Day 23 AM Leveson Inquiry 10 January 2012

1 (10.00 am)

MS PATRY HOSKINS: Good morning, sir. We have four witnesses this morning, and the first witness will be Mr Barber of the Financial Times.

LORD JUSTICE LEVESON: Very good.

MR FRANKLIN LIONEL BARBER (affirmed)

Questions by MS PATRY HOSKINS

Q. I'm going to ask you about some of the policies in place at the Financial Times, the Financial Times code and so on, but before I do that, can I ask you this general question, Mr Barber: to what extent in your opinion, does the Financial Times' focus on financial journalism, the organisation in print and online. It is also true that we focus on business and financial journalism, but we also write a lot about politics. We write about how politics, economics, finance connect in the global economy. But that doesn't mean to say that we're not interested in what one might describe as private lives. Just a couple of months ago, for example, we reported first that the chief executive of Lloyds Banking Group had stress problems and he had to step back and seek medical treatment. We thought that that was a legitimate story to pursue. We sourced it -- not one source but two sources minimum -- and we also thought that, given the bank's difficulties and the fact that this was of enormous interest to shareholders, that this deserved to be published, and we did publish and the story was true.

A. I can confirm that they are true to the best of my knowledge.

Q. Thank you very much. I'm going to ask you first of all to confirm that the contents of that statement are true to the best of your knowledge and belief?

A. Yes.

Q. You've provided us with this witness statement at tab 3. It's signed at the end, although redacted. Can you confirm that the contents of that statement are true to the best of your knowledge and belief?

A. Yes.

1 (Pages 1 to 4)
And the reason we set such a high bar is that our relationship with our readers -- and they are largely in business and finance, but not exclusively, and diplomacy and academia -- is one of trust. People have to be able to rely on the Financial Times for accurate information which is set in context, multiple sourced and that they can rely on it because they're making decisions, important decisions in their respective professions.

I think it was Sir Gordon Newton, who was probably the finest editor of the Financial Times -- he served for 23 years in the immediate post-war period. He said that the Financial Times appeals to decision-makers in business, finance and public affairs all around the world. That's our audience. They need to be able to trust the information that we provide, and that is why we have a very stiff code of conduct, which goes beyond the PCC.

Q. All right. That answers my question as to why you have one. In what respects does it go further than the PCC code?

A. Well, if I could be more specific.

Q. Yes?

A. We obviously do have specific clauses which relate to financial holdings, shareholdings by journalists. First of all, they are obliged, under the Financial Times code of conduct, to disclose those holdings to a share register, the contents of which are known to the -- certainly the managing editor and editor. It's restricted, but they are obliged to disclose those shareholdings, and certainly they are not in any way able to trade in those shares if they're -- when they are covering sectors which -- related sectors.

So in other words, we're making sure that we are not in any way conflicted or behaving unethically, and to trade in shares when you're actually covering a sector would be unethical conduct, and actually would be grounds for dismissal.

Q. Those are aspects of the code which deal with the particular area of journalism that the Financial Times is concerned with, but can we look, please, at the second page of the code of conduct, under the heading "Data Protection Act 1998 requirements". There also seems to be a section on data protection. Can you assist us with why the Financial Times considered it necessary to introduce this section into the code?

A. Well, first of all, there was a law called the Data Protection Act and Financial Times journalists do not break the law. We also feel it is important to behave in an honest, transparent fashion. That is why journalists pursuing stories on the Financial Times do not misrepresent themselves. They represent themselves as Financial Times journalists.

Q. All right. I think the question -- if I can rephrase it in this way: yes, there is a Data Protection Act. There's a requirement to comply with it. Why do the Financial Times feel it necessary to include relevant guidance on it within its code as opposed to just saying to journalists: "You must obey the law"?

A. Well, the Act was passed in 1998. Clearly, we have seen a number of stories which have come out in the public domain regarding phone hacking, and that would be one reason why we've included that particular section in our code of conduct.

Q. I understand. The code then goes on to set out the provisions of the PCC code. Do you see that? The question I have for you is this: it's true to say that your code of practice does go further than just the PCC code. It has some specific provisions relating to financial journalism. It has the data protection provisions. In your view, does the PCC code as it currently exists need amending to include this kind of provision or is it fit for purpose?

