since 2003, hadn't he?</p> <p>24 A. I don't know when he started exactly, sorry. I think</p> <p>25 he'd been around for a while because I'd heard the name</p> <p style="text-align: center;">Page 57</p>	<p>1 Q. But did you have any surveillance yourself over the type</p> <p>2 of activity Mr Webb was systematically carrying out for</p> <p>3 the News of the World?</p> <p>4 A. No. It may have become relevant to one or two issues,</p> <p>5 but I can't remember any specifically, no. Apart from</p> <p>6 the one I address here.</p> <p>7 Q. Were you aware that for a 15-month period the</p> <p>8 News of the World did not employ Mr Webb's services,</p> <p>9 owing to a criminal matter which was subsequently</p> <p>10 resolved in his favour?</p> <p>11 A. I believe I was aware of that, yes.</p> <p>12 Q. The 15-month period was between --</p> <p>13 A. I didn't know whether it was 15 months, but I knew there</p> <p>14 was a period, yes.</p> <p>15 Q. There was a confidentiality agreement with him in 2007</p> <p>16 which, as it were, dispensed with his services for which</p> <p>17 you were in part responsible, weren't you?</p> <p>18 A. I don't remember that.</p> <p>19 Q. According to his witness statement, which I can refer</p> <p>20 you to -- indeed we can put it up on the screen, it</p> <p>21 might take a bit of time but just take my word for it --</p> <p>22 the confidentiality document was organised by</p> <p>23 Stuart Kuttner and Tom Crone. Can you not remember</p> <p>24 that?</p> <p>25 A. I don't, actually. 2007?</p> <p style="text-align: center;">Page 59</p>
<p>1 a few times. I don't remember when he started exactly.</p> <p>2 Q. Were you aware of his existence for a number of years?</p> <p>3 A. I don't know how many years, but yes, it would have been</p> <p>4 more than one, two, maybe three.</p> <p>5 Q. Did you know of his background?</p> <p>6 A. Ex-police officer.</p> <p>7 Q. It wasn't journalism, was it?</p> <p>8 A. No. There are a lot of journalists who used to be other</p> <p>9 things.</p> <p>10 Q. But he was carrying out on a contractual basis, was he</p> <p>11 not, surveillance work for the News of the World for</p> <p>12 a number of years, wasn't he?</p> <p>13 A. I didn't know whether it was limited to surveillance,</p> <p>14 but I knew it included surveillance.</p> <p>15 Q. But he wasn't carrying out journalism in any</p> <p>16 intelligible sense of that term; he was carrying out</p> <p>17 surveillance, wasn't he?</p> <p>18 A. I think surveillance in terms of watching people has</p> <p>19 always been a part of journalism.</p> <p>20 Q. Watching who, though, Mr Crone?</p> <p>21 A. Watching the person who might be the subject of the</p> <p>22 story.</p> <p>23 Q. Do you know who he was tending to watch?</p> <p>24 A. No, not -- I don't know the individuals. I mean, I've</p> <p>25 seen names since, obviously.</p> <p style="text-align: center;">Page 58</p>	<p>1 Q. Yes.</p> <p>2 A. And this was at the time of his departure, did you say?</p> <p>3 Q. Yes.</p> <p>4 A. I don't remember.</p> <p>5 Q. Then he came back into the company in 2009 and continued</p> <p>6 to work. Were you aware of the circumstances?</p> <p>7 A. He was -- his name came up occasionally. Not very</p> <p>8 often, actually. But I understand he was doing</p> <p>9 assignments for the news desk.</p> <p>10 Q. Taking it in stages, Mr Webb says, and he'll tell us</p> <p>11 about this tomorrow, in paragraph 3 of his witness</p> <p>12 statement, that:</p> <p>13 "I had been told by Neville Thurlbeck as a condition</p> <p>14 of my being given work again [this was in 2009] the</p> <p>15 'bosses' wanted me to relinquish my private</p> <p>16 investigator's licence and join the NUJ. This I did."</p> <p>17 Do you know anything about that?</p> <p>18 A. I know he had a press card, but I don't remember the</p> <p>19 rest of it, no.</p> <p>20 Q. If you knew he had a press card, you must know something</p> <p>21 about the circumstances in which he sought and obtained</p> <p>22 that press card, wouldn't you agree?</p> <p>23 A. No, I wouldn't agree and I don't. But I was told he was</p> <p>24 an accredited journalist, I understood he was an</p> <p>25 accredited journalist, that means I must have been told</p> <p style="text-align: center;">Page 60</p>

15 (Pages 57 to 60)

<p>1 it, and he worked as a freelance for us. 2 Q. But this was all a front, wasn't it? "We'll call him 3 a journalist now, we'll make him sign up, become 4 a member of the NUJ, and he'll give up his private 5 investigator's licence, because after all, our policy 6 was only exceptionally to employ private detectives". 7 You knew all about that, Mr Crone? 8 A. No. I didn't, no. My understanding was he worked 9 regularly for a newspaper -- 10 Q. Yes, yours. 11 A. Yes, exactly, of course ours. And he was paid to work 12 on stories, background to stories, preparation for 13 stories. That is a role that's usually performed by 14 a reporter. And he had a press card. He was 15 a reporter. That was my understanding. 16 Q. You must also have had an understanding of the sort of 17 activities he was undertaking? 18 A. But there isn't a newspaper in the country that doesn't 19 occasionally or regularly watch people. I mean, that's 20 almost the definition -- 21 LORD JUSTICE LEVESON: Occasionally watch people? 22 A. Occasionally or regularly, yes. For example, look, 23 someone rings into the News of the World news desk and 24 says that someone is -- some celebrity, pop star, 25 someone, a footballer, is now having an affair with</p> <p style="text-align: center;">Page 61</p>	<p>1 think it's usually on some information. In my 2 experience. I don't run news desks. 3 Q. Did you have any control or supervision over this, 4 Mr Crone? 5 A. No. No, I didn't. 6 Q. Who did? 7 A. Well, the news desk and, presumably, the editorial line 8 up to editor. 9 Q. I'm just concerned, really for the reasons of accuracy, 10 what you've said in this witness statement, where you 11 use the word "journalist" in relation to Mr Webb, do you 12 adhere to that answer? Is that a fair way of putting 13 it? 14 A. Yes. That was my understanding. National Union of 15 Journalists' member is a journalist. 16 Q. Mr Crone, if we look at the context, namely an 17 investigation into Mr Lewis and Ms Harris, this wasn't 18 journalism at all, was it? 19 A. No, it wasn't. You're absolutely right. He was doing 20 something for the legal department. Which is not 21 uncommon for a journalist, freelance or staff. 22 Q. But he was back doing what he was always good at doing, 23 namely discreet surveillance, as it's euphemistically 24 called, I would suggest as a private detective. That's 25 the true position, isn't it?</p> <p style="text-align: center;">Page 63</p>
<p>1 someone or other and they're going to be at 2 such-and-such a nightclub on Saturday night. Well, 3 a reporter or someone on behalf of the newspaper is very 4 likely to be outside that nightclub seeing who goes in 5 and who goes out. Or even pick the person up from where 6 they know they'll be earlier in the day and see where 7 they go after the football match or whatever. 8 MR JAY: I'm looking at Mr Webb's work assignments between 9 20 March 2009 and 13 June 2010. The version which is 10 going to be put in the public domain will be redacted, 11 but the version I'm looking at now, I can see a whole 12 number of names, I'm afraid. It's pretty obvious to 13 anybody looking at this, but I'm afraid it's only me, 14 that a lot of snooping around was going on, wasn't it? 15 A. That's, I think, what newspapers do, to be perfectly 16 honest. 17 Q. But fishing expeditions? Wasn't this what this was all 18 about? 19 A. Sorry, I have no idea whether they were fishing 20 expeditions or acting on information. Fishing is quite 21 an expensive exercise, I believe, for newspapers, and 22 they usually act on information. 23 Q. Or suspicions or surmise or just on the hope of getting 24 a salacious story? 25 A. That would be fishing, wouldn't it, in the hope? I</p> <p style="text-align: center;">Page 62</p>	<p>1 A. What he was doing was that, yes. What you call him -- 2 I understood him to be a freelance journalist. The 3 activity might be the same. And I heard I think you 4 yesterday saying to Mr Pike that journalists don't do 5 this. Well, I am afraid they do. Quite commonly. 6 LORD JUSTICE LEVESON: So I'm to understand -- and this 7 isn't loaded -- that if you employ an ex-policeman week 8 after week, month after month on surveillance 9 activities, but you've arranged that he obtain a card 10 from the National Union of Journalists, you are able 11 absolutely fairly to say that you don't employ 12 investigators on these activities, you only employ 13 journalists? 14 A. Well, I don't know whether -- I honestly don't know 15 whether the News of the World helped him to get a card, 16 I don't know. I just know that he had a press card. 17 If he was doing surveillance and nothing but 18 surveillance, well, I don't think that means he isn't 19 a journalist -- he isn't a reporter. Acting as 20 a reporter. Inasmuch as he's gathering information for 21 the purpose of stories that might appear in the 22 newspaper. 23 LORD JUSTICE LEVESON: So your answer to my question is 24 yes? 25 A. If I've remembered your question correctly, sir.</p> <p style="text-align: center;">Page 64</p>

