

Ruling on Core Participants – Module 3

Lord Justice Leveson:

1. A number of applications have been made for core participant status in the third module of Part 1 of this Inquiry. Having regard to the way in which these applications have been put, it is necessary to go back to the terms of reference and understand what it is that the Inquiry is trying to achieve. Part 1 reads as follows:
 1. To inquire into the culture, practices, and ethics of the press, including:
 - a. contacts and the relationships between national newspapers and politicians, and the conduct of each;
 - b. contacts and the relationship between the press and the police, and the conduct of each;
 - c. the extent to which the current policy and regulatory framework has failed including in relation to data protection; and
 - d. the extent to which there was a failure to act on previous warnings about media misconduct.
 2. To make recommendations:
 - a. for a new more effective policy and regulatory regime which supports the integrity and freedom of the press, the plurality of the media, and its independence, including from Government, while encouraging the highest ethical and professional standards;
 - b. for how future concerns about press behaviour, media policy, regulation and cross-media ownership should be dealt with by all the relevant authorities, including Parliament, Government, the prosecuting authorities and the police;
 - c. the future conduct of relations between politicians and the press; and

d. the future conduct of relations between the police and the press.

2. In order to render the Terms of Reference manageable, I split the topics identified into four modules. Module 1 concerned the press and the public, that is to say the way in which the press investigated collected and reported stories concerning members of the public whatever their background and the regulatory framework which purported to deal with allegations of illegal, unethical or other behaviour which breached acceptable standards. Module 2 dealt with the press and the police, that is to say the inter-reaction between the two and the way that each has impacted on the work of the other. That is not quite the same as an examination of the conduct of the police free-standing of the press or where the part played by the press is peripheral to the way in which crime has been investigated. It certainly does not cover alleged police misconduct which is unrelated to the relationship with the press. Module 3 concerns the relationship between national newspapers and politicians along with its impact on media policy, cross media ownership. This module is concerned with any consequences of the relationship on the creation or implementation of policy at the highest level but also includes the nature and function of the press in a democracy as a vehicle for public debate and to hold politicians to account. It is not intended to deal with politicians as victims of press conduct on its own save only for the impact which that treatment might have or have had on the conduct of the politician's public functions. Module 4 is the vehicle for a discussion as to the future.
3. Analysing the Terms of Reference and the way that I have approached them, the first thing to underline is that the central theme of the Inquiry is the press and the impact and effect that the press has had on the public, the police and politicians. The second is to point to the generality of the Terms of Reference along with the time frame within which the Inquiry must report. This has meant that, however serious, extremely complex, fact sensitive allegations which do not fit the commonplace and which would take a considerable time to unpick simply do not fall within the broad thrust of the work that I am able to undertake not simply because of the time that they would take but also because conclusions of insufficient generality would flow. Thus, I am conscious that a number of very serious allegations have been put before me which may well require investigation: that investigation, however, cannot be undertaken by me within the parameters to which I must work and bearing in mind the recommendations that I am required to consider.
4. The third general point that I must make is that the Inquiry is moving at a pace through the modules and, save in the most exceptional circumstances such as might arise because of conduct which has occurred during the course of the inquiry itself or where I have indicated the obvious good sense of a witness who covers more than one module attending only once, I do not intend to go back over ground that I have covered. A number of applications for core participant status are framed on the basis that the applicants have issues in relation to the conduct of the press towards them or members of their families as victims, and also in relation to their treatment at the hands of the police which, in some cases, is alleged to have been affected by press attention. Ample notice was given of the need to make applications for core participant status at each stage of the Inquiry and I have been relaxed about late applications by which I mean applications after the date but before the work of the module has commenced. I have no intention of acceding to applications for core participant status in respect of complaints where the work of the module has finished.