A. Well, I think that would be a matter for discussion between editors. My personal view is that the code needs to be enforced, the current code, before its substantially amended, and in the case of phone hacking it clearly wasn't enforced.

Q. All right.

A. And one of the parties did not represent themselves in an honest way when dealing with the PCC.

Q. So I understand your answer to be then that you're more worried about issues of enforcement than issues of amendment to the existing code?

A. I think the code is pretty robust but it needs to be enforced and it needs to be credible.

Q. I'll come on to ask you more about regulation in a moment. Sticking, though, with the code for the moment, you explain in your -- back to your witness statement, please, in the previous tab. You explain at paragraph 11 that you send reminders to your staff of the code at appropriate opportunities or appropriate times. You explain in paragraph 11 that, for example, in October 2010 a member of staff employed by Thomson Reuters resigned following alleged breaches of their code of conduct and you give the gist of what happened. But as a result, you say, you sent an email to FT editorial staff worldwide reminding them of their obligations under the FT code as financial journalists.
Day 23 AM

Leveson Inquiry

10 January 2012

for example, you say, to ensure that they do not make editorial decisions about shares in which they have an interest.

You then attach a copy of the email at exhibit 5. Can we just look at that briefly. It's behind tab 4.

A. Where is this? Sorry, I'm having trouble -- oh yes, I've got it.

Q. If you look at the bottom right-hand corner, there'll be a number and it's 734.

A. Yes, I have it.

Q. Do you see that?

A. Yes.

Q. It may appear on the screen?

A. Yes, no, I have it now.

Q. To paraphrase that, you explain what's just happened at Thomson Reuters and say:

"To ensure that there can be no room for doubt over our conduct, we are now taking the step of requiring all members of staff to sign a form affirming that they have read and understood the code and have made or updated their entry in the Investment Register as laid out in the code and will continue to update the register as soon as their investment position changes."

You attach a copy of the code, a compliance form and a link to the Investment Register and you say if there are any questions, please come back.

Did you receive back to that email or any similar email any response from journalists saying, "No, I haven't complied with the code", or any expression of concern as a result of that email?

A. Nobody sent me an email saying they had not complied with the code. Because the risk of being caught out was just too great?

Q. The question is really whether self-certification by journalists is sufficient to uphold those standards?

A. Yes.

Q. Why?

A. It is, because the penalty of not upholding those standards and damaging the reputation of the FT is dismissal, and people who do not uphold the highest standards put in jeopardy the reputation of the Financial Times, are at risk of dismissal.

Q. Have you ever dismissed anyone on that basis?

A. I have not personally dismissed -- there is one instance which is not related to this particular matter regarding Investment Registers -- the Investment Register.

Q. That's the editorial code of conduct. There's also --

MS PATRY HOSKINS: No, we certainly won't.

LORD JUSTICE LEVESON: To paraphrase that, you explain what's just happened at Thomson Reuters and say:

"To ensure that there can be no room for doubt over our conduct, we are now taking the step of requiring all members of staff to sign a form affirming that they have read and understood the code and have made or updated their entry in the Investment Register as laid out in the code and will continue to update the register as soon as their investment position changes."

You attach a copy of the code, a compliance form and a link to the Investment Register and you say if there are any questions, please come back.

Did you receive back to that email or any similar email any response from journalists saying, "No, I haven't complied with the code", or any expression of concern as a result of that email?

A. Nobody sent me an email saying they had not complied with the code. Because the risk of being caught out was just too great?

Q. The question is really whether self-certification by journalists is sufficient to uphold those standards?

A. Yes.

Q. Why?

A. It is, because the penalty of not upholding those standards and damaging the reputation of the FT is dismissal, and people who do not uphold the highest standards put in jeopardy the reputation of the Financial Times, are at risk of dismissal.

Q. Have you ever dismissed anyone on that basis?

A. I have not personally dismissed -- there is one instance which is not related to this particular matter regarding Investment Registers -- the Investment Register.

Q. That's the editorial code of conduct. There's also --

MS PATRY HOSKINS: No, we certainly won't.

LORD JUSTICE LEVESON: So I think the question was not so much "is your certification system sufficient" but "is it sufficiently robust", and that really requires you to know your staff, I suppose.

A. Yes, sir. I would argue that the Financial Times code of conduct is a model for self-regulation.

LORD JUSTICE LEVESON: Well, that's a slightly different question, which I think we'll probably come on to discuss.

