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| <p>1 2 (2.08 pm) 3 MR JAY: Mr Wright, a series of possibly disconnected 4 general questions under a number of headings. First of 5 all, in your view, is there a correlation between -- 6 LORD JUSTICE LEVESON: Just before you go on, did you solve 7 the issue? 8 A. Yes, I did. The story was published on August 21. 9 Lord Mandelson made his complaint the very same day. It 10 was sent to us on August 22. We put in a very vigorous 11 response on September 3. 12 LORD JUSTICE LEVESON: As opposed to a not vigorous 13 response? 14 A. All our responses are vigorous. This was very vigorous. 15 LORD JUSTICE LEVESON: That's the point I was making. 16 A. No, well, sometimes you may concede that the complainant 17 has a point and negotiate a settlement, but not in this 18 case. 19 LORD JUSTICE LEVESON: Yes. 20 A. There were a series of emails and phone calls between 21 the PCC and Lord Mandelson until the end of October, 22 when he indicated that he didn't want to pursue it. 23 They asked for written confirmation of that, which they 24 haven't received, but in the absence of that, the file 25 was closed at the end of the year and I think in the</p> <p style="text-align: center;">Page 1</p> | <p>1 Q. Yes. 2 A. And it's possible our coverage just differed in tone 3 slightly from other newspapers. 4 Q. It might have differed in content as well, Mr Wright, 5 but do you have any comment to make on the approach that 6 one of your competitors, namely the Daily Express, took 7 to the McCann story? 8 A. They gave it a great deal of coverage, more than I would 9 have thought was warranted. I'm sure they'll be able to 10 explain to you why they covered it in the way they did. 11 I mean, I -- it certainly reached a point -- I'm not 12 referring here directly or particularly to the 13 Daily Express, but the coverage and the progress of the 14 story itself reached a point where I felt it would be 15 a good idea to send a very senior journalist out there 16 to do what you might call a cold case review, and we 17 sent David Rose, who is one of our top people, former 18 Observer man, and told him to go out without any 19 preconceptions and start afresh. 20 He filed a major investigation into the case, which 21 focused in particular on the way the Portuguese police 22 had handled it, and the fact that the Portuguese 23 policeman in charge of the case had been involved in 24 another case a couple of years previously involving 25 a Portuguese woman whose daughter had gone missing, who</p> <p style="text-align: center;">Page 3</p> |
| <p>1 normal course of events we would have received 2 notification of that, but we haven't as yet. 3 LORD JUSTICE LEVESON: All right. Thank you. Sorry, 4 Mr Jay. 5 MR JAY: Sir, I'd overlooked that point. 6 Is there in your view any correlation between 7 stories, in particular exclusive stories, and increases 8 in circulation? 9 A. Probably the best answer I can give to that question is 10 to tell you that in the last year only three stories we 11 published gave a noticeable increase in circulation. 12 One was the royal wedding, one was the Japanese tsunami 13 and one was a particularly unpleasant and tragic crash 14 on the M5 motorway. So exclusive stories of the type 15 you are referring to would be part of the mix of things 16 which readers would buy the paper for, but it wouldn't 17 move individual sales for us. 18 Q. You're commenting, as you only can, on the Mail on 19 Sunday, aren't you? 20 A. Yes. 21 Q. I don't think the Mail on Sunday was particularly 22 interested, and I don't mean that in any disparaging 23 way, with the McCann story, was it? 24 A. We covered it, but we were not the subject of any 25 complaint from the McCanns.</p> <p style="text-align: center;">Page 2</p> | <p>1 had been under a great deal of pressure from the police 2 to make a confession and ended up being jailed. This 3 case was then subject to review, which cast a lot of 4 doubt on the way the Portuguese police had handled the 5 McCann case, and I think formed a signal part in the 6 change of attitude generally towards the reporting of 7 the McCanns' situation. 8 Q. As a result of this work by your reporter in Portugal, 9 obviously a story resulted. 10 A. Yes. 11 Q. Published in the Mail on Sunday. 12 A. Yes. 13 Q. Probably at the back end of 2007 or early 2008, was it? 14 A. I can't remember the exact timing, but it was around 15 that time that the tone of the coverage began to change 16 and people's perceptions began to change. 17 Q. And also letters before action had begun to fly, 18 I think. 19 A. Yes. 20 Q. That may or may not have been a factor. 21 Can I move off that topic to a different topic, 22 namely your relations with politicians, particularly 23 those in high office or opposition politicians in shadow 24 positions. How frequently, if at all, do you meet with 25 politicians in that way?</p> <p style="text-align: center;">Page 4</p> |

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| <p>1 A. I generally go to two out of three of the party 2 conferences and have meetings with as many senior 3 politicians as I can cram into 48 hours. Apart from 4 that, I don't meet them very often. 5 Q. We've heard of editors going out to dinner with 6 politicians. Is that a practice you have partaken in? 7 A. Apart from party conferences, I don't think I've ever 8 been out to dinner with a politician. 9 Q. Okay. 10 A. My policy is to have perfectly cordial relationships 11 with politicians, but to try and keep the newspaper 12 completely independent of both parties, all parties, and 13 certainly not to, as you might say, get into bed with 14 individual politicians. 15 Q. Can I ask you a couple of general questions along the 16 same or similar lines to questions I've asked of others? 17 What is your vision for the paper, and in what way will 18 you realise that vision in the way you lead your 19 organisation? 20 A. Well, I've been a journalist for 38 years and I've never 21 had higher ambition than to produce the best possible 22 newspaper for the greatest number possible of people. 23 I think our role is to inform, as accurately as we 24 possibly can, to surprise, to entertain and campaign, 25 and occasionally to make people laugh or cry in the Page 5</p> | <p>1 technology and in people's habits can turn newspapers 2 from very successful, highly profitable operations 3 within the space of no more than four or five years into 4 loss-making, struggling businesses, and my main task for 5 the next few years will be to find ways of ensuring that 6 the pool of talent which we've put together over the 7 last 30 years continues to exist and that we can 8 continue to produce the sort of journalism that I want 9 to produce. 10 Q. Before questions are asked about the future and the way 11 forward, can we just touch on or go back to the 12 chronology in relation to Operation Motorman? We have 13 looked at this again. This is paragraph 14 of your 14 statement, Mr Wright. You say in the third line of 15 paragraph 14: 16 "The instruction to staff in February 2004 that 17 inquiry agents were not to be used without clearance 18 from departmental heads had to be satisfied that other 19 means of obtaining information had been exhausted." 20 But it's a matter of record that charges were 21 brought against Mr Whittamore in fact in February 2004, 22 so that may or may not have been a coincidence. 23 Probably wasn't, was it? 24 A. I simply don't recall, I'm afraid. 25 Q. Okay. At that stage, Mr Whittamore could still be used Page 7</p> |
| <p>1 process. You should always be the voice of people whose 2 lives are affected by those in power, but who are not in 3 power themselves. 4 The Mail on Sunday is somewhat different to other 5 papers. It was only founded 30 years ago. Our 30th 6 anniversary is in May this year. It nearly folded in 7 the first six weeks, it was a disastrous launch, and 8 since that time it's grown to become the biggest selling 9 Sunday paper in the country, and I feel very proud to 10 have played a part in that. 11 Q. In what respects does the organisation reflect your 12 leadership? 13 A. Newspapers are inevitably hierarchical organisations. 14 It can't be otherwise because the decision-making 15 process has to be very quick and very precise. I am 16 aware that I am, if you like, a suburban chap with 17 a family, and the newspaper represents the things that 18 interest me, and I hope they are things that will 19 interest a large proportion of the British population 20 who live lives not that dissimilar to mine and have 21 interests and concerns not that dissimilar to mine. 22 Q. What is your greatest priority going forward, do you 23 think, Mr Wright? 24 A. It is to secure the future of the newspaper in a very, 25 very difficult environment. I've seen how changes in Page 6</p> | <p>1 if (a) there was clearance from departmental heads, and 2 (b) satisfaction that other means of obtaining 3 information had been exhausted; is that right? 4 A. Yes. 5 Q. And aligning your evidence with the next witness's and 6 what you said to us earlier, I think it's right that 7 Mr Whittamore was not used after September 2004, 8 although there were two straggling payments which went 9 into early 2005; is that correct? 10 A. Yeah, I think they were later 2005, but he -- apart from 11 two payments, which we, I'm afraid, can't explain, apart 12 from those two, we stopped using him in September 2004. 13 Q. So notwithstanding the scepticism which I may have shown 14 earlier, you were using Mr Whittamore even after he was 15 charged, weren't you? 16 A. In a small number of cases. I mean, the use of him 17 became much less frequent after February 2004. 18 Q. As for the future, your reaction to the evidence the 19 Inquiry has received thus far and your recommendations 20 for the future, are you in a position to share some of 21 those ideas which you must have, Mr Wright, with us now? 22 A. Yes. I sit on the Reform Committee of the Press 23 Complaints Commission, so I've given a fair amount of 24 thought to this. I don't want to pre-empt what I hope 25 will be the reaction of the industry as a whole, but Page 8</p> |