16 (Pages 61 to 64)

<p>1 LORD JUSTICE LEVESON: Well, I'll read it again. 2 If you employ an ex-policeman week after week, month 3 after month on surveillance activities, but you've 4 arranged -- or you've learnt -- that he obtained a card 5 from the National Union of Journalists, you are 6 absolutely fairly able to say that you do not employ 7 investigators on these activities, you only employ 8 journalists? 9 A. I think it's loaded, despite what you say, but 10 investigators is -- the distinction is between someone 11 who is a private investigator and is in business as 12 a private investigator, and Mr Webb, who I understood, 13 certainly I understood, correctly or incorrectly, was 14 working for us as a journalist. 15 MR JAY: But -- 16 A. And was accredited. 17 Q. But Mr Crone, if Mr Webb had found out something, which 18 we know he didn't, no story would have been published, 19 would it? 20 A. No, because he was doing something for the legal 21 department and we don't publish stories. We have reason 22 for asking journalists or reporters occasionally to do 23 things for us. 24 Q. Instead, according to earlier parts of your witness 25 statement on this issue, the something which might have</p> <p style="text-align: center;">Page 65</p>	<p>1 Q. The someone they assigned was the someone they usually 2 assigned for this sort of task, Mr Derek Webb, private 3 investigator. That's the truth, isn't it? 4 A. I don't know whether he's officially a private 5 investigator or he was doing most of his work as 6 a freelance reporter. I understood the latter, 7 actually. 8 LORD JUSTICE LEVESON: But that wouldn't necessarily involve 9 him writing ever a story? 10 A. I think there are quite a few journalists who don't 11 write many stories, just do the background stuff. 12 LORD JUSTICE LEVESON: Any stories? 13 A. I don't know whether he wrote a story as a result of his 14 observations. I don't know. I don't remember seeing 15 his byline, no. 16 MR JAY: I'm sure there are no such bylines, Mr Crone, and 17 you know that full well, don't you? 18 A. Well, I said I don't remember seeing one. 19 Q. Your motive or purpose for carrying out this 20 surveillance was, as you tell us in your witness 21 statement, that the existence of a romantic relationship 22 would provide contextual or circumstantial evidence in 23 relation to a complaint of professional misconduct; is 24 that correct? 25 A. Yes.</p> <p style="text-align: center;">Page 67</p>
<p>1 been ascertained might have been used for the purpose of 2 bolstering a complaint to the Solicitors Regulation 3 Authority; that's correct, isn't it? 4 A. It was -- that was -- that was the context of what was 5 being asked, certainly. 6 Q. Was it part of News of the World's litigation strategy 7 to use any information obtained as a result of this 8 surveillance as a means of putting pressure on the 9 lawyers on the other side? 10 A. No, certainly not part of my strategy. I was -- 11 I undertook this, really, after conversations with 12 Mr Pike where I think he had suggested surveillance. 13 I'm not trying to get away from my own responsibility 14 for it, but I think the suggestion had come from his 15 side. I think I'd heard it from him before, and had 16 resisted it before. 17 Perhaps I'd said, "Well, you know, why do you need 18 private investigators because the News of the World does 19 this -- sorry, the News of the World news desk -- for 20 many, many, many, many years, probably forever, have 21 managed to find out whether people are having 22 a relationship or not and they can probably do it", so 23 that's what I did, eventually. I went over and asked 24 them to see if they could assign someone to have a look 25 at it.</p> <p style="text-align: center;">Page 66</p>	<p>1 Q. But in order to pry into this issue, it would 2 necessarily entail a considerable intrusion into private 3 life and would immediately engage Article 8 of the 4 Convention. Would you agree with that? 5 A. It -- I think Mr Pike made the point, which I think was 6 valid, that there was no suggestion of doing anything 7 except in public places. Article 8 may well have been 8 engaged by constant surveillance, depending on how long 9 it lasted, yes. 10 Q. It might have been in places where there was 11 a reasonable expectation of privacy, even if it was 12 a public place. Would you agree with that? 13 A. It was -- I can't imagine it would ever have been 14 anywhere except properly public places, but yes, I do 15 agree in circumstances that can -- 16 Q. Did you give any thought to these Article 8 questions or 17 did you just drive ahead with your goal, namely to find 18 out what you could find out? 19 A. I was never, as I said before, terribly enthusiastic 20 about the surveillance idea, and it had been mentioned 21 a few times, and eventually I decided, possibly 22 regrettably, to ask the news desk to see if they could 23 find something out. The nature of the relationship, 24 effectively. So I wasn't terrible happy about it, and 25 I think that was apparent when I saw the results and</p> <p style="text-align: center;">Page 68</p>

<p>1 eventually I was asked whether Mr Webb should be sent 2 back and I said, "Forget it, don't bother". 3 Q. Mr Pike wasn't persuading you to go down this road, was 4 he? 5 A. I am taking responsibility for it, but it came out of 6 conversations with Mr Pike and it wasn't my idea. 7 I wasn't the person suggesting it. 8 Q. Who was suggesting it? 9 A. Mr Pike. I think from listening to him yesterday, 10 I think he accepts that. 11 Q. I don't think he did. I may be wrong in relation to 12 this piece of surveillance. 13 A. Oh, no, that's right. No, he was suggesting 14 surveillance and I was probably resisting it and then 15 over the next couple of days, probably because I was 16 just passing the news desk and there was absolutely 17 nothing going on, it occurred to me, regrettably, 18 perhaps, to mention it. And then it went from there. 19 Q. Because Mr Pike's evidence was that he was only involved 20 with a different piece of surveillance involving 21 a company called Tectrix I think on 5 May -- 22 A. Oh -- 23 Q. Just wait for the question, Mr Crone. 24 A. Sorry. 25 Q. -- on 5 May 2010 and that involved looking only at</p> <p style="text-align: center;">Page 69</p>	<p>1 confidential documents from within the case. 2 The reason I didn't see a lot of point in it was 3 because most of these cases there's a single counsel, 4 who inevitably is going to carry knowledge with him and 5 probably not improperly use it in some wider sense, and 6 also because if Ms Harris or even Mr Lewis were taken 7 off the cases, I had no doubt that the claimants would 8 simply go to another firm of solicitors, probably with 9 higher rates, which we'd probably end up paying, and 10 that doesn't make any sense at all. That didn't make 11 any sense at all to me. 12 So I was continuously not particularly keen on this, 13 and expressed that, and then eventually, and I think 14 Mr Pike says he came back to it, so obviously it had 15 been mentioned before and left for a while, he came back 16 to it with some fairly strong reasons and I didn't agree 17 at first, but then a couple days later I did. And 18 subsequently, I think, I probably told him about it and 19 said it was all a complete waste of time because they 20 ended up following someone who was not Ms Harris. 21 MR JAY: Thank you, Mr Crone. 22 LORD JUSTICE LEVESON: Thank you, Mr Crone. 23 MR SHERBORNE: Sir, I do have some questions for Mr Crone, 24 relating primarily to the subject that Mr Jay has just 25 asked about, namely the covert surveillance reports</p> <p style="text-align: center;">Page 71</p>
<p>1 publicly available information. The piece of 2 surveillance we're looking at now was earlier, which was 3 not Mr Pike's idea, on his evidence. By a process of 4 elimination, it's your idea, isn't it? 5 A. I can't remember seeing the document, but I heard it 6 referred to yesterday. March 26? 7 Q. An email, yes. 8 A. And doesn't it say surveillance was suggested? 9 Q. Well, that was in the -- 10 A. I think it's in the evidence. 11 Q. Mr Pike explained that, and certainly on my recollection 12 he made it clear that he wasn't aware of the nature of 13 any surveillance which was carried out at that stage. 14 The only person who could have been was you, and I think 15 you accept that you organised it, didn't you? 16 A. Yes, but my point is: after the suggestion from Mr Pike. 17 Which initially I think I pooh-poohed and then as I say 18 two days later I asked for something to be done. 19 Q. Is this right: the sense of your evidence is that you 20 did this against your better judgment? Is that right? 21 A. I didn't see a massive point in making the professional 22 misconduct complaint against these two people unless 23 there was absolutely clear evidence that actually not 24 that they were necessarily sharing information but they 25 were leaking to in particular the Guardian newspaper</p> <p style="text-align: center;">Page 70</p>	<p>1 carried out in the name of News International. 2 Unfortunately, sir, as we discussed on Monday, in 3 order to conduct that exercise and to demonstrate, as 4 I say, that the justification for authorising that 5 surveillance is wholly unsustainable, one needs to do 6 that in private. Just so there's no misunderstanding 7 about it publicly, that's because the information which 8 News International is seeking but never could find was 9 deeply private as well as deeply inappropriate. 10 LORD JUSTICE LEVESON: Presumably you have a document 11 unredacted that you want Mr Crone to look at? 12 MR SHERBORNE: Sir, yes. It's a document he's obviously 13 seen before. 14 LORD JUSTICE LEVESON: I understand that. And you want to 15 ask questions designed to elicit the flaw in the 16 approach; is that right? 17 MR SHERBORNE: It is right, sir, yes. 18 LORD JUSTICE LEVESON: Why can't that be done with you 19 seeing the material, Mr Crone seeing the material but by 20 not referring to the detail? 21 MR SHERBORNE: Sir, that may be very difficult to do, and my 22 instructions are very clearly that Mr Lewis and 23 Ms Harris, for obvious reasons, would not like any of 24 the information in that document to become public. 25 LORD JUSTICE LEVESON: I understand that, I understand that</p> <p style="text-align: center;">Page 72</p>