A. Yes, because the penalties of not getting it right are severe, potentially.

LORD JUSTICE LEVESON: Yes, but they're imposed by the editor, and therefore what might work within a newspaper setting which has the power to dismiss is rather different from what might work in a wider setting.

I don't think we'll leave this topic alone before you're finished.

MS PATRY HOSKINS: No, we certainly won't.

Just finishing on the code of conduct, you were telling us about the editorial code of conduct. There's also a Pearson company-wide code of conduct which I'm sure you're aware of. It's referred to in the statement of Mr Ridding, which is at tab 1.

If we look at his witness statement, please, behind tab 1 we find within that paragraph 12.

A. That is correct, sir.

MS PATRY HOSKINS: No, we certainly won't.

LORD JUSTICE LEVESON: I suppose you mean, in answer to the question that Ms Patry Hoskins was asking:

"To ensure that there can be no room for doubt over our conduct, we are now taking the step of requiring all members of staff to sign a form affirming that they have read and understood the code and have made or updated their entry in the Investment Register as laid out in the code and will continue to update the register as soon as their investment position changes."

You attach a copy of the code, a compliance form and a link to the Investment Register and you say if there are any questions, please come back.

Did you receive back to that email or any similar email any response from journalists saying, "No, I haven't complied with the code", or any expression of concern as a result of that email?

A. Nobody sent me an email saying they had not complied with the code. Because the risk of being caught out was just too great?

Q. The question is really whether self-certification by journalists is sufficient to uphold those standards?

A. Yes.

Q. Why?

A. It is, because the penalty of not upholding those standards and damaging the reputation of the FT is dismissal, and people who do not uphold the highest standards put in jeopardy the reputation of the Financial Times, are at risk of dismissal.

Q. Have you ever dismissed anyone on that basis?

A. I have not personally dismissed -- there is one instance which is not related to this particular matter regarding Investment Registers -- the Investment Register.

Q. That's the editorial code of conduct. There's also --

MS PATRY HOSKINS: No, we certainly won't.

LORD JUSTICE LEVESON: So I think the question was not so much "is your certification system sufficient" but "is it sufficiently robust", and that really requires you to know your staff, I suppose.

A. Yes, sir. I would argue that the Financial Times code of conduct is a model for self-regulation.

LORD JUSTICE LEVESON: Well, that's a slightly different question, which I think we'll probably come on to discuss.

A. Yes, because the penalties of not getting it right are severe, potentially.

LORD JUSTICE LEVESON: Yes, but they're imposed by the editor, and therefore what might work within a newspaper setting which has the power to dismiss is rather different from what might work in a wider setting.

I don't think we'll leave this topic alone before you're finished.
Q. He attaches a copy and he says this:

"It requires all Pearson employees, including
therefore Financial Times employees, to conduct
themselves not only in accordance with the law but in
accordance with the ethical principles set out in the
code. The code is made available on the FT's intranet
and is referred to in all new starter packs for
Financial Times employees."

He goes on to say:
"Pearson circulates an email annually to all Pearson
employees, reminding them of their obligations under the
code and asking them to confirm either compliance with
it or to notify incidences of non-compliance which
they're aware of."

Pausing there, does the Pearson code add anything,
in your view, to the editorial code?

A. Well, it does.

Q. Tell us about that.

A. For the last half of the sentence which you just cited,
counsel, which is that it not only reminds Pearson
employees of their obligations under that code, asking
them to "confirm either compliance", but crucially "to
notify incidences of non-compliance they're aware of".

We don't have that.

Q. I see. When I said "does it add anything", I guess the
second half to that question is: is it necessary to have
an editorial code and a company-wide code of conduct for
just that reason or could there simply be one code of
counsel and achieve the same aim?

A. Well, that would be an interesting intellectual
question --

Q. That's why I'm asking you.

A. -- which I'm going to try to answer. The Financial
Times is a discrete entity within the Pearson group.

The editor is independent. Pearson, however, own the
Financial Times, so should they wish to have a separate
code of conduct, that's a matter for them, and we think
that the two can happily live alongside each other.

Q. In the same paragraph, Mr Ridding goes on to say this:

"Pearson also operates a whistle-blowing hotline
called Ethicspoint, which allows employees to report
breaches of the code on an anonymous basis. Employees
can also report breaches of the code locally, for
example to their line manager or in-house legal team."

