

FURTHER RULING IN RELATION TO CORE PARTICIPANTS

The Rt Hon Lord Justice Leveson:

1. In the period which has elapsed since my ruling of 14 September 2011, a number of further applications have been received for core participant status and it is necessary formally to deal with those that remain outstanding. I adopt and repeat the approach to these applications which I set out in my previous ruling.

Complainants

2. Applications have been made from six further individuals who complain that they have been the target of illegal or unethical press attention. Having received further particulars and full representations on behalf of HJK, I granted both the application and the request for anonymity. In an ex tempore judgment, I refused an application by Ms Elaine Decoulos: this refusal is presently the subject of an application for judicial review. In relation to applications by Charlotte Church, Jackie Hames, Jane Winter and a very recent application from Ms Anne Diamond, I was satisfied that they fall within the same parameters as the applications made by others in a similar position and, in particular, satisfy the test set out in Rule 5(2) of the Inquiry Rules 2006. On the same basis of joint representation, these applications were granted.

Surrey Police

3. There is no doubt that the allegation that journalists from the News of the World had accessed the mobile phone messages left for Amanda "Milly" Dowler at a time when she was missing from home constituted an important precipitating factor in the setting up of this Inquiry and I have previously designated members of the Dowler family (namely Sally, Bob and Gemma Dowler) as core participants. It has also been disclosed that the Surrey Police may have learnt at the time that the News of the World had either accessed these phone messages or was aware that a third party had done so. On the basis that I have previously ruled that evidential and procedural documents should only be made available in advance to core participants and that this part of the Inquiry is concerned to achieve a sufficient narrative of events to form the basis for a consideration of recommendations as to the way forward, the Chief Constable of Surrey Police has applied for the same status.

4. In a comprehensive written argument, it is submitted that because the Dowlers have been granted core participant status, the close involvement of Surrey Police in the allegations relating to Milly Dowler's phone gives them a significant interest not least to ensure that the factual account is accurate and that unwarranted criticism is rebutted. It is also suggested that the phones of a number of Surrey officers may also have been targeted. While recognising that Part 2 of the Inquiry will look at specific allegations or evidence of unlawful conduct, there is a concern that Surrey Police will be subject to explicit criticism during the Inquiry proceedings (as has already been voiced in the House of Commons and the press). In that regard and to underline the potential risks, Mr John Beggs Q.C. for the Chief Constable identified the extent to which the Home Affairs Select Committee had commenced its enquiries into the issues raised and I have seen an exchange of correspondence with the Chairman of the Home Affairs Committee and press reports dealing with the allegations.
5. Although attractively argued, I do not accept the premise of this submission. The Dowlers (along with many others) have been granted core participant status in this Inquiry because they complain that they have been the target or victims of illegal or unethical press activity in circumstances in which there is no adequate or effective mechanism for them to prevent the interference of which complaint is made or to obtain satisfactory redress thereafter. Part 1 of the Inquiry is specifically directed to make recommendations about policy and regulatory regimes and the resolution of future concerns about relationships. The narrative that is essential to provide the background for that review will inevitably be general and cannot descend into the detail of any one case. Thus, as the Chief Constable recognises, I will not be making findings of fact in relation to any individual case and although the question why no step was taken to investigate the interception of Milly's phone may well be asked (if only to provide the context), I do not intend to investigate the rights or wrongs of that decision (if such a decision was made).
6. Neither are the Surrey Police in the same position as the Metropolitan Police which was specifically charged with the responsibility of investigating allegations of phone hacking (and not merely as a possible by-product of a murder investigation). The Metropolitan Police are also at the centre (rather than being on the periphery in common with all other police forces) of concerns about the relationship between the press and the police. In any event, should it be necessary for the Surrey Police to be specifically engaged in any aspect of the facts, the Inquiry Rules 2006 provide ample opportunity for the interests of those affected by evidence to be protected without necessarily granting core participant status and, for the avoidance of all doubt, there is absolutely no question of anyone being subject to criticism without full opportunity to respond: see s. 19 of the Rules. In the circumstances, although I am grateful for the continued assistance which I have no doubt the Chief Constable will provide, this application is refused.

National Union of Journalists

7. On 24 August, the National Union of Journalists wrote to the Inquiry requesting core participant status, referring to their Code of Conduct as being at the heart of the work of journalists. A member of the Inquiry team responded to the effect the

information provided did not appear to meet the criteria and sought further details. A recent communication has made it clear:

“We speak on behalf of ordinary journalists who spend their lives working for different media organisations, including broadsheet and tabloid newspapers at national, regional and local level.

Our involvement as a core participant in the inquiry would provide a unique and valuable contribution because we are the only organisation able to represent the collective voice of thousands of journalists whilst at the same time provide representation, support and advice to individual journalists on the newsroom floor.”

8. The letter goes on to speak of the considerable experience that NUJ members have of “life at the sharp end of the media industry” and their efforts to introduce a conscience clause into contracts of employment providing for journalists the right to refuse to accept an assignment that would break the letter or the spirit of the Code of Conduct. Finally, in addition to making a point about absence of union recognition, the General Secretary expresses concern about the dominance within the Inquiry of editors and proprietors and observes that:

“such executives represent a tiny minority of the industry and have a clear vested interest – the NUJ represents those journalists who make up the vast majority of a vibrant and diverse industry, and it is vital their voices are also heard and given serious consideration”.

9. I see considerable force in the submission that, through its members, the NUJ does provide a different window on the issues with which the Inquiry is concerned and, just as important, is able to access evidence on the issues of culture, practices and ethics which the Inquiry might not otherwise be able to obtain. Journalists may well speak to the union when they would not speak to the Inquiry and a senior representative journalist will no doubt be able to put evidence together (whether or not it is necessary to protect every source) which could be of value. In the circumstances, as I made clear at the hearing, this application is granted.

Telegraph Media Group

10. Although not initially applying for core participant status, applications have since been received from Trinity Mirror plc and the Telegraph Media Group. In my ruling of 14 September 2011, when dealing with applications by media groups other than NI Group, I said:

“Every aspect of Part 1 touches upon the press and its outcome will inevitably be relevant to (if not impact upon) the approach to certain types of news gathering and its dissemination, along with the relationship between the press

and the public, the police, potential regulators and politicians. Thus, if the culture and practices of the press require change, the effect will be upon all. In the circumstances, I have no doubt that each of these media groups is entitled to core participant status for each module of this Part.”

11. I took a similar line when I granted the application by Trinity Mirror plc and, for the sake of consistency, must approach Telegraph Media Group in the same way. As I also identified at the hearing, this application is also granted.

The Role of Core Participants

12. I add to this ruling only to emphasise that the core participants are not parties to litigation (either between themselves or with me): the Inquiry is inquisitorial in nature. Thus, where I do not consider that there is a potential for their interests to be affected, I will not consider it necessary to canvass their views and I am not going to allow the Inquiry to be driven down a road that requires me to generate decision after decision, each one of which may then lead to further litigation in the form of judicial review. I will be open and transparent in all that I do and I must, of course, be fair and comply with the terms of the Inquiries Act 2005 and the Inquiries Rules 2006. The corollary of this proposition is that, as a result, it is not necessary for the core participants to involve themselves in the very real expense of attending every day whether by counsel, solicitor or, indeed, at all. For my part, I anticipate that much of the evidence will be of background significance and will not need to engage the many organs of the press that are represented. My anxiety to ensure that this Inquiry takes account of the financial constraints upon public funds extends to a wish to minimise the cost to those taking part. All may rest assured that I will not take absence as discourtesy or lack of interest in the issues that I am required to address.

2 November 2011