18 (Pages 69 to 72)

<p>1 But I am very concerned about proceeding to hear 2 evidence that is entirely in private, ie not in the 3 public domain, and being asked to draw conclusions based 4 upon that material which the public do not know about. 5 Once of the consequences of the way in which this 6 Inquiry has been conducted has been that people have 7 been able to see the material and make their own 8 judgments. 9 Now, I can do this in two ways. One possibility is 10 to see how we get on. The other possibility is to sit 11 in private at the moment, but only on the basis that, 12 subject to possible redactions, the evidence that has 13 been heard in private will enter the public domain. 14 You will understand, Mr Sherborne, my concern. 15 MR SHERBORNE: Of course. 16 LORD JUSTICE LEVESON: Of course I want to protect the 17 Article 8 rights of Mr Lewis and Ms Harris. I am 18 absolutely keen to do that, in the same way that I was 19 concerned, you will remember, about each of your clients 20 coming to the Inquiry to give evidence about invasions 21 of their privacy, they spent a great deal of time 22 allowing in public their private matters to be 23 discussed. 24 MR SHERBORNE: I do, sir, I do recall that. 25 LORD JUSTICE LEVESON: So it's a question of how to proceed.</p> <p style="text-align: center;">Page 73</p>	<p>1 MR SHERBORNE: Sir, I'm very grateful for the time that you 2 gave. Given that Mr Crone has accepted that the 3 decision to carry out the surveillance was, I think to 4 use his words, regrettable, and News International 5 accepted through Mr Rhodri Davies in his opening 6 submissions that their behaviour was, to quote him, 7 entirely inappropriate, and he apologised on their 8 behalf, I'm not going to pursue any more questions of 9 Mr Crone over and above those asked by Mr Jay in 10 relation to the topic. 11 What I would like to do, sir, is just to put one or 12 two questions to him in relation to Mr Webb and his 13 knowledge of Mr Webb's activities, with your permission. 14 LORD JUSTICE LEVESON: Yes. 15 Questions by MR SHERBORNE 16 MR SHERBORNE: Mr Crone, you were asked yesterday about 17 Mr Webb and you said you didn't think he was a private 18 investigator, you thought he was a freelancer. Then you 19 were asked for the second time this morning and your 20 answer was the same. Is that correct? 21 A. Yes. 22 Q. The only form in which I have this is the unredacted 23 exhibit to Ms Harris's witness statement, CH1. I don't 24 know if you have that to hand. 25 A. I can't remember seeing any exhibit to her evidence, no.</p> <p style="text-align: center;">Page 75</p>
<p>1 MR SHERBORNE: Sir, can I take a moment? 2 LORD JUSTICE LEVESON: Yes. 3 MR SHERBORNE: Sir, I may need a minute to take proper 4 instructions about this. 5 LORD JUSTICE LEVESON: I want to be fair to both your 6 clients. I want to be fair to Mr Crone, even though he 7 thinks some of my questions are loaded when they're not 8 intended to be, but I do want to be fair to him. And 9 I also want to be fair to all those who are concerned 10 with the evidence that emerges in this Inquiry, that it 11 isn't thought that it's suddenly become in any way 12 secret. 13 MR SHERBORNE: Of course not. Sir, you do understand the 14 pressing concerns of my clients -- 15 LORD JUSTICE LEVESON: I understand the concerns of your 16 clients, and that's why I asked about the first 17 possibility. 18 MR SHERBORNE: Sir, it's the first possibility I'm going to 19 explore, but I do need a moment. 20 LORD JUSTICE LEVESON: All right. I'll rise for a little 21 while for you to consider that. 22 MR SHERBORNE: I'm very grateful. 23 (12.00 pm) 24 (A short break) 25 (12.12 pm)</p> <p style="text-align: center;">Page 74</p>	<p>1 MR SHERBORNE: Can I pass Ms Patry Hoskins' file? I don't 2 know whether it's marked at all. 3 MS PATRY HOSKINS: It is marked, but it's -- 4 MR SHERBORNE: I'm sure there's nothing in there that will 5 give you any clues. 6 Can I ask you to turn to page 2 of the file? 7 A. Page 2 of her witness statement? 8 Q. You should have an exhibit behind it. 9 A. Oh. Looks like there are quite a few, actually. 10 Q. Do you have a page 2 which is a letter from Linklaters, 11 the solicitors for News International? 12 A. What comes after the statement is report 3. That's not 13 it, is it? 14 Q. It should be before that. 15 A. No. 16 Q. Can I hand you then a clean copy? I'm sorry, Mr Crone. 17 (Handed). 18 Sir, do you have a copy of this document? 19 LORD JUSTICE LEVESON: No, but I'll follow it. 20 MR SHERBORNE: This is a letter, just to explain, that was 21 sent by Linklaters, News International's solicitors, to 22 the Metropolitan Police Service, dated 16 September 23 2011. It says this: 24 "As discussed our meeting today we enclose a folder 25 containing the following documents relating to the use</p> <p style="text-align: center;">Page 76</p>