5. The final general point that I must make is to remove the confusion of roles. It is open to anyone to submit a statement to me. A number of persons of whom I had no knowledge and from whom I had not required or requested statements have done so. In a number of cases their statements have either been read into the record of the Inquiry or they have come to give evidence. More than one of these witnesses has given extremely valuable evidence. None, however, has required core participant status which is only for those far more involved in or responsible for the subject matter of the module than as a witness to specific events or the subject of particular ill-treatment.
6. Before considering the applications, I remind myself of the terms of Rule 5 of the Rules which provides as follows:
 - “(1) The Chairman may designate a person as a core participant at any time during the course of the inquiry, provided that person consents to being so designated.
 - (2) In deciding whether to designate a person as a core participant, the chairman must in particular consider whether –
 - a. The person played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;
 - b. The person has a significant interest in an important aspect of the matters to which the inquiry relates; or
 - c. The person may be subject to explicit or significant criticism during the inquiry proceedings or in the report, or in any interim report.
 - (3) A person ceases to be a core participant on –
 - a. the date specified by the chairman in writing; or
 - b. the end of the inquiry.”
7. I have previously observed that I am bound to consider the matters contained within rule 5(2), although this list is not exhaustive and it is also open to me to take into account any other relevant matters. In determining these applications, I make it clear that I have taken into account all those matters and, additionally, those advanced before me, both orally and in writing.

Previous Core Participants

8. All press core participants (including the National Union of Journalists) and the Metropolitan Police wish to remain core participants for this module and I see no reason for changing the view that I expressed at the beginning of the Inquiry that they should be entitled to this status throughout. The Mayor’s Office for Policing and Crime do not seek to participate in this module. Many of those who have previously been core participants complaining about the conduct of the press (frequently referred to as Core Participant Victims although I have been careful to recognise that, at least in some cases, this description is challenged) do not ask to participate in this Module but Mr Sherborne seeks to continue core participant status for a number who, in

addition to other issues raised in the earlier modules, make complaints about press influence on them as politicians and on politics: these are Chris Bryant MP, Simon Hughes MP, Tessa Jowell MP, Denis MacShane MP, Lord Prescott and Claire Ward MP. He also applies for Tom Watson MP and Evan Harris (formerly an MP) to join this existing group also as core participants: they make similar complaints. Suffice to say that I see benefit in the involvement of politicians as core participants in this module and, on the basis that it is they (including Mr Watson and Dr Harris) who have responded to my request for applications for core participant status, I consider that they do fall within the ambit of rule 5(2) for the purposes of the module. Collyer Bristow will remain as recognised legal representatives and the two additional members of the group will have to sign confidentiality agreements. I add two comments. First, membership of this group does not entitle a witness to give evidence; I will decide who should be called based on the extent to which the evidence goes beyond the type of complaints that were made in Module 1. Second, earlier modules have led to late applications to join the group: I will need persuasion to add to this list because if further relevant evidence becomes available, I shall call it irrespective of membership of the group.

9. Mr Sherborne also seeks to continue core participant status for three of his clients who are not politicians: Hugh Grant, Jacqui Hames and Mark Thompson. All three have given evidence to the Inquiry and deserved core participant status in Modules 1 and 2. As Mr Sherborne recognised, however, their applications are weaker because although one or more might now be engaging with the political process, it is not suggested that their experience extends to the political pressures with which this module is concerned. It is for that reason that, in my judgment, they do not fall within rule 5(2) for the purposes of Module 3 and I do not see the need for them to have core participant status for this module. That does not, of course, mean that I do not recognise their interest in the issues (similarly expressed by others who seek core participant status for this module but not, on their own, sufficient); neither does it deprive them of the right to make closing submissions in relation to Modules 1 and 2.

Ms Decoulos

10. Ms Decoulos has previously sought core participant status in both Modules 1 and 2. On both occasions I have refused her applications and she has unsuccessfully sought judicially to review those decisions. I did invite her to submit a witness statement for the purposes of Module 1 (and, in the Divisional Court on her first judicial review, Moses LJ observed that she did have matters of public concern that she wished to ventilate); in the event, she did not do so. Following the hearing which took place on 3rd April 2012, I allowed her the opportunity to put in further submissions in writing: she has now done so by letter dated 5th April 2012, and I have taken them into account. To such extent as her concerns touch upon the relationship between the press and politicians, it appears to me to be tangential to her complaints about the way she has personally been treated by the press and her inability to obtain redress through the courts or the police. It is not, in my view, sufficient to bring her within Rule 5(2) and justify core participant status for Module 3. Further, there seems to be little if any prospect that an examination of her fact sensitive case would significantly advance the work of the Inquiry in Module 3. Although I recognise the persistence of her applications and her wish to participate in the work of the Inquiry, this application has no sufficient foundation and I refuse it. Perhaps it is not inappropriate to add a footnote that I regret that Ms Decoulos did not spend the time she has devoted to challenging my decisions to preparing a statement for Module 1 in good time at least

for it to be considered (whether or not it would have led to the statement being adduced) during the hearing time devoted to that module: it is now too late.