Now, is there any similar whistle-blowing hotline
for breaches of the editorial code?

A. No, we don't operate the whistle-blowing principle. If
there are problems at the Financial Times, my experience
is that they are brought to senior employees, if not to
me personally.

Q. What if the complaint was about you or involved you in
some way?

A. Then it would go to my deputy.

Q. Can a person who's concerned about breaches of editorial
code phone the whistle-blowing hotline? Is that an
avenue open to them or is it just a hotline for the
Pearson-wide code?

A. No, we are employees of the Financial Times and we're
owned by Pearson, therefore if a Financial Times
journalist or an employee in general wished to use the
Pearson hotline, they could. But I think it's important
again to understand something -- an intangible quality
called culture, and I don't wish to sound too
high-minded here but we think we have a pretty good
culture, and if there are problems, they're shared at
all levels. We also have a union at the Financial
Times, and if individuals have problems or grievances,
they can go to the union. They can also go, crucially,
to the managing editor. We haven't talked about that
role but that is the person who deals with human -- HR
problems or budget problems and that is an open door
too. And then finally they can go to me.

So we don't think -- we don't want to be complacent
but we don't think we need to have a whistle-blowing
function in the newsroom at the Financial Times.

Q. Can I come on then to ask you, please, about sources and
sourcing. In paragraph 17 onwards of your statement,
you say this. It's in response to our question, which
was this:

"To what extent is an editor aware/should be aware
of the sources of the information which make out the
central stories featured in your newspaper each day,
including the method by which information was obtained?"

You say this:

"In terms of sourcing, we follow a minimum two
source policy at the FT as evidenced by the sourcing
policy [which we can look at if necessary] ... this
means that as a general rule every story should be
dual-sourced irrespective of whether our sources are on
or off the record."

I can see why you've taken that decision. In
practice, does that happen?

A. You bet it happens.

Q. Okay. How can you be so sure?
Day 23 AM Leveson Inquiry 10 January 2012

1 A. Because it's standard practice at the FT and it has been for some time, and it was reaffirmed in the strongest terms when I took over as editor just over six years ago. If I may explain just a little bit?

Q. Of course.

2 A. If you rely on a single source for a story, you are leaving yourself open to manipulation, you leave yourself open to being misled and not understanding fully. There's always another side to a story.

3 I sometimes think about this in terms of an image of walking up a mountain. If you go on a single source, you get up to the top of the mountain and you have the most glorious view. You have the idea of a wonderful scoop the next morning. But then look down on the other side of the mountain. That's the risk. So you need to go for a second story. No story, however good it seems, is going to enter the pages or on the online of the Financial Times. You need to have two sources, and even if the Prime Minister were to speak off the record to a journalist and give that put the story in its broader context.

4 But then look down on the other side of the mountain. That's the risk. So you need to go for a second story. No story, however good it seems, is going to enter the pages or on the online of the Financial Times. You need to have two sources, and even if the Prime Minister were to speak off the record to a journalist and give that put the story in its broader context.

5 A. Of course.

6 Q. So -- and when you say, "Is it followed at the FT?"

7 A. Sometimes.

8 2012, the desk says, "We have a very interesting story here, but we need a second source." It's ingrained.

9 Q. You say it's helpful in terms of verification. It may be very good in terms of --

10 A. It's not helpful; it's essential.

11 Q. Okay. It may be essential in terms of verification, it may be very good in terms of the reliability of the information that you then obtain, but how would you know about methods? How would you know, for example, if one of the sources was a hacked phone message or a hacked email or a blagged medical record? How does your sourcing policy affect that?

12 A. First of all, to the best of my knowledge -- and I've spent some time ahead of this Inquiry talking to colleagues -- I know of no instance of phone hacking or so-called blagging for information at the FT. We don't engage in that sort of business. We do obtain sensitive information but we don't do it using those methods.

13 Now, how do I know? Because the appointment of the news editor at the Financial Times is one of the most critical appointments that I can make as editor. The news editor at the FT has a great deal of power. Direct reports and the key jobs, like political editor, economics editor. He or she deals with journalists on a regular basis. The news editors who report to that news editor, the other ones, sit around the common desk.

14 A. Not sources. You mean journalists using unethical --

15 Q. I mean sources.

16 A. Ah. Well, that presumes that we are relying, for example, on private detectives or other people engaging in illicit methods, so-called -- what I would call secondary sources. We like to deal with primary sources.