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| <p>1 I think it's very clear to me that what the phone 2 hacking episode showed was that the Press Complaints 3 Commission under its existing constitution didn't have 4 a proper means for dealing with the systematic problems 5 at a newspaper or any other publication. It was and is 6 a complaints body. There was no complaint about phone 7 hacking, because people who had been victim of it 8 preferred to go down the legal route. 9 The PCC did ask News International whether it went 10 beyond Clive Goodman. They assured the PCC it didn't. 11 We didn't have really a proper means of testing whether 12 there was any substance to that assurance. 13 So I think most definitely whatever body replaces 14 the PCC needs to continue the complaints mediation and 15 prepublication work that the existing PCC does very 16 effectively, but it also needs a standard and compliance 17 arm which would be able to call editors and other 18 newspaper executives in to give evidence about things 19 that have been happening at their newspapers and, if 20 necessary, impose sanctions if editors refuse to 21 co-operate or give false evidence, and to issue, where 22 evidence has been given truthfully and willingly, to 23 issue reports and possibly even in those cases impose 24 sanctions, both to inform the rest of the industry about 25 what has happened and prevent it happening elsewhere,</p> <p style="text-align: center;">Page 9</p> | <p>1 Q. The constitution of any new body, if there were to be 2 a new body -- the current constitution, I think, is ten 3 lay members and seven editors. I may be wrong about 4 that, but I'm searching my recollection. 5 A. Mm. 6 Q. Some would say that that is in danger of creating too 7 cosy a relationship, even though I know that when 8 adjudicating on Mail on Sunday complaints, you of course 9 would recuse yourself. 10 A. And Daily Mail complaints. 11 Q. First of all, there are two questions. (a) would you 12 agree with the suggestion that the relationship is too 13 cosy? And (b) what are your ideas, if any, for the 14 future constitution of such a body? 15 A. I actually don't think the relationship is too cosy. 16 I think some the people who have made that comment have 17 made it on the assumption that the majority of the 18 Commission are editors, which they aren't. 19 I sit through Commission meetings. Editors are very 20 often harder on other editors than the lay commissioners 21 are, and certainly editors who have been in receipt of 22 adjudications against them frequently complain that the 23 editors on the PCC must have it in for them. So 24 I don't -- 25 LORD JUSTICE LEVESON: Doesn't that underline why it ought</p> <p style="text-align: center;">Page 11</p> |
| <p>1 and to make sure that from the publication in question 2 it doesn't happen again. 3 Q. Do you have any ideas about how to deal with what has 4 been described as the pariah problem? 5 A. I think many will be aware there's a proposal that 6 membership of the PCC should be put on a contractual 7 basis, which I think would make it a lot more difficult 8 for individual publishers to pull out of it. It still 9 does depend on publishers joining voluntarily in the 10 first place. 11 I think there are strong indications that all the 12 major publishers will join a reformed PCC. I'm afraid 13 I don't have an answer to -- there are always going to 14 be some small publications which make a selling point 15 out of being mavericks, and how you get Private Eye in 16 I'm not quite sure, and I can understand why they would 17 think they can't be part of any sort of collective 18 organisation. 19 But the other arm to this, which I am also attracted 20 by but which I think needs a lot of careful thought, is 21 if the PCC can be made through some sort of arbitration 22 system an alternative to the very, very expensive, 23 time-consuming business of litigation, that may well be 24 an added spur to publishers who might think they have 25 some desire to be a maverick and not be part of it.</p> <p style="text-align: center;">Page 10</p> | <p>1 to be absolutely independent of all of you? You're all 2 competitors. Isn't it rather odd that you're sitting on 3 complaints in connection with those with whom you are 4 competing in business? 5 A. Well, you have to put that out of your mind. Doctors 6 sit on the GMC -- 7 LORD JUSTICE LEVESON: Yes, Mr Wright, that's true, and 8 a consultant plastic surgeon from Burnley may very well 9 sit on a case to do with a consultant plastic surgeon 10 from London, but they're not in competition with one 11 another at all, really, are they? 12 A. They might be, but nevertheless the -- for any system of 13 regulation to succeed, the people who are being 14 regulated have got to feel that the people making the 15 judgments have a complete understanding of the industry 16 in which they work. 17 The positive thing about the present system is that 18 when editors are adjudicated against, they publish the 19 adjudications. They don't publish them with editorials 20 attacking the adjudication, which regularly used to 21 happen under the old Press Council system. And editors 22 feel that this is a system of regulation which they've 23 signed up to, which they play a part in. It's a code 24 which they've devised, and despite grumbles, it is 25 accepted.</p> <p style="text-align: center;">Page 12</p> |

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| <p>1 LORD JUSTICE LEVESON: But the public don't think much of 2 it. 3 A. Well, you say that, but you've heard from a lot of high 4 profile celebrities. They're not the public. 5 LORD JUSTICE LEVESON: I've not just heard from high profile 6 celebrities at all. Would you say the reaction of 7 Mr Jefferies, was he a high profile celebrity? Or 8 Dr and Dr McCann, were they high profile celebrities? 9 A. They're people who have been involved in major stories 10 and have clearly been on the receiving end of stories 11 which shouldn't have been written. 12 LORD JUSTICE LEVESON: But that's the point. They're the 13 only ones who are really in a position to comment upon 14 the adequacy of the system. If you've never touched it, 15 then of course you won't have a comment. 16 A. Well, when you were talking about the public, I thought 17 you meant the public at large. 18 LORD JUSTICE LEVESON: I'm talking about the public who 19 actually are involved and concerned with the way in 20 which complaints are dealt with. 21 A. The PCC receives about 5,000 complaints a year. 22 LORD JUSTICE LEVESON: How many of those are ruled out as 23 inadmissible? 24 A. I can give you the figures, but a lot of them are 25 inadmissible because --</p> <p style="text-align: center;">Page 13</p> | <p>1 A. Yes, I think you will be. 2 But the PCC does deal with a very large number of 3 complaints where people are very happy with the outcome, 4 and the majority of these are from people who are not 5 celebrities, are not politicians and are not people who, 6 through no fault of their own, have become involved in 7 a very big crime story. 8 LORD JUSTICE LEVESON: Yes, and a retraction or a correction 9 may be sufficient. 10 A. Mm. 11 LORD JUSTICE LEVESON: But there are more than a few where 12 it clearly isn't. 13 A. Yes. I mean, the McCanns chose not to use the PCC. 14 They actually were in the rather odd situation of going 15 to the then chairman of the PCC and asking his advice, 16 and he advised them, for whatever reason, to go down the 17 legal route. 18 LORD JUSTICE LEVESON: Why should there be one or the other? 19 A. Because in my view, and the PCC has sort of -- it's 20 slightly varied its policy on this over the years. But 21 you should not -- it's a sort of double jeopardy thing. 22 You should not be simultaneously being sued and have to 23 fight a PCC complaint. 24 LORD JUSTICE LEVESON: With great respect, that's just 25 untenable, isn't it? Think about doctors, lawyers,</p> <p style="text-align: center;">Page 15</p> |
| <p>1 LORD JUSTICE LEVESON: But should they be? 2 A. Well, we get a lot of third party complaints. 3 LORD JUSTICE LEVESON: Why shouldn't you listen to 4 third-party complaints? 5 A. Well, because if you -- people don't always want to 6 complain. 7 LORD JUSTICE LEVESON: Yes, then you can take it up with 8 them and say, "If you positively don't want to complain, 9 say you don't want to complain". 10 A. That sometimes happens. I mean, the -- sometimes when 11 there are third-party complaints -- I mean, these are 12 matters, really, for the director of the PCC, but they 13 do sometimes go to -- if a story has run, I mean the 14 Stephen Gately case, with the Daily Mail, where there 15 were a lot of -- very large number of third-party 16 complaints, and the PCC -- there wasn't initially 17 a complaint from Stephen Gately's family, so the PCC 18 went to his family and said, "Look, a lot of people are 19 complaining on your behalf; would you like to make 20 a complaint?" which he did. Well, they did. 21 But, I mean, the PCC do regular polling on the 22 public perception of the PCC and how it deals with 23 complaints, which -- I don't have the figures to hand, 24 I can get them for you. 25 LORD JUSTICE LEVESON: I'll doubtless be getting them.</p> <p style="text-align: center;">Page 14</p> | <p>1 everybody else. They can be disciplined by their 2 professional body and sued. Why not? 3 A. Well, it has -- 4 LORD JUSTICE LEVESON: Why should you be different? 5 A. It has happened. The policy of the PCC at the moment is 6 that if people prefer to go down the legal route, they 7 tell them that, "Well, that's fine, but you go down the 8 legal route". 9 LORD JUSTICE LEVESON: But it's a different issue, isn't it, 10 because there may or may not be an invasion of privacy, 11 there may or may not be a tortious claim, but there is 12 equally a regulatory issue. 13 A. Yes. And there certainly have been -- I've been 14 involved in cases where we have -- we have dealt with 15 both a PCC complaint and a legal complaint. But the PCC 16 process at the moment under the present constitution is 17 a voluntary one, if you like, and some newspapers, if an 18 individual is making a complaint and they are pursuing 19 legal action at the same time, newspapers will tell the 20 PCC, "Well, this individual is suing us through the 21 courts and we're going to respond to that action and not 22 to the PCC" -- 23 LORD JUSTICE LEVESON: It raises the question whether it 24 should be voluntary. If you can say, "I'm not prepared 25 to participate in this because I'm being the subject of</p> <p style="text-align: center;">Page 16</p> |