<p>1 of private detectives." 2 Then there's a series of numbered paragraphs. 3 Paragraph 1 refers to the dossier provided to 4 News International by Ms Harris. Then paragraph 2 5 relates to contemporaneous documents provided by Farrer 6 & Co, some of which we looked at already. And then 7 this, paragraph 3: 8 "Documents identified during a review of Tom Crone 9 and Colin Myler's emails, covering the period 1 July 10 2009 to date, relating to the use of private detectives. 11 The emails reviewed for this purpose were those held on 12 the server set up by our client in discussion with you 13 for the purposes of reviewing emails relevant to the 14 Select Committee hearings which took place today." 15 Can we just look at one or two of those documents 16 that are referred to in that paragraph 3? Can I take 17 you to an email that you should find on page 69. Do you 18 have that, Mr Crone? 19 A. I have something with 69 on the bottom right-hand 20 corner. I presume that's it. 21 Q. Yes. Is it at the top an email from Stuart Kuttner to 22 Paul Nicholas? 23 A. Yes. 24 Q. Can you tell us who Paul Nicholas was? 25 A. I think he was the assistant or deputy managing editor</p> <p style="text-align: center;">Page 77</p>	<p>1 A. Yes. 2 Q. It's entitled "Derek Webb file, pass to Paul Nicholas 3 29 July 2009". Then it says this, Mr Crone, doesn't it: 4 "Paul, this is to confirm that I have today passed 5 over my Derek Webb case" -- and then these words in 6 brackets -- "(Silent Shadow file) to you for your future 7 safekeeping." 8 A. Yes. 9 Q. It's clear, isn't it, Mr Crone, you knew perfectly well 10 that Derek Webb, described as a Silent Shadow, was 11 a private detective and not a journalist? 12 A. I honestly don't remember seeing this, to be perfectly 13 honest. 14 Q. You don't remember seeing this? 15 A. No. I mean, I accept it was sent to me, but I don't 16 have any recollection of seeing it. 17 Q. Would you have regarded this as an important email, 18 Mr Crone? 19 A. I don't know what the context is, actually. Is it when 20 he was arrested? 21 Q. You can see, can't you, if you turn back to page 69, 22 that there are a number of rather important files, you 23 might think. Perhaps I can -- 24 A. Are they enclosed with the email? I don't know. 25 Q. They are, as I understand it. One of the files, the</p> <p style="text-align: center;">Page 79</p>
<p>1 of the News of the World. 2 Q. You'll see this is a memo dated 30 July 2009? 3 A. Yes. 4 Q. And it is copied to a number of senior executives within 5 News Group Newspapers, within News of the World 6 particularly, and can you see your name is there? 7 A. Yes. 8 Q. We have Mr Myler, you, Jane Johnson, so on and so forth. 9 You'll see that in the body of the email it refers to 10 the following: 11 "Please note ..." and it had a series of documents 12 of files which are attached and at number 4 it says: 13 "Re SK's [Mr Kuttner] Derek Webb files please see 14 below." 15 A. Yes. 16 Q. Then you'll see below that is an email which was earlier 17 than that from Mr Kuttner which you're also copied into, 18 do you see that? Right at the bottom of the page. 19 A. Yes. 20 Q. And then if we turn over to page 70, there's another 21 email from Stuart Kuttner, which is enclosing one of the 22 files. This is dated 29 July at 12.07. 23 A. Yes. 24 Q. And there are a series of people to whom this is copied, 25 Mr Myler, Jane Johnson, Belinda Sharrier and yourself?</p> <p style="text-align: center;">Page 78</p>	<p>1 first file, are the files relating to the Guardian phone 2 interception allegations against the News of the World, 3 and the subsequent Select Committee hearings. The 4 second file relates to the Goodman/Mulcaire cash 5 payments. The third relates to Mr Goodman's files and 6 the fourth relates to Derek Webb files. 7 A. Yes. If I saw that, looking at it now, I would read 8 that as Mr Nicholas is off on holiday or something like 9 that and he's just recording the fact that he's left 10 a lot of files with people. 11 Q. With senior executives of News of the World? 12 A. Well, with Bev Stokes in the first instance, Bev Stokes 13 in the second, I don't know what her title was then but 14 she's the PA I think for Mr Kuttner and Mr Nicholas. 15 Q. Copied to Colin Myler, Jane Johnson, Tom Crone. I can 16 keep reading. These are senior executives of 17 News of the World, aren't they? 18 A. It's an all-rounder it seems to me more or less. For 19 anyone who I suppose had interest or knowledge. I don't 20 remember -- I don't remember seeing it. 21 Q. Do you call your journalists Silent Shadow? 22 A. No. I don't. 23 Q. So you knew perfectly well Mr Webb was a private 24 investigator? 25 A. I don't remember reading it, I'm sorry.</p> <p style="text-align: center;">Page 80</p>

20 (Pages 77 to 80)

<p>1 Q. Can I take you back to the covering letter from 2 Linklaters, page 2. Paragraph 4, part of the documents 3 that News International handed over to the police in 4 relation to private detectives. Paragraph 4: 5 "A memory stick containing copy footage recorded on 6 a videotape located in Tom Crone's office. The original 7 videotape was located in an envelope which also 8 contained document copies of which are included behind 9 this tab and the original version of this material has 10 been retained in Tom Crone's office." 11 If you turn then to page, I believe, 85 of this 12 file, you will find one of those documents that, as 13 I understand it, was on that memory stick relating to 14 the footage recorded and was found in your office. It's 15 a letter from Derek Webb to Ian, presumably 16 Ian Edmondson. Can you see it? 17 A. Yes. 18 Q. It says this: 19 "Ian [and it has Derek W at the top] the video is 20 a bit up and down in the beginning, then there is 21 close-up shots of her, she kept moving around as you can 22 see. You may think it finished at one stage, but let it 23 run, its total is about five to six minutes. Any 24 questions need answering, call me. Phone on all time 25 except a few hours during wedding on Tuesday, 12 to Page 81</p>	<p>1 A. Or to -- sorry, I think it goes beyond that, sir. 2 I think it goes beyond that. 3 LORD JUSTICE LEVESON: But that's a necessary component of 4 the job? 5 A. It's the end product: to write the story. Or to produce 6 a story. 7 LORD JUSTICE LEVESON: All right. Thank you very much. 8 MR JAY: Before we move on to the next witness, perhaps we 9 should re-arrange the table. 10 LORD JUSTICE LEVESON: Yes. Let's return Mr Sherborne's 11 file to Mr Sherborne, return Ms Patry Hoskins' file to 12 Ms Patry Hoskins. Return the other files so whomsoever 13 should have them. Could we ensure that 14 Ms Patry Hoskins' file has a copy of the Linklaters 15 letter in it? 16 MS PATRY HOSKINS: It has. 17 LORD JUSTICE LEVESON: Oh, it does. Thank you. Where are 18 we going, Mr Jay? 19 MR JAY: The next witness is Mr Chapman, please. 20 LORD JUSTICE LEVESON: Right. 21 MR JON CHAPMAN (sworn) 22 Questions by MR JAY 23 LORD JUSTICE LEVESON: Please sit down, Mr Chapman and make 24 yourself as comfortable as possible. 25 A. Thank you, sir. Page 83</p>
<p>1 4-ish. I am back on first flight Monday, week 12/4, if 2 you need me to go back up there. Cheers, Derek." 3 It's clear, isn't it, Mr Crone, that this is 4 a letter to Mr Edmondson from a private investigator who 5 has been filming a target of the News of the World, and 6 this was found in your office on the memory stick with 7 the footage itself? 8 A. Well, it's a letter from Derek to Ian. I don't think 9 anything on that tells me that Derek must be a private 10 investigator as opposed to a freelance journalist. 11 Q. Do freelance journalists take videos and send them to 12 Mr Edmondson? 13 A. Freelance journalists video enormous amounts of 14 material. In fact it's standard practice now that as 15 well as interviewing people and talking to people, 16 you'll also video them. 17 Q. This was found in your office on the memory stick? 18 A. Yes. Can I say I have never in my entire life used 19 a memory stick. I accept it was in my office, but 20 I have never used one, therefore I didn't see a video. 21 MR SHERBORNE: No further questions. 22 LORD JUSTICE LEVESON: Do I gather from what you say, 23 Mr Crone, that it would be a mistake for me to have held 24 the view that the occupation of journalists is to seek 25 out and write stories? Page 82</p>	<p>1 MR JAY: Your full name, please, first of all. 2 A. Jonathan Ashley Chapman. 3 Q. I note that you've arrived without the file we provided 4 you with. Is that available in this room? 5 A. I hope so. It should be over there. 6 Q. It's arriving? 7 A. Yes. Thank you very much. 8 Q. What I'd like you to do is look at file 1, which 9 contains your witness statement. 10 A. Yes, certainly. 11 Q. And just confirm it to us, please. It's under tab 1. 12 It's dated 15 September 2011. 13 A. Indeed. 14 Q. And it has a statement of truth at the end; is that 15 right? 16 A. Yes. 17 Q. So this is your evidence. Can I ask you, please, 18 a little bit about your background. You started off at 19 Clifford Chance. You left them in 1996. You joined 20 News International in July 2003, and that was as 21 director of legal affairs, heading up their corporate 22 legal affairs function? 23 A. Correct. 24 Q. And I think you've now left that company; is that right? 25 A. I left earlier this year. I gave my notice in in June Page 84</p>