17 Q. Right.

18 A. Again, counsel, you are using the word "helpful", and I'm insisting it's essential for us. I don't wish to be prescriptive for the whole industry, but I'm just talking about the Financial Times' practice. And I repeat, you know, two sources is essential for the way we do our business. We make mistakes. We've made mistakes in the past. We correct them and we learn from them. But the basis, the foundation for how we go about our business is to, one, obtain information by representing ourselves as Financial Times journalists, and second, obtaining -- and by the way, it's not -- that's a minimum two sources. Preferably we'd like three and there have been instances where we have not published stories, sometimes to my chagrin.

19 We had a story which -- in New York, I had one -- a person I'd known for ten years told me that Shell was going to revise its policy on oil reserves and the story
<table>
<thead>
<tr>
<th>Page 23</th>
<th>Leveson Inquiry</th>
<th>10 January 2012</th>
</tr>
</thead>
</table>

|     | was absolutely correct. We could not stand it up. We spent a day, and yes, the next day Shell announced that they were revising their policy. It had a big impact on the share price. We didn't run the story. And there are other examples of that. But in the end -- and again, I'm quoted to the point of being boring at the Financial Times -- I'd rather be right than first. In fact, not "rather"; that's the way we operate. We don't want to be first and get it wrong. |     | systems and make sure that they're absolutely watertight, and that's why you sent the email to which you earlier referred to. It's not that you're concerned; it's just that you're constantly checking? |     |
|     | LORD JUSTICE LEVESON: When you're talking about sources, you're talking about primary sources, not second-hand sources? That's the point that I think -- | A. Yes, sir. Again, you've phrased that much better than I have been able to in several sentences, but that's the point. You can't rely, if you're in the business that we're in, on hearsay. We deal with primary sources, people who are making the decisions and others outside. |     | A. Yes, sir. Again, you've phrased that much better than I have been able to in several sentences, but that's the point. You can't rely, if you're in the business that we're in, on hearsay. We deal with primary sources, people who are making the decisions and others outside. |     |
|     | MS PATRY HOSKINS: I understand. Can we look at your sourcing and attribution policy very briefly. It's exhibit 3 to your statement. If you look in the bottom right-hand corner, you should find the number of 729. |     | It's interesting. I read his account of that. |     |
|     | A. Yes. | Q. First of all, in your view, how important is it to actually have a sourcing and attribution policy as opposed to just giving guidance on an as and when basis? |     | A. Yes. |     |
|     | A. Well, the reason that this was written down -- and I remember the discussion because I was in New York at the time -- is that the New York Times, which I think is widely recognised as one of the best newspapers and news organisations in the world, suffered a terrible embarrassment when one of its reporters, a staff reporter, was revealed to have literally invented stories and was guilty of plagiarism. We took a view at the top of the FT that if such a thing could happen at the New York Times, then we needed to review our own internal procedures, and if we were going to be, to use this phrase, the gold standard, then we should be clearer about some of the ways in which we obtained our stories and information. So after the Jayson Blair scandal at the New York Times, which, it should be remembered, cost the editor of the New York Times and his deputy, the managing editor, Howell Raines and Gerry Boyd, their jobs -- they had to resign, so the New York Times was literally decapitated, the newsroom -- we decided to write down in more detail the sourcing policy which you've alluded to. I'm happy to go into that a little bit more, but that's why we did that at the time. |     | a reporter in the Metropolitan newsroom, invented the story of a crack addict in DC and had to give back a Pulitzer prize. |     |
|     | Q. And one of the reactions was to create this policy. Can I look, very briefly, at just some of the paragraphs within it. First of all, under the heading "Sourcing", obviously you refer to your two, ideally three independent sources for each story point. But can we look at paragraph 6: "Always give people or companies the chance to answer the charges being levelled at them. Remember that cross-checking builds respect with sources." |     | I think, again, sir, without wishing to make a meal of this, the point is: if you see the best in class suffering a scandal like that, you need to react. |     |
|     | A. We did. |     | MS PATRY HOSKINS: So you did. |     |
|     | Q. | A. No, it's not. |     |     |
|     | A. No, we don't give heads-up to people we're writing stories about. At least that is absolutely not the policy. It may happen occasionally, but it's not -- definitely not meant to happen, because you pursue your story and then you go to the source. Sometimes, |     | Q. Right. I didn't think so. Can you just explain? |     |
|     | A. |     | A. No, we don't give heads-up to people we're writing stories about. At least that is absolutely not the policy. It may happen occasionally, but it's not -- definitely not meant to happen, because you pursue your story and then you go to the source. Sometimes, |     |