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| <p>1 litigation", I don't think a lawyer could say that to 2 the Solicitors Disciplinary Tribunal, or a doctor to the 3 GMC, or an accountant to the accountancy regulatory 4 authorities. 5 I appreciate I've given three professional examples, 6 but one could give other ones. Policeman, in relation 7 to police discipline. 8 A. Yes. I mean, we're not dealing with criminal matters 9 here, but -- 10 LORD JUSTICE LEVESON: Neither was I. 11 A. I think this is a point open to debate, and, as I said 12 earlier, the policy of the PCC has varied over the years 13 on this issue, but currently, rightly or wrongly, they 14 tend to take the view that a complainant has a choice of 15 either taking legal action or pursuing a complaint 16 through the PCC. If we were to introduce an arbitration 17 arm, you would not expect someone to be both going 18 through the arbitration arm of the PCC and going to the 19 courts at the same time, I would have thought. 20 LORD JUSTICE LEVESON: It may be one of the attractions of 21 some arbitration arm is to preclude going to the courts. 22 That would require some sort of statutory authority. 23 Now, precluding going to the courts deals with the 24 enormous expense of which you and others have 25 complained.</p> <p style="text-align: center;">Page 17</p> | <p>1 MR JAY: Yes, thank you very much, Mr Wright. 2 LORD JUSTICE LEVESON: Thank you. 3 A. Is that it? 4 MR JAY: It is. 5 LORD JUSTICE LEVESON: Are you sorry? 6 A. I found it very interesting. 7 MR JAY: Lastly it's Ms Liz Hartley, please. 8 LORD JUSTICE LEVESON: Yes. 9 MS ELIZABETH HARTLEY (sworn) 10 Questions by MR JAY 11 MR JAY: Your full name? 12 A. Elizabeth Barbara Anne Hartley. 13 Q. Thank you. In the first of the three files in front of 14 you, under tab 8 and tab 8A, you'll find respectively 15 your first witness statement of 25 October -- 16 A. Yes. 17 Q. -- of last year, and your second of 6 December [sic] 18 this year; is that right? 19 A. Yes. 20 Q. Both are signed and dated by you? 21 A. Yes. 22 Q. It's true there's no statement of truth on either 23 statement, but is this your true evidence? 24 A. Yes, it is. 25 Q. Thank you. In terms of who you are, you are the head --</p> <p style="text-align: center;">Page 19</p> |
| <p>1 A. Mm. 2 LORD JUSTICE LEVESON: What do you think of that? 3 A. Well, that has great attractions, but that is also one 4 of the attractions of the PCC to us and, to be honest, 5 to complainants as well, that it's a cheaper and quicker 6 way of achieving a result than going through the courts. 7 But it's not a cheaper and quicker way of achieving 8 a result if the individual chooses to go through the 9 courts as well. 10 LORD JUSTICE LEVESON: Yes, we've probably gone round the 11 track on it. The interesting question is why the press 12 should be different from anybody else with whom the 13 public have to deal if they want to make a complaint 14 about. In many, many other fields, there's a body to 15 whom they can go, and they're not precluded from 16 litigating. 17 A. I'm afraid I'm not an expert -- 18 LORD JUSTICE LEVESON: No, it's fair enough. You're dealing 19 with questions because I think you're the first person 20 who's actually a serving commissioner who has given 21 evidence, and I'm not asking you to foreshadow what the 22 PCC are going to suggest or what editors are going to 23 come up with, or to second guess what I'm going to come 24 up with either. 25 A. Mm.</p> <p style="text-align: center;">Page 18</p> | <p>1 LORD JUSTICE LEVESON: The second statement is actually 2 6 January of this year, rather than 6 December. 3 MR JAY: I thought I'd said 6 January. 4 LORD JUSTICE LEVESON: No. 5 A. It is 6 January. 6 MR JAY: Thank you. Slip of the tongue. 7 Head of editorial legal services at Associated, so 8 does that mean that you're responsible for both the Mail 9 on Sunday and the Daily Mail? 10 A. Yes, it does. 11 Q. And do you have any continuing role in relation to the 12 Evening Standard on a contractual or other basis? 13 A. I do for the moment, but that is going to be taken over 14 by the Independent's lawyers in February next month. 15 Q. You've occupied your current role since 2009, but before 16 then you were in private practice and partners in two 17 well-known commercial firms of solicitors? 18 A. Yes. 19 Q. So that is your background. In terms of the way in -- 20 first of all, your roles and responsibilities. These 21 are very similar to the roles and responsibilities that 22 we have had explained to us by other witnesses who are 23 in like position to you. 24 A. Mm. 25 Q. Can I ask you about one specific matter, if you don't</p> <p style="text-align: center;">Page 20</p> |

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| <p>1 mind? Training. It's paragraph 6. 2 A. Yes. 3 Q. On data protection and other legal issues for 4 journalists and editors. How is that training imparted, 5 Ms Hartley? 6 A. Well, the training has been conducted in the past on 7 data protection by the former head of the data 8 protection committee, who has in fact now left the 9 group. It's been in the form of one-to-one training and 10 lectures. 11 We have in fact just introduced an interactive 12 training module for training journalists, which contains 13 some practical examples designed to assist them when 14 they're confronting practical problems, and of course we 15 are always there in order to give advice in relation to 16 specific problems which arise. 17 Q. Are the picture editors or photographers under his wing, 18 do they receive training? 19 A. Yes, everybody will go through this module. 20 Q. I think you've drawn to my attention one case which 21 might be relevant to a question which was posed earlier. 22 It's Elton John v Associated Newspapers. 23 A. Yes. 24 Q. Mr Justice Eady [2006] EWHC 1611 (QB). We'll obviously 25 look at the case for ourselves, but you remember the</p> <p style="text-align: center;">Page 21</p> | <p>1 provided the reference, so we'll look at that in due 2 course, but thank you for having done so. 3 Paragraph 11, please, which is phone hacking. 4 A. Yes. 5 Q. You say in paragraph 12: 6 "However, heads of editorial departments and key 7 journalists have denied any knowledge of phone hacking." 8 Can I ask in what context and to whom, please? 9 A. They have been interviewed, they have spoken to the 10 managing editors and they've also had conversations with 11 my predecessor in which that matter was discussed. 12 Q. Then you say in paragraph 13 that searches of financial 13 records were undertaken. 14 A. Yes. 15 Q. Was this in the summer of last year? 16 A. Yes, it was. 17 Q. Can you tell us a little bit about the searches, 18 particularly in the context of names of companies and 19 individuals? 20 A. Well, what we decided to do was to interrogate our 21 financial systems by conducting a search for payments 22 made either to Mr Mulcaire or to his company, or indeed 23 to anybody who had been named in conjunction with phone 24 hacking or associated with him or any other names he may 25 have used, to see whether we had records of payments to</p> <p style="text-align: center;">Page 23</p> |
| <p>1 case. Just tell us a little bit about it. 2 A. I felt it might be of assistance to the Inquiry because 3 it addresses the issue which arose this morning when 4 Mr Silva was giving evidence on where the boundaries lie 5 and how they're drawn and why they're drawn in relation 6 to walking from your house to your car, if it's on 7 a driveway or if it's on a public street. 8 I thought it was useful for you, sir, to know that 9 this inquiry was considered by Mr Justice Eady in his 10 judgment in 2006, when Elton John made an application 11 for an injunction to prevent publication of a photograph 12 by the Daily Mail. I handled the case externally when 13 I was a partner at Reynolds Porter Chamberlain, and in 14 that judgment Mr Justice Eady concluded that there was 15 no reasonable expectation of privacy in relation to that 16 photograph. 17 Mr John was travelling -- had travelled from his 18 house in Windsor to his London residence and was walking 19 from his car to the gate of his house across the 20 pavement. There is no evidence of harassment against 21 our clients or the photographer, and the injunction was 22 refused, was declined. But it's a useful authority on 23 these issues. 24 Q. It's also right to say that coincidentally Ms Michalos 25 also drew the same authority to my attention and indeed</p> <p style="text-align: center;">Page 22</p> | <p>1 them as a good way of trying to double-check that what 2 we were being told was accurate. And those searches 3 resulted in confirmation that no payments to those 4 people had been made and that's been a continuing 5 process. 6 Q. Okay. Then you tell us you've conducted enquiries into 7 the activities of Mr Raoul Simons. 8 A. Mm. 9 Q. I'm going to gloss over this since you point out, as is 10 the case, that he's been arrested in connection with 11 Operation Weeting and some of your statement has been 12 redacted for that reason, but it amounts to this, does 13 it, that although your records show that Mr Mulcaire was 14 a contact of Mr Simons, they don't reveal any payments 15 to Mr Mulcaire, nor any evidence to suggest that 16 Mr Simons used him to obtain information by means of 17 unlawful interception of communication? 18 A. That is correct, that is correct. 19 Q. Thank you. Can I ask you about the advice which was 20 sought from you as to the use of subterfuge? Can I ask 21 you what forms of subterfuge? 22 A. I can't recall any detailed advice which I'd given on 23 the question of subterfuge over the past two years, but 24 it's something that I would be expected to advise upon 25 as and when it arose, if it arose, in relation to the</p> <p style="text-align: center;">Page 24</p> |

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| <p>1 conduct of investigations into a story. Into an 2 allegation. 3 Q. Let me ask you a more general question about advice 4 given to editors. Obviously the editor makes the final 5 decision. You advise the editor as to risk. About how 6 often in percentage terms is your advice rejected? 7 A. I don't think I can recall one occasion when my advice 8 has been rejected. Sometimes the advice takes the form 9 of a discussion about an issue, where agreement is 10 reached on what the approach should be to a particular 11 article, but I can't recall my advice ever being 12 overruled. 13 Q. Okay. The use of private investigators and inquiry 14 agents. We know from other evidence that there was 15 a ban on the use of inquiry agents in 2007. That was 16 two years before your arrival. 17 A. Yes. 18 Q. You have no knowledge of any journalist at Associated 19 using private investigators or inquiry agents, and then 20 you say: 21 "... other than genealogists, company search agents 22 or similar." 23 Could you tell me, please, what you mean by "or 24 similar" in that clause? 25 A. We have two databases in our library which are used for</p> <p style="text-align: center;">Page 25</p> | <p>1 Mr Graham when he gives evidence -- that before July of 2 last year, the ICO were not making available the 3 underlying evidence to newspapers? 4 A. That's correct. 5 Q. And so the timing, namely you arranging for four 6 representatives of Associated to go up to Cheshire in 7 August, you might say it's wrong to say that that ties 8 in with the announcement of this Inquiry necessarily, it 9 follows on from the green light being given in July; is 10 that right? 11 A. Yes. And in fact in evidence to a Parliamentary Select 12 Committee I think in 2008 we had said that if we were 13 able to be given access to the underlying information, 14 we would like to see it. So we'd made our position 15 clear and having been given the green light, we went to 16 look at it. 17 Q. Had there been no Inquiry, this Inquiry, would you 18 still, some years after the event, have sent 19 representatives up to Cheshire? 20 A. I think I would, because it's part of my role in order 21 to look at editorial processes and procedures. And this 22 issue is something which has been raised earlier. You 23 know, before the Inquiry was announced last year. So 24 I think, having been given the opportunity to now look 25 at the documents, we would have wanted to follow that</p> <p style="text-align: center;">Page 27</p> |
| <p>1 searches and we have two genealogists who provide 2 information on people's backgrounds when we're writing 3 about people's family histories. I'm not actually aware 4 of anything else. We of course do company searches in 5 the way that you would expect on financial stories, but 6 I don't mean anything other than that. We don't use 7 private investigators or inquiry agents. 8 Q. Okay. Operation Motorman, and I'm going to cover this 9 quite shortly given the position we've reached when 10 Mr Owens' evidence was discussed. You may recall that? 11 A. Yes. 12 Q. There are just one or two matters, if I may. At 13 paragraph 21, if I could take it out of sequence, you 14 tell us there that the visit to Cheshire had been 15 arranged following a meeting between representatives of 16 the ICO and the president of the Society of Editors, 17 during which you understand the ICO had agreed to make 18 available to any newspaper mentioned in the report the 19 underlying evidence. When approximately was that 20 meeting, can you recall? 21 A. To the best of my recollection, I think the meeting was 22 in July. I wasn't present at it, obviously. 23 Q. July which year? 24 A. Last year, 2011. 25 Q. So is this right -- but we can have this confirmed by</p> <p style="text-align: center;">Page 26</p> | <p>1 up. 2 Q. Yes. Could you comment, please, on the people who did 3 go up. 4 A. Yes. 5 Q. In general terms -- tell us why you chose who you chose. 6 A. Well, I wasn't in fact the person who decided who should 7 go, although I was consulted about it and I was very 8 happy with the people who were chosen to go to Wilmslow. 9 The people who went were John Wellington, who is the 10 managing editor of the Mail on Sunday, as you have 11 heard, and Ted Verity, who is the deputy editor now of 12 the Mail on Sunday, was a senior executive on the 13 Daily Mail, and two lawyers, one of whom was my 14 predecessor, Mr Edward Young, and one is my colleague, 15 Julian Darrall, who was with me at Reynolds Porter 16 Chamberlain. 17 I was happy about that selection because I felt it 18 was very important people went who would understand the 19 documentation and who would be able to come back and 20 tell me who the people were who were named. I needed to 21 know whether the journalists were still employed and 22 have information about them in order to consider 23 anything we learnt in Wilmslow to enable us to look into 24 it quickly on their return. 25 Q. It might be said that given that Mr Wellington was the</p> <p style="text-align: center;">Page 28</p> |