<p>1 this year.</p> <p>2 Q. Can I just understand your responsibilities? You cover</p> <p>3 this in paragraph 2 of your statement. You tell us that</p> <p>4 you had ultimate legal responsibility for corporate and</p> <p>5 commercial legal matters, and then you define those more</p> <p>6 precisely and they include HR and data protection. Did</p> <p>7 you have a compliance function?</p> <p>8 A. Well, my compliance function would have related to the</p> <p>9 commercial side of the business. Commercial side of the</p> <p>10 business I differentiate from editorial. Commercial</p> <p>11 means all those functions that either support the</p> <p>12 business, such as HR, the production side of the</p> <p>13 business and also what we would call pure commercial</p> <p>14 functions, such as advertising, marketing and so on.</p> <p>15 So I would have had a compliance role with regard to</p> <p>16 those areas of News International.</p> <p>17 Q. Thank you. In relation to the editorial side of the</p> <p>18 business, who if anybody had a compliance function in</p> <p>19 your view?</p> <p>20 A. Well, I heard Mr Crone's testimony, and my response to</p> <p>21 that would be that I would expect it to be -- the</p> <p>22 compliance side to be picked up by the lawyers on the</p> <p>23 editorial side. But clearly Mr Crone doesn't agree with</p> <p>24 that.</p> <p>25 Q. Thank you. We know that Messrs Goodman and Mulcaire</p> <p style="text-align: center;">Page 85</p>	<p>1 Q. And we know that Mr Les Hinton wrote a letter of</p> <p>2 dismissal on 5 February 2007 to Mr Goodman?</p> <p>3 A. He wrote it, yes.</p> <p>4 Q. We have that under your tab 4, which is the second</p> <p>5 exhibit to Mr Abramson's witness statement. The letter,</p> <p>6 I think, is 01174. The internal numbering on the bottom</p> <p>7 of the page is number 39.</p> <p>8 A. Yes, I have it.</p> <p>9 Q. Was this letter discussed with you prior to its sending?</p> <p>10 A. Well, Mr Hinton put together a letter, having come to</p> <p>11 the conclusion he wished to dismiss Mr Goodman, and then</p> <p>12 got in touch with me and said, "Can you just check this</p> <p>13 is okay from a legal point of view?" So I added some of</p> <p>14 the stuff that looks legal, such as "forwarding your P45</p> <p>15 in due course" and so on. I also added a line which</p> <p>16 is -- looks slightly like a lawyer has added it, which</p> <p>17 is:</p> <p>18 "We would be entitled to make no payment</p> <p>19 whatsoever."</p> <p>20 Which is at the end of the third paragraph, about</p> <p>21 the payment Mr Hinton had decided to make to Mr Goodman.</p> <p>22 Q. So that reflected your view, did it, "We would be</p> <p>23 entitled to make no payment"?</p> <p>24 A. I think in going to the former employee with a letter of</p> <p>25 this nature, I think it's completely correct to hedge</p> <p style="text-align: center;">Page 87</p>
<p>1 were arrested on 8 August 2006. Were you made aware of</p> <p>2 that at the time?</p> <p>3 A. I heard about it because it got round the business very</p> <p>4 quickly. In fact, I was -- it got round the business</p> <p>5 extremely quickly because I was at my desk, I'd just</p> <p>6 come back from holiday. Mr Crone was away on holiday</p> <p>7 himself. And I remember receiving a call from</p> <p>8 Mr Kuttner, who was then managing editor of the</p> <p>9 News of the World, saying, "We've got the police here,</p> <p>10 what are we going to do?" So he clearly needed some</p> <p>11 sort of assistance, totally outside my area of</p> <p>12 responsibility but one of those interesting things that</p> <p>13 happen.</p> <p>14 LORD JUSTICE LEVESON: A good question for a commercial</p> <p>15 lawyer, that.</p> <p>16 A. I have to say, I was -- I went over there and was as</p> <p>17 reassuring as I could be, did what I could to hold the</p> <p>18 fort until Mr Pike arrived from Farrer & Co, and then</p> <p>19 I believe they had a criminal lawyer come along as well.</p> <p>20 So I was there for two or three hours talking to the</p> <p>21 police, just ensuring they were -- everything was calm</p> <p>22 and so on. And that was the end of my involvement,</p> <p>23 really.</p> <p>24 MR JAY: Until employment issues arose?</p> <p>25 A. Until employment issues arose, yes.</p> <p style="text-align: center;">Page 86</p>	<p>1 your bets and make sure that you're not, by paying him</p> <p>2 something, undertaking any obligation or making any</p> <p>3 admission.</p> <p>4 Q. We see what the reason for the payment as stated in the</p> <p>5 letter was. He will receive one year's salary in view</p> <p>6 of his service and the pressures on his family.</p> <p>7 A. Yes.</p> <p>8 Q. You had no input into that decision?</p> <p>9 A. I had no input whatsoever. As chairman and chief</p> <p>10 executive, it was Mr Hinton's prerogative to do that.</p> <p>11 There was nothing untoward in it, to my view, so it was</p> <p>12 his prerogative.</p> <p>13 Q. Mr Goodman, and this is at page 01176, on the internal</p> <p>14 numbering page 41, Mr Chapman --</p> <p>15 A. Yes.</p> <p>16 Q. -- he then writes a letter of appeal, which made four</p> <p>17 points. Of course, it wasn't sent to you, it was sent</p> <p>18 to the group human resources director.</p> <p>19 A. Yes.</p> <p>20 Q. Did you see this letter shortly afterwards?</p> <p>21 A. I saw it shortly after, yes.</p> <p>22 Q. Did you discuss any of the points in the letter with</p> <p>23 Mr Crone?</p> <p>24 A. I did not, no.</p> <p>25 Q. Even the third and fourth points, where he's</p> <p style="text-align: center;">Page 88</p>