Page 22

Page 23

Page 24

Page 25
MS PATRY HOSKINS: I think it's important that we do our business in a dispassionate way. Obviously journalists cultivate sources. They're important, whether they're in the political, financial or any other arena. That's how you get information. But you never want to get so close to a source that you're offering prior notification or sharing everything. It's a dangerous business. That's a dangerous path to go along. So we are in an odd half-world where we need to be both close, but then to move away, to engage in building a relationship of trust with sources but never to get so close that you're offering prior notification. You need to do business.

Q. I was going to come on to prior notification but if you think this is a convenient moment, perhaps you could tell us why you certainly don't have a prior notification policy in place at the FT.

A. I think it's important that we do our business in a dispassionate way. Obviously journalists cultivate sources. They're important, whether they're in the political, financial or any other arena. That's how you get information. But you never want to get so close to a source that you're offering prior notification or sharing everything. It's a dangerous business. That's a dangerous path to go along. So we are in an odd half-world where we need to be both close, but then to move away, to engage in building a relationship of trust with sources but never to get so close that you're offering prior notification. You need to do business.

Q. Why is it a dangerous path? I think it would be helpful to do business.

A. I think it's important that we do our business in a dispassionate way. Obviously journalists cultivate sources. They're important, whether they're in the political, financial or any other arena. That's how you get information. But you never want to get so close to a source that you're offering prior notification or sharing everything. It's a dangerous business. That's a dangerous path to go along. So we are in an odd half-world where we need to be both close, but then to move away, to engage in building a relationship of trust with sources but never to get so close that you're offering prior notification. You need to do business.

Q. I was going to come on to prior notification but if you think this is a convenient moment, perhaps you could tell us why you certainly don't have a prior notification policy in place at the FT.

A. I think it's important that we do our business in a dispassionate way. Obviously journalists cultivate sources. They're important, whether they're in the political, financial or any other arena. That's how you get information. But you never want to get so close to a source that you're offering prior notification or sharing everything. It's a dangerous business. That's a dangerous path to go along. So we are in an odd half-world where we need to be both close, but then to move away, to engage in building a relationship of trust with sources but never to get so close that you're offering prior notification. You need to do business.

Q. Why is it a dangerous path? I think it would be helpful to do business.

A. I think it's important that we do our business in a dispassionate way. Obviously journalists cultivate sources. They're important, whether they're in the political, financial or any other arena. That's how you get information. But you never want to get so close to a source that you're offering prior notification or sharing everything. It's a dangerous business. That's a dangerous path to go along. So we are in an odd half-world where we need to be both close, but then to move away, to engage in building a relationship of trust with sources but never to get so close that you're offering prior notification. You need to do business.

Q. But wouldn't an injunction only be granted if it was appropriate for it to be granted?

A. Well, we took the view in this particular instance that an injunction wouldn't have been warranted, and in fact the story was published, we received a very hostile letter from a well-known law firm in this city that specialises in reputation management, and a week later said subject came to see me in my office and addressed me on first name terms and wanted to be friendly and co-operative. So I think when there are that number of injunctions taken out, although we had had some contact, we did not go and ask for a full response because we were fearful of an injunction. But we had had prior contact and there was some knowledge about this, but this was a very unusual case because of the number of injunctions that had been taken out which were restrictive of reporting.

Q. Can you envisage a situation where you would publish a story about a company without telling them in advance whether you're actually going to publish it.

A. No, I can't -- I think it would be very difficult. You know, you want to be able to do your work first, before necessarily going to the company. I wouldn't want to take that too far. I just think in general you go and ask for a full response because we were fearful of an injunction being taken out, although we had had some contact, we did not go and ask for a full response because we were fearful of an injunction. But we had had prior contact and there was some knowledge about this, but this was a very unusual case because of the number of injunctions that had been taken out which were restrictive of reporting.