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| <p>1 managing editor back in 2003 and there had been 2 a rebuke, but we've heard the context in which the 3 rebuke was given by Mr Wright, but that he was the wrong 4 person to choose rather than the right person because he 5 might try overhard to exonerate the paper. Is that not 6 a fair criticism? 7 A. No, I don't think so. I've known John Wellington for 8 a long time. I've worked for this group externally for 9 nearly 30 years and I regard him as a man of great 10 integrity, otherwise I would not have sent him. If I'd 11 thought there was any chance that this investigation 12 would not be undertaken properly, I would have asked for 13 other people to go. 14 Q. The Inquiry is not concerned with the conclusions or 15 findings of your investigation, because we've been able 16 to look at wider evidence, including the books -- at 17 least I've had access to the books, not everybody has 18 had access to the books. But may I ask you this one 19 question: did you receive a report from anybody 20 following this investigation? A report in writing? 21 A. I received a series of notes as our investigations 22 continued on what we'd found out. We were trying to 23 match the information that we were able to look at with 24 any stories published, which was proving very difficult, 25 and I got regular updates on where we had got to, and on Page 29</p> | <p>1 Inquiry would like to receive statements from any of the 2 individuals concerned, that would not be very difficult 3 to do. 4 Q. Why you, Ms Hartley? 5 A. Me? 6 Q. As the lawyer. 7 A. I think in my role as head of legal, I'm well placed to 8 do it. We've after all looked into the circumstances, 9 asked questions about how this material was obtained, 10 and gathered it together. So it seemed to me that I was 11 an appropriate person, as it spans both newspapers, to 12 provide this statement. Not because I'm particularly 13 keen to give evidence on it. 14 Q. You don't deal in the statement expressly with the term 15 which I think was in the Daily Mail the day after 16 Mr Grant gave evidence, and so that would have been on 17 22 November last year: "mendacious smear". 18 A. Mm. 19 Q. First of all, whose term was that? 20 A. It was the response of the Daily Mail on the day 21 Mr Grant gave evidence, as you know, to requests for 22 statements by our group on very serious allegations made 23 by Mr Grant when giving evidence. That statement was 24 released to broadcasters for publication. 25 We had discussions about the statement. I think the Page 31</p> |
| <p>1 discussions with people we'd been able to identify. 2 Q. I'm going to leave that matter there, since, as I've 3 said, we've gone into the underlying information in 4 greater detail than you were able to. 5 Can I move on, therefore, to your supplementary 6 statement? First of all, by way of observation -- well, 7 there are two points, really, general points. By way of 8 observation, the statement contains a lot of hearsay. 9 Of course, this Inquiry can receive hearsay. 10 A. Yes. 11 Q. But why did you decide to be, as it were, the 12 spokeswoman for Associated on this issue rather than 13 perhaps the journalists themselves? 14 A. Well, I thought it might be easier for the Inquiry if 15 I produced a statement pulling all the information 16 together. There was no desire on my part to avoid 17 producing statements from the journalists themselves; 18 I just thought it was the best way of dealing with the 19 material. If this Inquiry was a trial, of course, where 20 we were trying to get to the bottom of the truth or 21 falsity of the allegations, then of course they would 22 give statements, and would be giving evidence. So it 23 was merely, we felt, the best way to summarise what the 24 evidence was, so I've provided it on the basis of the 25 information relayed to me. But of course, if the Page 30</p> | <p>1 draft was contributed to by a number of people, 2 including the editor in chief. 3 I haven't dealt with it in my statement, and the 4 chairman of the Inquiry, Lord Leveson, said this morning 5 that he didn't want witnesses to be criticised in 6 relation to their evidence, and I felt it was better not 7 to deal with that in paragraph 27 of my conclusion. 8 LORD JUSTICE LEVESON: Well, except the last sentence of 9 paragraph 28 does do that. Of course, you didn't know 10 I was going to say what I said. 11 A. No, but I think that that is an appropriate statement, 12 because I think that the evidence given by Mr Grant is 13 fairly described as speculation -- 14 LORD JUSTICE LEVESON: That's your view. 15 A. That is certainly my view, based upon the evidence we 16 have got from our journalists. 17 LORD JUSTICE LEVESON: But Mr Grant didn't have the evidence 18 from your journalists, even if it's right. 19 A. He didn't, but equally he didn't have any evidence 20 himself, either, as to the Tinglan Hong claim that 21 a journalist had got information from the hospital or in 22 relation to the "plummy-voiced woman" article in the 23 Mail on Sunday. 24 LORD JUSTICE LEVESON: That's a conclusion that I'm going to 25 have to consider, isn't it? Page 32</p> |

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| <p>1 A. Yes, it is, sir, yes.</p> <p>2 MR JAY: So the "mendacious smear" term was one which was</p> <p>3 arrived at following discussions. Mr Dacre, the editor</p> <p>4 in chief, was part of those discussions, so it must have</p> <p>5 been his decision, mustn't it, to use it?</p> <p>6 A. Mr Dacre is the editor in chief, and of course we were</p> <p>7 here in the Inquiry. And this was a response to the</p> <p>8 evidence which was given in reply to requests for</p> <p>9 comment on the evidence in the afternoon while we were</p> <p>10 still sitting.</p> <p>11 Q. What is Associated's formal position, though, as regards</p> <p>12 "mendacious smear"? Does it stand by it or does it</p> <p>13 withdraw it?</p> <p>14 A. As you know, the editor in chief is away. I haven't had</p> <p>15 a further discussion with him about it before giving</p> <p>16 evidence. My view is that they will stand by it.</p> <p>17 Q. You don't have to disclose matters which may be</p> <p>18 privileged, although I doubt whether this question is</p> <p>19 going to address a privileged issue. You must have</p> <p>20 discussed these matters with Mr Dacre before you filed</p> <p>21 and signed your statement, mustn't you?</p> <p>22 A. There was a great deal of discussion after Hugh Grant</p> <p>23 gave evidence, and it may be pertinent to mention that</p> <p>24 we had already had communications with Mr Grant on</p> <p>25 allegations of phone hacking earlier last summer when</p> <p style="text-align: center;">Page 33</p> | <p>1 Mr Grant's New Statesman article, "The bugger, bugged"</p> <p>2 or words to that effect, I think it was. Would you not</p> <p>3 agree that certainly one interpretation of what</p> <p>4 Mr McMullan said was precisely that, that the Daily Mail</p> <p>5 was indulging in phone hacking? Of course it's</p> <p>6 understood that Mr McMullan clearly resiled that when he</p> <p>7 gave his evidence, but that's certainly one</p> <p>8 interpretation if we just read the words.</p> <p>9 A. We haven't seen the underlying transcript, unless the</p> <p>10 Inquiry have seen it, I don't think it's been disclosed</p> <p>11 to the core participants, on which the Spectator article</p> <p>12 was based, but I think it would have been</p> <p>13 a straightforward matter for Mr Grant to have checked</p> <p>14 that. And I think if you're going to make what are</p> <p>15 going to be widely publicised allegations, you would be</p> <p>16 careful about what you say. And if you choose to make</p> <p>17 allegations, which he's perfectly entitled to do, it</p> <p>18 should come as no surprise when those are very robustly</p> <p>19 defended.</p> <p>20 Q. Mr Barr has heard the tape, and it is consistent with</p> <p>21 the transcript, but if that's wrong I'll be corrected.</p> <p>22 Yes, what I've said is right. He needed to do that</p> <p>23 before Mr McMullan gave evidence.</p> <p>24 I think your position is you don't accept for one</p> <p>25 moment that that was at least one interpretation of what</p> <p style="text-align: center;">Page 35</p> |
| <p>1 the Hacked Off campaign commenced, when Mr Grant gave</p> <p>2 interviews to broadcasters before going into the Houses</p> <p>3 of Parliament for the launch, saying that -- accusing</p> <p>4 our group of being involved in phone hacking.</p> <p>5 In an endeavour to be of assistance and helpful and</p> <p>6 to avoid mistakes being made with serious consequences,</p> <p>7 I spoke to his representative and explained our position</p> <p>8 to him and followed it up with an email.</p> <p>9 I would have thought, coming on to his evidence to</p> <p>10 this Inquiry, that before making very serious</p> <p>11 allegations, Mr Grant might, for example, have checked</p> <p>12 with Paul McMullan whether his understanding of</p> <p>13 Mr McMullan's position and his understanding of what</p> <p>14 Mr McMullan was saying to him was correct. It's</p> <p>15 a serious matter --</p> <p>16 LORD JUSTICE LEVESON: Do you think so?</p> <p>17 A. Yes, I do.</p> <p>18 LORD JUSTICE LEVESON: Bearing in mind the relationship</p> <p>19 there was between Mr Grant and Mr McMullan and the</p> <p>20 article that he'd written?</p> <p>21 A. Yes, I do. I think if you are going to make a serious</p> <p>22 allegation and you're leading a campaign against the</p> <p>23 media, which Mr Grant is doing, you would and should</p> <p>24 take care over what you say. I do think that.</p> <p>25 MR JAY: But if I may address that issue, we saw the text of</p> <p style="text-align: center;">Page 34</p> | <p>1 Mr McMullan said in terms of the black letter of his</p> <p>2 words, if I can put it in that way? You don't accept</p> <p>3 that?</p> <p>4 A. No.</p> <p>5 Q. Are you not -- if I can be forgiven for asking this</p> <p>6 question -- not a little bit too close to your client in</p> <p>7 the sense of trying to support the position of</p> <p>8 Associated?</p> <p>9 LORD JUSTICE LEVESON: I don't know if it's necessary to go</p> <p>10 there, Mr Jay. The fact is that I've read the</p> <p>11 transcript, I know what's said. I'm going to reach my</p> <p>12 own conclusions whether the views are justifiable or</p> <p>13 not.</p> <p>14 MR JAY: For just the once, I was treating you as a jury.</p> <p>15 LORD JUSTICE LEVESON: Well, there it is.</p> <p>16 MR JAY: I don't think I've done that too often.</p> <p>17 LORD JUSTICE LEVESON: Tempting though it is.</p> <p>18 MR JAY: If I've lapsed, I've lapsed.</p> <p>19 LORD JUSTICE LEVESON: I'm not suggesting you've lapsed, I'm</p> <p>20 merely suggesting that --</p> <p>21 MR JAY: We can move on. Just bear with me one moment.</p> <p>22 The tape was checked, but not by Mr Barr personally,</p> <p>23 but he was satisfied of the position. I think I can</p> <p>24 move on to paragraph 2, if I may, of your supplementary</p> <p>25 statement.</p> <p style="text-align: center;">Page 36</p> |