<p>1 specifically named?</p> <p>2 A. I believe that Mr Cloke discussed those points with</p> <p>3 Mr Crone. I actually think it's a matter of record,</p> <p>4 might have been at the Select Committee, that Mr Cloke</p> <p>5 and/or Mr Myler spoke to Mr Crone about this.</p> <p>6 Q. But you become involved when some emails are reviewed;</p> <p>7 is that right?</p> <p>8 A. That's correct, yes.</p> <p>9 Q. We heard Mr Abramson give us evidence in relation to</p> <p>10 those emails at a slightly later point in time. He was</p> <p>11 involved on 9 May 2007?</p> <p>12 A. Yes.</p> <p>13 Q. May I ask you this. Did you review those emails first?</p> <p>14 A. Yes, I did, yes. Along with Mr Cloke, but as separate</p> <p>15 exercises. We didn't sit in the same room.</p> <p>16 Q. Did you review all 2,500 emails?</p> <p>17 A. The figure 2,500 is banded around, and all I know is it</p> <p>18 took a long time to do it and I kept coming back to it,</p> <p>19 because obviously I had my day job to do as well. There</p> <p>20 were a considerable amount of emails, 2,500 is probably</p> <p>21 not inaccurate, but I looked at all of the ones that</p> <p>22 were made available to me.</p> <p>23 Q. Was the earliest email about 2005?</p> <p>24 A. My understanding of the parameters which were set for</p> <p>25 this email review were that they derived from</p> <p style="text-align: center;">Page 89</p>	<p>1 A. Yes.</p> <p>2 Q. But there was a telephone conversation on 9 May?</p> <p>3 A. Yes, indeed.</p> <p>4 Q. Which is under your tab 8, Mr Chapman.</p> <p>5 A. Tab 8.</p> <p>6 Q. It's page 33448.</p> <p>7 A. I have it in front of me.</p> <p>8 Q. Of course this is a transcription not of your note but</p> <p>9 Mr Abramson's notes.</p> <p>10 A. Yes.</p> <p>11 Q. So it may not be possible to take it much further. On</p> <p>12 the other hand, it may be. When it says "work cut off</p> <p>13 emails and 2 others", Mr Abramson told us some of the</p> <p>14 emails were cut off. That's just the way they were on</p> <p>15 the system. Is that a fair --</p> <p>16 A. I think that's as very fair interpretation. There were</p> <p>17 problems, as many people will be unsurprised to hear,</p> <p>18 from an IT point of view in doing this exercise, and we</p> <p>19 had noticed in doing our exercise that some of the</p> <p>20 emails were cut off in a strange way, so they'd finish</p> <p>21 before there was obviously a sign-off. There were also,</p> <p>22 if I may move to the bottom of this note, blank emails</p> <p>23 which had the addressee and so on on it, but nothing on</p> <p>24 it. So I thought I should warn Mr Abramson that there</p> <p>25 were some issues with the data, just in case he thought</p> <p style="text-align: center;">Page 91</p>
<p>1 Mr Goodman's letter. I think Mr Cloke then had some</p> <p>2 part in it, as he explained to the Select Committee, but</p> <p>3 my understanding was that the earliest email was 2005,</p> <p>4 2006, which I think at that time were accepted as the,</p> <p>5 should I say, the peak periods of voicemail</p> <p>6 interception.</p> <p>7 Q. Did you at any stage have a look at emails which dated</p> <p>8 back to 2003 and which Mr Abramson referred to</p> <p>9 admittedly necessarily somewhat obliquely yesterday?</p> <p>10 A. I heard his reference to those. I was surprised by that</p> <p>11 and somewhat puzzled because I thought the parameters of</p> <p>12 this email review were 2005 on.</p> <p>13 And also the manner in which the emails were</p> <p>14 delivered, both to myself, to Mr Cloke and to</p> <p>15 Mr Abramson were through password-protected access to</p> <p>16 internal folders on the NI server. I understood from</p> <p>17 Mr Abramson's evidence yesterday that a bundle of stuff</p> <p>18 was sent to him separately, and I have to say I have no</p> <p>19 recollection of that, nor do I see why that would have</p> <p>20 been the case, if those pre-dated 2005.</p> <p>21 Q. Fair enough, Mr Chapman, but the 2003 emails, which I'm</p> <p>22 continuing to refer to obliquely, did you see those at</p> <p>23 this stage?</p> <p>24 A. I have no recollection of seeing 2003 emails.</p> <p>25 Q. Okay. Now Mr Abramson was instructed on 10 May 2007.</p> <p style="text-align: center;">Page 90</p>	<p>1 that it was particular to him.</p> <p>2 Q. Thank you. The reference to "2 others", are you able to</p> <p>3 assist on that?</p> <p>4 A. I heard Mr Abramson's explanation of that yesterday and</p> <p>5 I wouldn't contradict it. It sounded like a correct</p> <p>6 surmise of what that means.</p> <p>7 Q. Then the third line we can understand.</p> <p>8 A. Yes.</p> <p>9 Q. Again the cut-off is probably the same cut-off email</p> <p>10 point. But I must ask you about "other journalists use</p> <p>11 Mulcaire". Could you assist us with that, please?</p> <p>12 A. I think there were references in the appeal letter of</p> <p>13 Mr Goodman to Mulcaire and Alexander, and I was giving</p> <p>14 a bit of background to Mr Abramson on Mulcaire, because</p> <p>15 he may not necessarily have realised that there were</p> <p>16 other journalists who used him and some of those uses</p> <p>17 were accepted as being legitimate.</p> <p>18 Q. Did you have direct evidence of that, the legitimate</p> <p>19 uses of Mulcaire?</p> <p>20 A. I think -- I recollect, not necessarily from personal</p> <p>21 reading of it, that this was accepted in the pleadings</p> <p>22 in the court cases, the criminal trials.</p> <p>23 Q. It was certainly the prosecution's position on</p> <p>24 26 January 2007.</p> <p>25 A. Right.</p> <p style="text-align: center;">Page 92</p>

<p>1 Q. You're right about that. Could I ask you, please, about 2 the antepenultimate line of this document: 3 "Concern not to provoke Mulcaire?" 4 What does that mean?</p> <p>5 A. Sorry, Mr Jay. I heard Mr Abramson's explanation on 6 that. I think he was close to it, I'm not sure it was 7 exactly the way I recollect it. What I think occurred 8 here, and again I'm relying on recollection a few years 9 on, is that Mr Abramson asked why Mulcaire emails were 10 not involved in this email review, and I was, I'm afraid 11 to say, probably being slightly facetious here, which is 12 why he's put a question mark. I'm saying, "Perhaps 13 there's a concern not to provoke Mulcaire".</p> <p>14 The fact of the matter is that the email review 15 parameters derived from Mr Goodman's letter of appeal of 16 2 March which didn't refer to Mulcaire emails. They 17 were honed by Mr Cloke, so that Mulcaire emails did not 18 form part of the email review process. But I think, I'm 19 sorry to say, it's probably me being slightly facetious.</p> <p>20 Q. The final piece of interpretation, "How do we contain 21 it?", what might that be a reference to?</p> <p>22 A. I think here Mr Abramson got it just about right. The 23 issue here was that the number of allegations had been 24 made by Mr Goodman in the context of employment matter. 25 We felt that at that stage the thing to do was to</p> <p style="text-align: center;">Page 93</p>	<p>1 they couldn't do their jobs. So they got in touch with 2 IT at News International and asked for copies to be 3 made. I do remember seeing some blank ones and also 4 some ones which were in a kind of semi-readable form. 5 I have no idea why it happened and it does seem strange 6 to me that I didn't think it betokened an attempt to 7 delete, because if you delete an email the whole lot 8 goes rather than just --</p> <p>9 LORD JUSTICE LEVESON: But if you delete -- that's what 10 I was thinking about. Can go into your sent box and 11 delete the contents of a message? Maybe this is outwith 12 your experience. And therefore you can't get rid of the 13 whole email because it's somewhere there in the system.</p> <p>14 A. In the server.</p> <p>15 LORD JUSTICE LEVESON: But you can actually modify what the 16 record --</p> <p>17 A. I can't speculate on that. It sounds like a question 18 for IT, but I certainly agree with you, sir, that it was 19 strange.</p> <p>20 LORD JUSTICE LEVESON: All right. Thank you.</p> <p>21 MR JAY: The email of instruction comes the following day on 22 10 May. We've seen it before. Was it your intention 23 that Mr Abramson's report following the email review 24 would or might be published in any way outside the 25 company?</p> <p style="text-align: center;">Page 95</p>
<p>1 investigate those allegations to see whether they had 2 any foundation.</p> <p>3 The problem for the News of the World, of course, 4 was that they had a new editor on board, new processes, 5 a new broom, but this risked, if those allegations were 6 found to have substance, making everything flare up 7 again. What we were looking at was to do this email 8 review to see if we could contain the bad publicity that 9 would inevitably result from those going public. In 10 other words, for us to be able to say, "Well, 11 Mr Goodman, we've looked into these [if he went public 12 with them] and we didn't find anything to substantiate 13 your allegations". That was it, it was reputational.</p> <p>14 Q. I understand, Mr Chapman. We know from documents we've 15 already seen of Mr Abramson. The letter of instruction 16 or the email of instruction is under your tab 9 --</p> <p>17 A. Yes.</p> <p>18 LORD JUSTICE LEVESON: Just before you leave this note, 19 blank emails. Can you think of a circumstance in which 20 an email has an addressee on it but nothing within the 21 message?</p> <p>22 A. It was extremely strange, sir. We -- these cut-off ones 23 I couldn't understand either. And I believe the 24 Harbottle & Lewis statement which was made to the CMS 25 Select Committee said that there were some of them where</p> <p style="text-align: center;">Page 94</p>	<p>1 A. I don't think so, no. The purpose of the email review 2 carried out by Harbottle & Lewis was to back up the 3 exercise Mr Cloke and I had done, to be available, 4 I think, to show to Mr Goodman were things to get more 5 difficult with him. I think that was the primary 6 purpose.</p> <p>7 Q. So it might be used in, as it were, negotiations with 8 Mr Goodman?</p> <p>9 A. Yes.</p> <p>10 Q. But it wouldn't be used for any wider purpose; is that 11 right?</p> <p>12 A. Absolutely, in the context of the dispute.</p> <p>13 Q. Yes. There's one email only in the sequence which 14 I need to ask you about. If you were following 15 Mr Abramson's evidence yesterday, which I believe you 16 were --</p> <p>17 A. Yes.</p> <p>18 Q. -- you'll know the one it is, it's dated 25 May 2007, 19 where you suggested that an additional line should go 20 in. Do you remember that one?</p> <p>21 A. Yes.</p> <p>22 Q. The additional line was: 23 "Equally, having seen a copy of Clive Goodman's 24 notice of appeal of 2 March 2007, we did not find 25 anything that we considered to be directly relevant to</p> <p style="text-align: center;">Page 96</p>