Mr Jackson

11. Mr R W Jackson has been in correspondence with the Inquiry Team for some time. He has made very clear his strong wish to give oral evidence to the Inquiry and applies for core participant status in Modules 2 and 3. The material which Mr Jackson has submitted includes newspaper articles (or links thereto) concerning the Police, his opinions, commentary and accounts of incidents at which both he and the police have been present. Although I am grateful to Mr Jackson for taking the time to supply this material to the Inquiry, and I do not doubt his strength of feeling, he does not seem to me to fall within rule 5(2) either for the purposes of Module 2 or Module 3. I therefore do not consider it either appropriate or necessary to grant Mr Jackson's applications for core participant status. As I have stated at paragraph 5 of this ruling, a person does not need to be a core participant in order to give evidence. However, in the present case I do not consider that it is necessary to call Mr Jackson to give oral evidence in either Module 2 or 3.

Ms Blood

12. Ms Caroline Blood seeks core participant status and wishes to give evidence to the Inquiry in relation to alleged incidents in which she was concerned along with her elderly mother and a bus company. Ms Blood is profoundly unhappy at the police response to her complaints and, additionally, that of the press when she approached them. Again, Ms Blood's concerns are palpable from the documentation but I am sorry to say that this complaint simply does not engage the remit of Module 3 quite apart from its fact sensitive circumstances, which render her complaint inapposite for Part 1 of this Inquiry in any event. Consequently, it would not be appropriate to grant Ms Blood core participant status; neither do I consider it necessary to adduce her statement in evidence in either Module 2 or 3.

Mr Ward

13. Mr Michael Ward seeks core participant status in Module 3. I have previously refused his application for core participant status in Module 1. He has provided a witness statement which alleges criminal conduct on the part of journalists facilitated, supported, encouraged and covered up by senior policemen and public officials. The statement goes further and alleges that police, government agencies and politicians have permitted this alleged criminal conduct to go un-investigated to the present day. This is another application which falls into the category of highly complex, factually contentious case from which conclusions of insufficient generality would flow which the Inquiry is not investigating for the reasons which I have articulated at paragraph 3 of this ruling. Mr Ward is not a person who in my judgment falls within rule 5(2) and in any event I do not think it either appropriate or necessary for him to have core participant status.
14. Having said that, in his oral submissions before me, and in a further submission sent by e-mail, Mr Ward was keen to convey that he has evidence to give about the relationship between the press and politicians arising from his time as a banker and businessman and the reaction of politicians to any complaint that he has sought to raise about the press. I will be happy to consider any further witness statement which Mr Ward may choose to submit setting out this evidence, although I must emphasise

that it is evidence relevant to the relationship between the press and politicians that the Inquiry is interested in. I cannot investigate the details of his case for the reasons which I have already given. Neither is it appropriate to use the time available for outstanding issues effectively to re-open these earlier modules.

Mrs Brooks

15. Having been refused core participant status for Module 1, Mrs Rebekah Brooks now applies for core participant status in Module 3. On this occasion, the position is somewhat different to that which I previously considered. Mrs Brooks is going to give evidence in Module 3 and, in the context of that module, it can justifiably be said that she played, or may have played, a direct and significant role in matters to which this part of the Inquiry relates. If she were not a core participant she could still be represented, submit questions or seek permission to ask them in respect of evidence which relates to her: see Rule 10(3) of the Inquiry Rules 2006. However, on balance, I am persuaded that it would be right for me to confer upon her the additional rights which accrue with core participant status including early access to documents, advance sight of witness statements (in confidence) and the right to make submissions (if so advised). Accordingly, subject to the appropriate confidentiality undertakings, I grant her application and designate Kingsley Napley as her recognised legal representative. I have noted in exercising my discretion that Mr Parkinson, on Mrs Brooks' behalf, sensibly anticipates that it will not be necessary for her to be represented throughout the Module 3 hearing.

5 April 2012