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| <p>1 The starting point is the News of the World story, 2 and we've seen that in Mr Grant's HG2 exhibit. You've 3 been told, is this right, Ms Hartley, that the story was 4 offered up to the Mail on Sunday by Mr McMullan, but the 5 Mail on Sunday was not interested? 6 A. Yes, that's right. 7 Q. I didn't ask Mr Wright that, and perhaps I should have 8 done. Do you know why? 9 A. No, but I'm able to confirm that that is what I've been 10 told. 11 Q. When you say "it was offered to the Mail on Sunday by 12 Paul McMullan", of course we don't know how he got this 13 story, but he was asking for payment, presumably, was 14 he? 15 A. I believe he was, yes. 16 Q. Okay. Then we move on to after the birth. The birth 17 was on 26 September of last year. Mr Todd, one of your 18 reporters, was contacted by a source from within 19 Mr Grant's celebrity circle. Of course that source you 20 wouldn't name under any circumstances, would you? 21 A. No, and in fact I don't know the identity of the source. 22 Q. When you say "from within Mr Grant's celebrity circle", 23 I think you mean a friend or professional associate of 24 Mr Grant's, do you? 25 A. I think that's a reasonable interpretation of it.</p> <p style="text-align: center;">Page 37</p> | <p>1 didn't want to speak to the Mail reporters, did she? 2 A. Well, the first -- well, as set out in my statement, the 3 first call, Ms Hong said that she was driving and so the 4 journalist rang off, said, "I beg your pardon", rang off 5 and left a message later that day. And then after that 6 another journalist telephoned and spoke to her very 7 briefly on 21 October and then other enquiries were 8 made. 9 Q. I just -- sorry, carry on. 10 A. Yes. 11 Q. I just wonder what the policy of the Daily Mail was. We 12 reached a point where Mr Gladdis had left a message on 13 her voicemail, she didn't reply to it. Mr Todd then 14 called and Ms Hong gave him the brush-off. By then it 15 was pretty clear she didn't want to know, did she? 16 A. Well, this is one of the difficulties you have to 17 confront. On the one hand, you want to do what you can 18 to check the accuracy of a story which you've been 19 given, and there are a number of cases of responsible 20 journalism where only one or two unsuccessful calls have 21 been made and that hasn't been deemed to be sufficient 22 effort. If what you're trying to do is to establish the 23 accuracy of information you've been given, you will call 24 more than once or twice, to make sure you've done what 25 you can to find out what the position was.</p> <p style="text-align: center;">Page 39</p> |
| <p>1 Q. It was this source who told him that Ms Hong had given 2 birth at the Portland the week before. Of course that 3 information was incorrect for a start, wasn't it? 4 A. Yes. 5 Q. Then you say the source gave Mr Todd various pieces of 6 information about the situation, but we don't know what 7 those pieces of information are, do we? 8 A. I have a little bit of information, but I'm not sure 9 that it's particularly pertinent to the issues raised. 10 Q. Okay. 11 A. And I haven't included it because I thought it was 12 better to be discreet about it. 13 Q. The next stage, and this is more important, another 14 reporter was sent off to an address for Ms Hong in 15 London. It was the wrong address; she'd moved on. 16 A. Yes. 17 Q. And there was then a telephone call to Ms Hong's mobile 18 on 19 October. The mobile number had been given, as you 19 explain in paragraph 8, by the agency, I think, the 20 letting agency? 21 A. Yes, in paragraph 4, yes. 5, actually. Paragraph 5, 22 I think. 23 Q. And then there were a number of phone calls? 24 A. Yes. 25 Q. And it was clear from those phone calls that Ms Hong</p> <p style="text-align: center;">Page 38</p> | <p>1 The real -- perhaps the real solution to this would 2 have been for Mr Grant's publicists simply to have said 3 to the media on her behalf that she didn't wish to make 4 any comments and would be grateful if journalists would 5 desist, and then they would have understood the position 6 straight away and she wouldn't have had any further 7 calls. 8 Q. That's one possibility, but can we possibly analyse it 9 in a different way? Here was a woman who enjoyed no 10 celebrity, who was clearly, was she not, an entirely 11 private person; are we agreed? 12 A. She is a private person. She's not a celebrity, no. 13 Q. The only issue, of course, is her association, her 14 relationship with Mr Grant, but we're not at the moment 15 addressing an intrusion into Mr Grant's privacy, not at 16 the moment; we're addressing an intrusion into her 17 privacy, aren't we? Would you agree that certainly 18 after two goes, two attempts, it was pretty clear that 19 she didn't want to know, as it were? It's certainly 20 highly arguable that the right response, to use your 21 language the response of responsible journalism, was to 22 back off rather than to persist with her at least, 23 wouldn't you agree with that? 24 A. But if you look at these contacts, after the -- I think 25 I'm right in saying that after 21 October, the calls</p> <p style="text-align: center;">Page 40</p> |

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| <p>1 were to Mr Grant's assistant, not to Ms Hong. So it 2 isn't the case that she had repeated and persistent 3 calls, I think, from us in relation to this. And it 4 wasn't clear, I think, to the journalists what the 5 position was even after the announcement on the -- 6 I think 1 November when Mr Grant issued a statement 7 confirming it, it was done in such terms that he didn't 8 accept that she was his girlfriend, and again didn't 9 say, "We'd be grateful if you would leave us alone and 10 give us some privacy while we enjoy our new family", he 11 referred to it as "a fleeting affair" and it wasn't 12 clear really what the position was with Ms Hong. In 13 some circumstances like this, people do talk to the 14 media and do make statements, and really -- I don't 15 think the position was -- had become clear what she 16 really wanted to do.</p> <p>17 But as I say, it seems to me that by 21 October, 18 I think after two days, I don't think that further calls 19 were made to her. I wouldn't have regarded that as 20 anything remotely like harassment, but simply 21 journalists not knowing whether the information they 22 were being given was accurate, and they were doing their 23 best to find out what the position was, which is 24 actually what responsible journalism is about.</p> <p>25 Q. Can I ask you -- I have a number of follow-up questions</p> <p style="text-align: center;">Page 41</p> | <p>1 best way to deal with that allegation, apart from 2 speaking to the journalists or arguably getting 3 statements from them, is to see whether they kept 4 a contemporaneous record and at the very least exhibit 5 such records to your statement. Would you agree with 6 that?</p> <p>7 A. I wouldn't have anticipated exhibiting statements or 8 notes to this statement for this Inquiry, but this 9 summarises the information which they had given us in 10 response to our questions.</p> <p>11 Q. Yes, I'm not doubting, Ms Hartley, that your statement 12 is honestly given --</p> <p>13 A. No.</p> <p>14 Q. -- to the extent that you are putting down what you have 15 been told by others.</p> <p>16 A. Yes.</p> <p>17 Q. But it may be in dispute, I think you'd have to accept, 18 that what Mr Gladdis and Mr Todd are telling you is 19 correct, because, after all, it is in contradiction to 20 the evidence Mr Grant -- admittedly it was hearsay 21 evidence, but that doesn't matter -- has given this 22 Inquiry, and all I'm saying is that wouldn't it have 23 been better, in order to anticipate precisely that 24 dispute, which probably still remains, to have exhibited 25 the contemporaneous records kept, if any, by Mr Gladdis</p> <p style="text-align: center;">Page 43</p> |
| <p>1 relating to that answer, but first of all, did the 2 journalists concerned, this is Mr Gladdis and Mr Todd, 3 did they keep notes of their attempts to speak to 4 Ms Hong?</p> <p>5 A. I haven't checked. Personally, I haven't checked their 6 notebook. They usually do keep notes of their attempts, 7 and certainly they have summarised for us the action 8 they took.</p> <p>9 Q. Yes, because you were asking them some time -- the 10 length of time isn't altogether clear but we know the 11 date of your statement -- some time after the events to 12 address the precise occasions on which they attempted to 13 speak to Ms Hong; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And it would be standard practice for journalists to 16 keep a note somewhere of the efforts they made in this 17 sort of case; is that right?</p> <p>18 A. I don't know that they will -- if they've made a call 19 and left a message, I don't know that they would do 20 anything in the form of an attendance note that lawyers 21 would do. I would expect them to make notes in some 22 form, whether straight onto a computer and their copy or 23 into a notebook, of anything they had discovered.</p> <p>24 Q. You were dealing with an allegation made by Mr Grant 25 that Ms Hong was persistently telephoned. Surely the</p> <p style="text-align: center;">Page 42</p> | <p>1 and Mr Todd? Do you agree with that?</p> <p>2 A. I could possibly still do that, but I thought Mr Grant 3 was saying, and I may be wrong about this, that calls 4 had been made to her neighbours and friends, not just 5 that she had had repeated, persistent calls, and this 6 sets out, as clearly as we can, what calls were made and 7 how many in that period.</p> <p>8 Q. Okay. To fill in one important detail before we get to 9 the story breaking on 1 November, it's paragraph 9 of 10 your statement.</p> <p>11 A. Yes.</p> <p>12 Q. Mr Neville, another reporter at the Mail, was informed 13 by someone at Westminster Register Office that although 14 there had been no registration by either parent, the 15 office had a record that a child had been born to 16 a woman called Sophie Hong at the Portland Hospital on 17 26 September 2011.</p> <p>18 To be clear about that, is that information which 19 the Portland gave Westminster Register Office?</p> <p>20 A. That's my understanding, yes. And that that is their 21 practice, to provide information on births within the 22 catchment area of the Register Office.</p> <p>23 Q. In case the parents failed to register the child.</p> <p>24 A. Within the time limit. That's my understanding.</p> <p>25 Q. So then, if I can go to paragraph 11 and the evidence</p> <p style="text-align: center;">Page 44</p> |