24 (Pages 93 to 96)

<p>1 the grounds of appeal put forward by him." 2 Now, Mr Abramson rejected that suggestion, but why 3 did you make the suggestion? 4 A. Can I just say that Mr Goodman's grounds of appeal only 5 related to knowledge of or complicity in voicemail 6 interception matters, so I didn't have anything else in 7 mind in terms of other potential illegal activities when 8 I said that. 9 What I wanted to do was be able to present to 10 Mr Goodman in the context of any negotiations as 11 sweeping an opinion on his allegations as was possible, 12 so I tried to do that. It was a sweep-up clause which 13 covered everything he'd said in his letter, although 14 I would again repeat that only related to voicemail 15 interception, complicity or knowledge. 16 Q. The sentencing remarks of Mr Justice Gross given on 17 26 January 2007, were you aware of those at the time or 18 shortly afterwards? 19 A. I did not read the sentencing document at the time. 20 I was aware through hearsay of those sentencing remarks, 21 not the exact wording, but I was aware that the judge in 22 the case had indicated -- had made references, 23 particularly references, I think, to counts 16 to 20. 24 I've just refreshed myself on it, incidentally, which is 25 how I know.</p> <p style="text-align: center;">Page 97</p>	<p>1 Mr Abramson? 2 A. Yes. 3 Q. Which we know was on 29 May 2007. Then at a slightly 4 later point, there was a negotiation with Mr Goodman, 5 wasn't there? 6 A. Yes. 7 Q. Were you involved in that negotiation? 8 A. I was indeed. It was not with Mr Goodman, it was with 9 his lawyer. 10 Q. Indeed. Can I try and be clear as to what the final 11 settlement figure was, Mr Chapman? 12 A. Absolutely. 13 Q. Can you help us with that? 14 A. So Mr Goodman's lawyer wrote, I believe, to Mr Cloke 15 threatening an action in tribunal for various matters, 16 mainly unfair dismissal. This was handed over to me. 17 I then began negotiations both by email and over the 18 phone with the lawyer acting for Mr Goodman, and 19 eventually came to a settlement figure of notice, which 20 was in the region of £100,000, I think, plus an amount 21 representing possible compensatory award. The limit, 22 I think, in tribunals at that stage was 60,000, so the 23 amount in question here was about £40,000. 24 I then put that as the best I felt I could achieve, 25 were we to seek a settlement, to Mr Hinton and Mr Cloke.</p> <p style="text-align: center;">Page 99</p>
<p>1 Q. And reference to others at News International? 2 A. Yes. 3 Q. And the documents show that you asked for, Mr Abramson 4 asked for and the transcript of the sentencing remarks 5 were obtained on 29 June 2007 and then you -- 6 A. Yes. 7 Q. -- read those. When you read those, did those remarks 8 cause you any concern? 9 A. I didn't read them then. I was asked by Mr Cloke to get 10 hold of the sentencing document because I think it was 11 referred to in the letter of 2 March from Mr Goodman on 12 a subsequent letter where he asked for documents in 13 connection with his appeal. So it was to my mind from 14 Mr Cloke's point of view it was tying up loose ends. 15 At the same time, Mr Crone, I think this was 16 completely by coincidence, ran into him and we were 17 discussing it and I said I was trying to get them for 18 Mr Cloke anyway, so he asked me to get hold of them for 19 him at the same time. So that's why. I wasn't getting 20 them for myself. I didn't see any particular need to 21 look at them. But I think it was Mr Cloke getting them 22 so he had a full set of -- able to look for himself at 23 a full set of the documentation that Mr Goodman had 24 requested. 25 Q. So you obtained this statement or this report for</p> <p style="text-align: center;">Page 98</p>	<p>1 Q. So your evidence is he got his notice, the precise 2 figure for that was £90,502.08, and he got an extra 3 £40,000; is that right? 4 A. Yes. 5 Q. Can I draw to your attention, it may be there's 6 a mistake in this, but if you go to, which I hope you 7 have, a file which looks like this. It's a slimmer one, 8 file 4. 9 A. Yes. 10 Q. Which has various documents. Under tab 3 I hope you're 11 going to find, it's about six pages in, a letter 12 Mr James Murdoch wrote to the Select Committee on 13 11 August 2011. Have you been able to find that? At 14 the top right-hand side, it has PH15. 15 A. Yes, I have that from News Corporation, yes. 16 Q. The second page under item 5? 17 A. Yes. 18 Q. The question was, by the Select Committee: 19 "Please provide details of payments made to 20 Clive Goodman and Glenn Mulcaire subsequent to their 21 guilty plea and tell us who signed them off?" 22 The answer is: 23 "I'm informed that Mr Goodman was paid £90,502.08 in 24 April 2007 and £153,000, £13,000 of which was to pay his 25 legal fees, between October and December 2007."</p> <p style="text-align: center;">Page 100</p>

25 (Pages 97 to 100)

<p>1 Well, first of all, did Mr Goodman receive 2 £90,000-odd in April 2007? 3 A. I believe he didn't, Mr Jay, because there's subsequent 4 evidence been produced to the CMS Select Committee to 5 say that that payment was made in February 2007. There 6 seems to have been a considerable degree of uncertainty 7 about this 90,000 at the News International end, but 8 I believe that a recent letter, which has appeared on 9 the CMS Select Committee website, makes it February, so 10 I think it was paid and it was paid in February in 2007. 11 Q. So apart from the fact that the date is wrong -- 12 A. Yes. 13 Q. -- about which little may turn -- 14 A. Yes. 15 Q. -- £90,000 was paid in February -- 16 A. Yes. 17 Q. -- which was presumably at or about the same time as the 18 letter of dismissal? 19 A. I think it was -- the 90,000 is per the statement made 20 in Mr Hinton's letter that, "You've been a good guy and 21 we're giving you this because we don't want to see your 22 family suffer, but". So it's that paragraph. 23 Q. What about the second tranche? £153,000 between October 24 and December 2007. Is that correct? 25 A. The amount is correct. Again, the dates I don't think Page 101</p>	<p>1 see if I could achieve a reasonable settlement of the 2 particular claim. 3 LORD JUSTICE LEVESON: But does it mean that Mr Goodman, 4 this reporter who had been sent to prison for unlawfully 5 accessing voicemail communications of members of the 6 Royal Family, received from News International a quarter 7 of a million pounds? 8 A. It does, sir, yes. 9 MR JAY: And, what's more, he gets his 90,000 twice, doesn't 10 he, on your evidence? 11 A. No, that's totally in -- the figure of 250,000-odd 12 includes the 90,000, then the notice plus the 40,000. 13 Q. The 90,000 offered in the letter of 5 February was 12 14 months' notice? 15 A. Yes. 16 Q. He accepts it and receives it on that basis. But when 17 you come to negotiate the settlement of the ET claim, 18 the figure net of cost is 140,000, of which 90,000 again 19 is notice and about 50,000 is compensation; is that 20 correct? 21 A. Yes, that's correct. May I just explain my thinking -- 22 LORD JUSTICE LEVESON: Just before you do, I must correct 23 the transcript, which has me suggesting that the 24 accessing voicemail communications was lawful. I did, 25 I think, say unlawful, and I wouldn't want that to be Page 103</p>
<p>1 are correct, I think they were corrected subsequently. 2 But you're correct in saying also that it probably 3 doesn't make any difference. 4 The position here was that Mr Hinton decided to make 5 a payment of 90,000-odd to Mr Goodman. This was made in 6 February. We think, we hope that is the case now and 7 there won't be another revision of when it was paid. 8 I think at that stage Mr Hinton, indeed everybody 9 else, was very far from expecting there to be an unfair 10 dismissal claim come along from Mr Goodman. Several 11 months later, after his appeal was turned down, there 12 was an unfair dismissal claim. Lawyers' letters were 13 received and I was tasked with seeing if that could be 14 settled for a reasonable amount. 15 So the £90,000 is outwith the settlement process. 16 It was paid over, and it's not part of the legal 17 settlement, it was paid over gratuitously and I think in 18 the belief, perhaps mistaken, by Mr Hinton that that 19 would be the end of the matter. 20 LORD JUSTICE LEVESON: Mr Chapman, it's an extremely long 21 time since I went before what was then called an 22 industrial tribunal, but I thought that when 23 compensation for unfair dismissal was assessed, all 24 payments were taken into account. 25 A. That might well be the case, sir. I was simply asked to Page 102</p>	<p>1 misunderstood. Yes. 2 A. Would it make it easier to explain the payment, perhaps? 3 MR JAY: Help us, please, with the largesse which is being 4 bestowed. 5 A. My understanding at the time is we had a situation here 6 where a former employee, who had indeed pleaded guilty 7 and been sent to prison for a criminal matter, was 8 bringing a claim against the company, so that can go two 9 ways. It can end up in tribunal, or it can be settled. 10 Q. Yes. 11 A. If it went to tribunal, then there are clearly issues of 12 reputational damage and so on that could arise from 13 tribunal. We had done investigative work at the time on 14 Mr Goodman's appeal. There was an email review done, 15 and there were -- and I understand this is a matter of 16 record that there were extensive interviews of employees 17 at the News of the World carried out by Mr Myler and 18 Mr Crone. 19 So we felt that in our knowledge then, the 20 allegations made in Mr Goodman's appeal letter were 21 unsubstantiated at that time. 22 I was then asked to see if there was any chance of 23 achieving a settlement of this, because the feeling at 24 the News of the World, and I think Mr Crone did 25 enunciate that yesterday at the end, was that there was Page 104</p>