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| <p>1 you gave about five minutes ago, it was Mr Grant's agent 2 or publicist, I think, in America who issued a statement 3 confirming the story and referred to the "fleeting 4 relationship", I think. 5 A. Yes. 6 Q. He did not expressly say, "Please respect our 7 privacy" -- 8 A. Mm. 9 Q. -- but notwithstanding that, why do you say that 10 ignoring his position, Ms Hong was fair game? 11 A. I don't think I am saying she's fair game at all. 12 Q. So what are you saying in relation to her? 13 A. I think it might be helpful to just provide the context 14 and the way in which we work and people know how we 15 work. We regularly get notices from -- requests from 16 people or notices from the PCC when something has 17 happened to people, whether it's good news or bad, where 18 they wish to be left alone, or people's publicists say 19 that to us, or people themselves write to us and say, 20 "Look, we don't want to be interviewed, we don't want to 21 say anything at the moment, please give us some space", 22 and we comply with that. It's a straightforward, easy 23 thing to do, and it means that everybody knows at the 24 outset what the position is and that -- and you know 25 what the parents' wishes are. It's helpful from Page 45</p> | <p>1 said, "Please, she doesn't wish to say anything, neither 2 do I". 3 Q. But in the absence of him purporting to speak on behalf 4 of Ms Hong, which he did not, the position surely is 5 that Ms Hong has her right of privacy under Article 8 6 and whatever? 7 A. Yes. 8 Q. And the presumption must be that she should be left 9 alone? 10 A. Actually, she also has her rights of freedom of 11 expression. She has her right to talk if she wishes to 12 do so. 13 Q. Well, that's -- 14 A. No, this is a serious point. Article 10 hasn't featured 15 much in the discussions -- 16 Q. Yes, but one could turn that against you, that that 17 right was precisely the right that she did not want to 18 exercise. Mr Grant might have been able to speak on her 19 behalf if Ms Hong had instructed Mr Grant to do so, but 20 you had no evidence that he had, and so the presumption 21 is that she should have been left alone. Isn't that the 22 correct analysis? 23 A. I don't agree that there's a presumption, no. But in 24 any event, this statement sets out that we withdrew -- 25 as you know from Mr Silva's evidence this morning, we Page 47</p> |
| <p>1 everybody's point of view. We don't want to waste time 2 and resources trying to speak to somebody who is 3 reluctant to speak to us. 4 Q. I understand -- 5 A. I don't think it was entirely clear, when the 6 information came to us, what the position was between 7 Mr Grant and Tinglan Hong, and what his attitude was 8 towards the birth and what her feelings were on that 9 subject, but I don't really want to go into that. 10 Q. Well -- 11 A. I can do. 12 Q. Mr Grant made it clear that the relationship between him 13 and Ms Hong had ended, hadn't he? 14 A. He said -- he didn't say it had started. He said it was 15 a fleeting relationship, whatever that is. 16 Q. I think you're beginning to spar with me a bit. 17 A. I don't mean to do that, Mr Jay. 18 Q. He made it clear that there had been a relationship, I'm 19 not going to argue about what the word "fleeting" means, 20 but the relationship had ended, hadn't it? 21 A. Yes. 22 Q. Now, Mr Grant could not therefore speak for the 23 interests of Ms Hong, could he? 24 A. Well, he could do. He was, after all, the father of the 25 child. He could easily have spoken to the media and Page 46</p> | <p>1 withdrew our photographer and we didn't continue to 2 pursue her. 3 Q. But there were three further attempts to speak to her on 4 the phone, weren't there? This is paragraphs 12, 13 and 5 14 -- 6 A. This was after the confirmation of the birth, yes. 7 Q. Then we know what happened outside her home, since we've 8 heard evidence about it now from a number of sources. 9 A. Yes. 10 Q. And that evidence, it's not for me to say, is largely 11 convergent. The position is certainly by the second day 12 there was a scrum outside her home, wasn't there? 13 A. Well, our evidence is that our reporter was instructed 14 by the news editor to keep a distance from the house to 15 observe what happened and when Mr Grant appealed to the 16 media to leave, she conveyed that to the news editor, 17 who instructed her to leave, which she did and she 18 didn't return to the property. 19 Q. I think the key point, and I've probably already covered 20 this with you, is whether photographers and reporters 21 should have been there in the first place, that's to say 22 physically outside her home, given that the presumptive 23 position was, or at least might have been, that she had 24 a right of privacy, but I don't think we need revisit 25 that point. Page 48</p> |

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| <p>1 Can I move on to paragraph 17, if I may. 2 The first point is the leaking of the visit by the 3 Portland. Are you with me on that? 4 A. Yes, Mr Grant's evidence. 5 Q. Let's assume that you're right, or rather the evidence 6 you have for us is right -- this is paragraph 9 -- that 7 the Mail reporter was informed by the Westminster 8 Register Office that a child was born to Sophie Hong -- 9 that's obviously the false name, I suppose -- at the 10 Portland Hospital on 26 September 2011. Of course, that 11 information, self-evidently, was not available to 12 Mr Grant, was it? 13 A. Which information? 14 Q. The information which we see in paragraph 9. He 15 wouldn't have known that, would he? 16 A. The Westminster Register Office? 17 Q. That's right. 18 A. No, but he might have known that she'd registered into 19 the hospital under the name of Sophie Hong. 20 Q. That's precisely the point he's making. He's saying, 21 "Look, there's a bit of a coincidence here. Ms Hong 22 registers herself at the hospital under a false name, 23 that's Sophie Hong, that's not her name, and here it is 24 the Daily Mail know about that. Therefore, putting two 25 and two together, it's not entirely unrealistic for him</p> <p style="text-align: center;">Page 49</p> | <p>1 A. -- I think that the anger about the allegations relates 2 to the issue of phone hacking. This part of the 3 statement is dealing with an issue he's raised while 4 giving evidence and is simply designed to set out what 5 our position is on it. 6 Q. You keep on saying "our position". All I'm seeking to 7 do is show that Mr Grant, in this respect, reached 8 a wholly reasonable and fair conclusion inferentially. 9 It is true that his inference may be wrong if you add to 10 the cocktail a fact which he did not know, indeed none 11 of us knew until you told us, but on the information 12 available to him it was entirely reasonable for him to 13 say what he did, wasn't it? 14 A. Yes, but equally, if Mr Grant had put some of this to us 15 earlier, we could have explained the circumstances to 16 him. 17 LORD JUSTICE LEVESON: Let's take five minutes. I'm just 18 interested also in the fact that although the record may 19 be public, whether information passed by the hospital to 20 the clinic is public. 21 MR JAY: The hospital to the registry office. 22 LORD JUSTICE LEVESON: Sorry, the hospital to the registry 23 office is public. Because if it isn't, it would be 24 rather interesting to know how the information is 25 obtained. None of this is going to be definitive, it's</p> <p style="text-align: center;">Page 51</p> |
| <p>1 to say there must have been a leak at the hospital. 2 That's a reasonable inference, isn't it? 3 A. But this is our answer, saying -- explaining that that 4 is not the basis of our knowledge. 5 Q. I think you miss the point there, Ms Hartley, that 6 you've been able to demonstrate, assuming paragraph 9 is 7 correct, which we can do for these purposes, that in 8 fact the information came not from the hospital but from 9 the Westminster Register Office. Now, that is something 10 that Mr Grant simply could not have known about, but 11 given that he did not know about it, it wasn't 12 unreasonable for him to say, indeed a perfectly fair 13 inference, that it must have been a leak by the Portland 14 Hospital. It's wholly sensible, I must say, on his 15 behalf. Don't you agree with that at least as a piece 16 of logic? 17 A. It's a piece of logic, yes. 18 Q. It's more than that. Without knowing the truth, namely 19 that the information had been obtained from the 20 Westminster Register Office, it's the only possible 21 inference that there had been a leak from the hospital, 22 don't you agree? 23 A. But if this is designed, though, to address what we've 24 said about the mendacious smears -- 25 Q. No.</p> <p style="text-align: center;">Page 50</p> | <p>1 only the extent to which it goes to one of the issues 2 that I am thinking about, which of course in the context 3 of this example is attack and defence. All right, we'll 4 have five minutes. 5 (3.29 pm) 6 (A short break) 7 (3.36 pm) 8 MR JAY: May we move on to 17.2, where we're dealing with 9 the American publicist on a phone number she famously 10 keeps private. You say: 11 "The mobile phone number of publicist Ms Leslee Dart 12 is well-known, as one might expect, given she is 13 a publicist. Mr Todd was given the number by a contact 14 who he has known for many years and has regular contact 15 with US entertainment agents and publicists." 16 Do we know when Mr Todd was given that number? 17 A. I don't, but I can ask. 18 Q. I'm not quite sure why you say on the one hand the phone 19 number is well-known, and on the other hand Mr Todd had 20 to be given the number by a contact? 21 A. Well, because he may not have had it personally, but the 22 evidence was that this is a number she famously keeps 23 private, and this is simply saying it's not a number 24 that is kept private, it's one that is well-known, but 25 Mr Todd himself obviously didn't have it.</p> <p style="text-align: center;">Page 52</p> |

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| <p>1 Q. Right. How do you know, if I may say so, that her 2 number is well-known? 3 A. This is the information I've been provided. 4 Q. By who? 5 A. By the managing editors and by Mr Todd in connection 6 with the preparation of this witness statement. 7 LORD JUSTICE LEVESON: So that might be Mr Todd speaking to 8 somebody else? 9 A. There have been a number of discussions between our 10 legal team and the journalists in relation to these 11 facts. But I'm happy to provide further information on 12 this, if that would assist. 13 MR JAY: Paragraph 17.3. This deals with the reluctance to 14 publish, and Mr Grant surmising that the reluctance was 15 based on the fact that the information may have been 16 obtained unethically or illegally. 17 A. Yes. 18 Q. You say that isn't right, it was entirely because you 19 wanted confirmation that Mr Grant was the father of the 20 child, and that's why you held off? 21 A. Yes, that's right. 22 Q. Let's assume that's right, that you held off for that 23 reason. I think the question is more whether Mr Grant 24 was wrong to harbour the suspicion, and after all it was 25 only a suspicion, that he did. Do you see the point? <p style="text-align: center;">Page 53</p></p> | <p>1 A. What I'm simply trying to do is put the facts before the 2 Inquiry that we have got from our journalists. 3 Q. You are slightly twisting his evidence again, and this 4 is relevant to mendacious smear, that in answer to some 5 of my questions, when we were dealing with the phone 6 hacking issue, the plummy-voiced voicemail, I think 7 Mr Grant fairly agreed that the inference he was 8 arriving at was speculative, but it was that, if I may 9 say so, which then prompted the Daily Mail to say it was 10 a mendacious smear, which some would say, turning the 11 point against you, was going miles too far, given that 12 Mr Grant wasn't doing more in relation to phone hacking 13 than to share his speculation with us. Do you see that 14 point? 15 LORD JUSTICE LEVESON: The word "mendacious" meaning 16 "deliberately false", and that's the only reason we've 17 really been looking at all this. 18 MR CAPLAN: I'm sorry to interrupt, if I may, at the moment. 19 Is it possible for me just to isolate the issues which 20 I understand and my clients understand were relevant in 21 providing this evidence? Or would you prefer I do that 22 at the end? 23 My concern is that there was an allegation of phone 24 hacking which was made by Mr Grant. That was one matter 25 we were keen to provide evidence on. <p style="text-align: center;">Page 55</p></p> |
| <p>1 A. This section of my witness statement dealing with 2 Mr Grant's evidence is simply saying that on our 3 evidence, his evidence contains a number of significant 4 inaccuracies, and that is the purpose of these 5 paragraphs, to say what in our view those inaccuracies 6 are, based upon the facts from our journalists. 7 LORD JUSTICE LEVESON: It's not that it's inaccurate, it's 8 that his understanding is incomplete, because if one has 9 already premised that he could conclude that information 10 had been obtained from the hospital, then he might very 11 well go on to think that your reluctance to print is 12 based on the way in which you got the information. You 13 then say, "No, that's not right, because this is the 14 reason"? 15 A. Yes. 16 LORD JUSTICE LEVESON: Yes. 17 MR JAY: And we're investigating here, if that's not putting 18 it too high, Mr Grant's state of mind and his suspicion. 19 We know the legal expression the state of a man's mind 20 is as much a state of fact as the state of his 21 digestion. You cannot demonstrate, can you, that 22 Mr Grant's suspicion is incorrect in any way? 23 A. But Mr Grant's evidence was, I think, admitted by him to 24 be speculation when he gave evidence, wasn't it? 25 Q. Well -- <p style="text-align: center;">Page 54</p></p> | <p>1 LORD JUSTICE LEVESON: Yes. 2 MR CAPLAN: The second was the conduct and explaining how 3 Daily Mail journalists behaved, whether they behaved 4 ethically or not, with regard to events prior to writing 5 anything about the birth of his child. And the third 6 was, and this is entirely a matter for you, whether the 7 response of the Daily Mail to the very serious 8 allegation of phone hacking made by Mr Grant, a man of 9 international reputation, was in any way improper. 10 Those are the three issues, with respect, that I'd 11 understood we were looking at. 12 LORD JUSTICE LEVESON: Yes. The last of those three is 13 whether it is fair to characterise the evidence that 14 Mr Grant gave and the way that he gave it as "knowingly 15 dishonest", and the only relevance of it is not to reach 16 findings of fact about any number of peripheral issues, 17 but the extent to which that itself impacts on the way 18 the press behaves, not specifically -- well, in this 19 regard it is specifically your clients, but it's 20 actually going to the wider question. I'm only 21 ultimately concerned with the wider question. 22 I have no concern about the way in which Ms Hartley 23 responds to each of the facts. They may be right, they 24 may be wrong, I might have to think about it or not, and 25 it's entirely right, as far as I'm concerned, that she <p style="text-align: center;">Page 56</p></p> |

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| <p>1 should be able to take the sentences one by one and deal 2 with them on the facts as her investigations reveal. 3 But the question is whether all this permits 4 a legitimate inference of deliberate dishonesty, which 5 is equally a very serious allegation to make about 6 anybody giving evidence on oath. 7 MR CAPLAN: Well, all those three issues I quite agree. It 8 will be the subject of submissions and for you, sir, to 9 make a finding. 10 LORD JUSTICE LEVESON: It will indeed and I will indeed. 11 MR CAPLAN: Yes. May I just say while I'm on my feet that 12 I accept responsibility for the way in which this 13 investigation has been put before you. The reason it's 14 been done in this way and not put in or call or seek to 15 call nine journalists is because on many occasions, sir, 16 you have said that you are not interested in the detail, 17 you are not deciding fine points of detail, and we felt 18 it is of more assistance to give you a detailed overview 19 of this investigation. If you require anything further, 20 if you require statements from any journalists that 21 would assist you, we're happy to provide them but this 22 is the most economic way that we felt it possible and 23 responsible to put in front of you. 24 LORD JUSTICE LEVESON: I understand that, but you will 25 equally understand why at the moment I am quite</p> <p style="text-align: center;">Page 57</p> | <p>1 £125,000 to sell private pictures of Ms Hong. 2 You tell us that the former boyfriend approached the 3 Mail on Sunday through an intermediary. He offered the 4 Mail on Sunday an interview. There was no pressure. 5 The payment was less than 15 per cent of £125,000; is 6 that right? 7 A. Yes. 8 Q. If that's right, Mr Grant's figure is wrong, but he may 9 have got that himself from hearsay or multiple hearsay, 10 so need not be necessarily criticised for that. 11 A. And the title. He said it was the Daily Mail. 12 Q. Yes. Does that matter much? 13 A. No. 14 Q. We come now to the plummy-voice story. We read your 15 statement, but can I start at paragraph 22. The source 16 of the story, okay, a confidential contact of 17 Sharon Feinstein, a freelance journalist who works with 18 the diary editor of the Mail on Sunday, Katie Nicholl. 19 That contact provided the information contained in the 20 story. A trusted source of Ms Feinstein, who spoke 21 regularly to Jemima Khan. 22 Can we be clear about this. Is that source are you 23 saying within Jemima Khan's circle of friends or is she 24 an acquaintance or something else? Do we know? 25 A. I don't know. I don't know any more detail about the</p> <p style="text-align: center;">Page 59</p> |
| <p>1 interested in the whole concept of the extent to which 2 I should be relying on hearsay, and I don't need to 3 explain to you why that is not inapposite this week. 4 MR CAPLAN: Indeed. Well, we've had a lot of hearsay in the 5 Inquiry. Some triple hearsay. 6 LORD JUSTICE LEVESON: That's the point. 7 Yes, Mr Jay. 8 MR JAY: If I can move on, the point's been made on 17.3. 9 17.4, I think this is more a matter for comment. 10 Mr Grant has used the adverb "repeatedly". I think we 11 have counted six occasions, six before and six after the 12 birth of the child. Is that right? 13 A. I don't think that is right. 14 Q. Well, it's in your statement. 15 A. Yes. 16 Q. And the question is does that six and six bear the 17 adverb "repeatedly" and that's really a matter of 18 comment. 19 17.5, again it's a matter of comment, isn't it? 20 A very determined effort to grossly intrude upon 21 Tinglan's privacy. This was the attendance of 22 journalists and a photographer outside her home. Again, 23 we needn't debate that; we can see what the evidence is. 24 But the final point I don't think we have covered, 25 17.6, the ex-boyfriend, who Mr Grant said was paid</p> <p style="text-align: center;">Page 58</p> | <p>1 source. 2 Q. I think the Inquiry was told or rather a statement was 3 put on the Mail's website on the very day Mr Grant gave 4 evidence to this effect: 5 "The information came from a freelance journalist 6 who had been told by a source who was regularly speaking 7 to Jemima Khan." 8 Is that right? 9 A. This is what my statement also says. 10 Q. Fair enough. But can I just analyse with you the 11 inference Mr Grant has drawn, namely -- he accepts it's 12 speculative -- the allegation of voicemail interception. 13 You say it makes no sense because if you look at the 14 facts you have on the one hand a woman with a plummy 15 voice who is a middle-aged PA to a friend of his in LA, 16 and on the other hand, a person with whom he was 17 suspected of having the affair, who was young and 18 glamorous. Do I have it right? 19 A. Yes. Yes. 20 Q. Can we try and analyse this, though, from Mr Grant's 21 perspective? What he knows is that someone with 22 a plummy voice has been speaking to him on the phone, or 23 leaving messages on his voicemail. Is that correct? 24 A. Well, what is odd about this is that in the original 25 claim brought against the Mail on Sunday, which was</p> <p style="text-align: center;">Page 60</p> |