<p>1 a desire to get this behind the newspaper, carry on as 2 a business, restore morale. There was a new editor 3 there, new processes in place. 4 The problem with a tribunal is that it does give the 5 opportunity for everything to be raked up again and for 6 allegations, even unsubstantiated ones, to be made, and 7 for reputational damage and so on to occur, and when 8 such allegations are made, even if they're 9 unsubstantiated, those elements of the media in society 10 who wish to believe them will do so. 11 Had this gone to tribunal, it would have been 12 probably much later in the year and possibly the next 13 year, so the work that Mr Myler was doing to try and 14 restore the credibility of the brand, get everything 15 going again, would have been thrown into turmoil. So 16 that is the commercial imperative there. 17 I don't think, having done employment law matters 18 for a few too many years, that companies often -- always 19 settle on merits. They settle sometimes simply because 20 it's pragmatic to do so, because the publicity that 21 would be accorded to unfounded, unsubstantiated 22 allegations would be bad, and those who wanted to 23 believe them would do. I think that is the way that the 24 judgment was made at the time. 25 LORD JUSTICE LEVESON: What's the maximum an employment Page 105</p>	<p>1 ET proceedings? 2 A. Quite possibly, although it was an ex gratia payment and 3 it wasn't characterised as notice, it was equivalent to 4 it, so quite possibly, but I can't say. 5 Q. Even if it wasn't, he was getting £140,000, let's forget 6 about the costs, which again was more than he could ever 7 get before an ET, wasn't it, subject to this Public 8 Interest Disclosure Act claim? 9 A. It's possibly more, but paying more than a tribunal 10 might award isn't necessarily always the criterion on 11 which you settle. Particularly, I'm sorry to say, for 12 bigger companies where the purse is larger. 13 Q. Let's assume for the purposes of argument that there may 14 have been issues about procedural fairness. Let's just 15 assume that. 16 A. Yes. 17 Q. My understanding, and of course my knowledge of this, 18 I'm afraid, is slightly antiquated, you would have to 19 take into account contributory negligence or 20 contributory fault, and there would be rather a lot of 21 that here, Mr Goodman, wouldn't there? 22 A. I totally agree. There's a process called a "Polkey" 23 reduction. 24 Q. That's the one. 25 A. Where even if you succeed substantively on the claim, Page 107</p>
<p>1 tribunal could award at that time? 2 A. Well, the maximum for a compensatory award at the time 3 was 60,000, but there were elements of Public Interest 4 Disclosure Act made in this claim. Two of the 5 paragraphs in Mr Goodman's appeal were aimed at a Public 6 Interest Disclosure Act claim, and that would have been 7 unlimited compensation were it found to be correct. 8 LORD JUSTICE LEVESON: It's a rather interesting claim, 9 given the circumstances in which this all came about, 10 isn't it? 11 A. I agree entirely, sir. 12 MR JAY: The basic award, was that capped at any level 13 before an employment tribunal? 14 A. Sorry, the? 15 Q. There's a basic award and a compensation. 16 A. The basic award was a few thousand pounds in those days. 17 I think it's moved up to about 10,000 now, and then 18 there's a compensatory award, which is pushing £70,000 19 now, but which was £60,600, I think, then. 20 Q. The figure of £90,000 paid in February 2007 was more 21 than the basic and compensatory award, wasn't it? 22 A. Yes. But I think it was based on Mr Hinton's idea of 23 what his notice would have been were he paid notice, 24 rather than any expert view on tribunal awards. 25 Q. Wouldn't Mr Goodman have to account for the £90,000 in Page 106</p>	<p>1 your damages can be reduced by possibly a very 2 significant amount based on contributing negligence. 3 But I think my point is that that wasn't the reason 4 for settlement. 5 LORD JUSTICE LEVESON: It's all to do with reputational 6 damage? 7 A. The reason for settlement was a tribunal would provide 8 a forum to Mr Goodman, who at that stage we believed had 9 made unsubstantiated allegations, to repeat those 10 allegations and do significant commercial damage to 11 a brand which was trying to recover its reputation. 12 MR JAY: Mr Goodman's settlement was tied up, of course, 13 with a confidentiality agreement, wasn't it? 14 A. Well, a standard compromise agreement with 15 a confidentiality clause in it, yes. 16 Q. It was made clear to him in the course of negotiations 17 that that would be the price, at least from his point of 18 view, of entering into a deal; is that right? 19 A. I don't -- I think it wasn't the be all and end all of 20 it. I think the compromise agreement is a settlement 21 agreement, and part of a standard compromise agreement 22 is that the employee will not divulge the circumstances 23 of their termination and associated issues. 24 So I think, from the point of view of the employer 25 who has an ex-employee enter into a compromise Page 108</p>

27 (Pages 105 to 108)

<p>1 agreement, they're trying to stop public noise, if I may 2 put it like that, through a confidentiality clause. 3 Q. Do you feel that this was part of an overall strategy by 4 News International to try and keep these things quiet? 5 A. I think to say it was "a strategy to keep things quiet" 6 is not how I would put it. I think it was a strategy to 7 try to manage the significant reputational damage that 8 had been done by the events of August 2006 and to allow 9 the News of the World, under its new editor, hopefully 10 to move on and recover as a brand. 11 Q. This is a final question before we break. 12 A. Yes. 13 Q. If News International had confidence in the public line 14 it was putting out, namely one rogue reporter, one might 15 have thought that it would take Mr Goodman on with his 16 wild and unsubstantiated allegations. Would you agree 17 with that? 18 A. No, I wouldn't necessarily agree with that, because 19 I think that you would still have the issue of the 20 public forum for him to make his wild and 21 unsubstantiated allegations, the publicity that would 22 ensue from that and the fact that, as I said earlier, 23 those sections of the media and society who wanted to 24 believe all those allegations would do so, so the brand 25 damage would be done.</p> <p style="text-align: center;">Page 109</p>	
<p>1 MR JAY: Sir, that may be a convenient point to break. 2 LORD JUSTICE LEVESON: I think it's fair, Mr Chapman, that 3 however it's characterised, it's essentially the same 4 point, isn't it: although on the face of it, giving 5 nearly a quarter of a million pounds to somebody in 6 these circumstances would cause a lot of eyebrows to be 7 raised, the underlying protection of the brand was what 8 was important. Is that a fair way of putting it? 9 A. That's absolutely correct, sir. 10 LORD JUSTICE LEVESON: Thank you. 11 (1.02 pm) 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 110</p>	

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