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| <p>1 settled with the agreement of the statement in open 2 court, Mr Grant or his solicitors denied that there was 3 any plummy-voiced woman, and said the story was entirely 4 false. 5 Q. You say in paragraph 24 -- let me just remind myself 6 where you deal with this in your statement. Yes, it's 7 paragraph 20, my apologies. This was the agreed 8 statement read out in court: 9 "Mr Grant's lawyer said that Mr Grant does not know 10 of a woman from Warner Brothers matching this 11 description, let alone was he conducting a flirtation 12 with her. As far as he is aware, she simply does not 13 exist." 14 But what is the description that is being referred 15 to? It might be said it was the description of 16 a glamorous young film executive, mightn't it? 17 A. I think in correspondence, which I haven't checked 18 recently before giving evidence today, it was denied 19 that he knew a plummy-voiced woman of that description. 20 Q. Well, there are two women here. There's a plummy-voiced 21 woman who is described as being middle aged -- 22 A. No, but any -- 23 Q. And we don't know what she looks like. And we have a 24 young, glamorous executive. I think all that for the 25 moment, from paragraph 20, all that we know is Mr Grant Page 61</p> | <p>1 from a source and that to me indicates that this isn't 2 something -- it wasn't a story which simply said that 3 there was a woman with a plummy voice who was -- you 4 know, there was more to it than that. 5 Q. I understand that. It's not just -- one has to enter 6 the mind of Mr Grant, and also predicate this, that he 7 is thinking back, when he gave evidence on 21 November, 8 to something which had happened four years earlier. He, 9 of course, could not remember the precise content of 10 phone calls he'd had with the plummy-voiced woman or the 11 nature of the messages she'd left on his voicemail, but 12 it's possibly, isn't it, from his perspective to say 13 this, that he thought, he surmised that the 14 plummy-voiced woman might have left flirtatious messages 15 on his voicemail, but the messages contained content and 16 it was those messages that you were hacking into? True, 17 a piece of speculation, but from his perspective, 18 a possibility. Would you not accept that? 19 A. But I don't think he said that. His evidence wasn't 20 that there was that sort of detail in his voicemail 21 messages. 22 Q. Precisely. 23 A. You know, this is -- what you're talking about is 24 whether he was wilfully blind to the facts, if that's 25 what we're saying, or whether he was reckless as to the Page 63</p> |
| <p>1 was saying he doesn't know of a woman from Warner 2 Brothers who matches the glamorous young film executive 3 description. Is that not the case? 4 A. I think he had denied knowing a plummy-voiced woman. 5 I'll have to dig out the correspondence to check. 6 Q. You can't be sure about that at the moment, can you? 7 A. I would want to check rather than say something which 8 may be inaccurate. 9 Q. Even if we have two different women, there's one 10 plummy-voiced woman, middle-aged, one younger woman, 11 glamorous, et cetera, from Mr Grant's perspective the 12 person with whom he's allegedly having an affair, 13 according to the Mail's story, was a woman with a plummy 14 voice; is that right? 15 A. Yes. 16 Q. So isn't he entitled to think, at least on a speculative 17 basis, that the Mail might have been hacking into his 18 voicemail messages on this basis: that they linked that 19 evidence with other evidence they had or allegedly had 20 of a younger woman and united the two pieces of evidence 21 into one person? Do you see that? 22 A. I don't think that that's a reasonable inference. If 23 you look at the detail in the piece, it's not the sort 24 of detail that you would have got from a voicemail 25 interception. There is detail in there which has come Page 62</p> | <p>1 truth. I think that to make a very serious allegation 2 against us on something as thin as this was not 3 something that should have been done. 4 Q. Now you're giving opinion evidence about this. 5 A. I'm sorry, but you're asking me to comment on 6 a statement which was issued by my group, not by me. 7 Q. I'm asking you, if I may say so, to attempt a leap of 8 imagination, and I don't mean that patronisingly, 9 although it did sound like it, to enter into Mr Grant's 10 thought process, and entering into his thought process 11 merely to accept that as a piece of speculation, as he 12 accepted it was, under some pressure from me, as a piece 13 of speculation it wasn't an entirely unreasonable 14 speculation because we had the plummy voice, he knew 15 there was a woman out there with a plummy voice; she 16 might have left messages on his voicemail, she tended to 17 speak in a jokey and flirtatious fashion, therefore, he 18 says, "Wow, the Mail must have hacked into that". 19 If he was putting that forward as a statement of 20 hard fact, of course he would probably be going too far, 21 but as a piece of speculation, that wasn't unreasonable, 22 was it? 23 A. But he's used that to accuse our group of phone hacking, 24 which is -- I'm sorry, but it is a very serious thing to 25 do. Page 64</p> |

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| <p>1 LORD JUSTICE LEVESON: So you respond by accusing him of 2 perjury? 3 A. We respond by defending ourselves in relation to that. 4 LORD JUSTICE LEVESON: No. As I think I said immediately, 5 defending yourself, saying, "This is wrong", wouldn't 6 have caused me to be in the remotest bit concerned. 7 You're entitled to say, "He's got it wrong", absolutely. 8 But it's the language you use in doing so that actually 9 is what's caused me to be concerned. Nothing more. 10 That you mount a vigorous, to borrow Mr Wright's word, 11 defence of the position of Associated, you're absolutely 12 entitled to do. 13 A. I understand. 14 LORD JUSTICE LEVESON: And to that extent, your analysis 15 I've got and understood. 16 A. Mm. 17 LORD JUSTICE LEVESON: But you will understand the 18 additional point and the justification for looking at 19 it. That's all. 20 MR JAY: Thank you. 21 LORD JUSTICE LEVESON: Right. 22 MR SHERBORNE: Sir, I wasn't going to ask Ms Hartley 23 questions for the reasons that Mr Jay explained at the 24 outset, but I did want to say this. Given that 25 Ms Hartley was prepared to offer her personal view about</p> <p style="text-align: center;">Page 65</p> | <p>1 LORD JUSTICE LEVESON: Oh, very good. 2 MR SHERBORNE: It was put in on 28 November. 3 LORD JUSTICE LEVESON: No, you misunderstand me. Of course 4 we've got the statement, I'm sure it's been disclosed, 5 but I don't think it's formally been put into the 6 record. 7 MR SHERBORNE: As I understand it, it was. I may be 8 corrected on that. Of course, I did say at the time 9 that Ms Khan was prepared to come and give evidence -- 10 LORD JUSTICE LEVESON: I know. 11 MR SHERBORNE: As she still remains prepared to do. 12 LORD JUSTICE LEVESON: I'm sure so and I don't anticipate 13 it's likely to be necessary. That's my view. I think 14 it would be sufficient for her statement simply to enter 15 the record. 16 MR SHERBORNE: Sir, I would ask that the journalists come to 17 give evidence on the 6th, as Mr Dacre will be doing, so 18 that they can say on oath the source of the story as 19 Ms Hartley, the faithful lawyer, is suggesting. 20 LORD JUSTICE LEVESON: Hang on, let me find out what you're 21 asking for. You're not suggesting that all the 22 journalists who have obviously contributed to 23 Ms Hartley's statement should come; you're merely 24 talking about -- are you merely talking about 25 Sharon Feinstein?</p> <p style="text-align: center;">Page 67</p> |
| <p>1 the mendacious smear allegation but cannot explain how 2 the newspaper came to actually accuse Mr Grant on the 3 basis of no evidence at all, it's clearly for Mr Dacre 4 now to deal with how this mendacious smear allegation 5 was made and, as we understand it, he is arriving at the 6 Inquiry on 6 February. 7 There are obviously a number of matters that we do 8 want to put to Associated Newspapers. We've waited 9 eight weeks for them to provide a response on Plummygate 10 and what we have so far is hearsay and double hearsay at 11 that. 12 LORD JUSTICE LEVESON: Yes, but I take the point that 13 Mr Caplan makes about the number of people we want to be 14 dealing with this. 15 MR SHERBORNE: Sir, I understand that, but Mr Grant and 16 Ms Khan gave evidence about this matter. They have been 17 accused of lying. I say they have both been accused of 18 lying, because the mendacious smear allegation was 19 persisted in on the website after Ms Khan had denied 20 that she could possibly have been the source, given that 21 the first time she was aware of this was when she read 22 it herself in the Daily Mail. 23 LORD JUSTICE LEVESON: Yes. I'm not sure we've yet put that 24 statement in to the Inquiry, in which case -- 25 MR SHERBORNE: It has.</p> <p style="text-align: center;">Page 66</p> | <p>1 MR SHERBORNE: And Katie Nicholl, as I understand it, yes. 2 LORD JUSTICE LEVESON: Well -- all right. I'll think about 3 that. Thank you. 4 Thank you. 5 MR JAY: That's it for today. I was hoping for a shorter 6 day, but ... 7 LORD JUSTICE LEVESON: Well, there you are. 8 All right. Tomorrow morning at 10 am. Thank you 9 all very much. 10 (4.02 pm) 11 (The hearing adjourned until 10 o'clock the following day) 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 68</p> |

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