Q. Can I come back to the sourcing policy very briefly. Paragraph 9, under the heading "Sourcing":

"We should be able to justify to readers how we came by a story [and we've touched on that already]. When we take out, although we had had some contact, we did not go and ask for a full response because we were fearful of an injunction. But we had had prior contact and there was some knowledge about this, but this was a very unusual case because of the number of injunctions that had been taken out which were restrictive of reporting.

Q. Can you envisage a situation where you would publish a story about a company without telling them in advance whether you're actually going to publish it.

A. No, I can't -- I think it would be very difficult. You know, you want to be able to do your work first, before necessarily going to the company. I wouldn't want to take that too far. I just think in general you go and ask for a full response because we were fearful of an injunction being taken out, although we had had some contact, we did not go and ask for a full response because we were fearful of an injunction. But we had had prior contact and there was some knowledge about this, but this was a very unusual case because of the number of injunctions that had been taken out which were restrictive of reporting.

Q. Can I come back to the sourcing policy very briefly. Paragraph 9, under the heading "Sourcing":

"We should be able to justify to readers how we came by a story [and we've touched on that already]. When we
Day 23 AM Leveson Inquiry 10 January 2012

1. Talk to people, we should be honest about being FT reporters. The PCC code states that subterfuge can be justified only in the public interest and only when material cannot be obtained by other means. If FT reporters want to go undercover, they must first talk to an editor.

2. Lord Justice Leveson: "Sources close to"?

3. A. Yes, I saw that. In the six years since I've been an editor, I don't know of any instance in which an FT reporter went undercover. I'm not quite sure what that means. Actually -- well, I just --

4. Lord Justice Leveson: It means that they don't declare who they are and they pretend to be somebody slightly different.

5. A. Yes. Actually, I'm now -- we had an instance of one of our top journalists went into Burma to interview Aung San Suu Kyi, and he did not misrepresent himself when he was inside the country but I'd have to check whether he -- my memory is -- I need to go back, but --

6. Lord Justice Leveson: I don't think we're talking about that sort of example.

7. A. All right.

8. Lord Justice Leveson: We're talking about an example where, in pursuing a story, the journalist knows that if he says, "I'm from the Financial Times", nobody will talk to him, but if he says, "I'm a middle eastern potentate ...",

9. A. Yes, yes. I'm not sure whether very many FT journalists could represent themselves --

10. Lord Justice Leveson: No, I wasn't necessarily --

11. A. But, sir, I think the point that I made at the beginning is very important. We do not misrepresent ourselves.


13. A. We say we're from the Financial Times. That's important.

14. Lord Justice Leveson: All right.

15. Ms Patry Hoskins: One last aspect of this sourcing and attribution policy, please. Under the heading "Attribution", paragraph 7 says this: "If we must cite an anonymous source, supply as much information as you can. 'An aide to Mr Cheney said' is preferable to 'an administration official said'. The stock phrase 'sources said' means almost nothing at all and is banned."

16. I think I can guess the answer to this question. Is that a practice that is adhered to at the FT?

17. A. It is. We don't publish "sources said". That's as very loose attribution. We need to be always vigilant.

18. Lord Justice Leveson: "Sources close to"?

19. A. Ah, yes, that's a little bit less tenuous. "Sources close to the Prime Minister".

20. Lord Justice Leveson: Yes. I wasn't actually thinking about the Prime Minister. Yes.

21. A. I do think -- the important point you're making is that you need to be as clear as possible with the reader where this information is coming from. And also, if you can identify as closely as possible, then you give the reader some guide as to motivation, as to why this information is being put out there.

22. I think the Americans, frankly, take it too far, "a source whose name cannot be disclosed because of ..." da da da, and two paragraphs later, the reader has either fallen asleep or is more enlightened. I think we are a bit tighter than that. Phrases like "it is understood" have also been removed. So one needs to be tough on this, vigilant.

23. I think the other point, which isn't here, which is important -- and frankly, again, you need to be really quite tough on this -- is anonymous sourcing, particularly in business and financial stories, where the source is offering a negative comment about a company or a person, is problematic. Now, it's quite difficult because analysts like to talk about companies and offer -- and they're certainly spicy and juicy, those comments, but they can be quite damaging and
<table>
<thead>
<tr>
<th>Day 23 AM</th>
<th>Leveson Inquiry</th>
<th>10 January 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>there's a difference between robust journalism and lawful practices:</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>&quot;Certain news organisations have not necessarily acted professionally or responsibly and certainly not ethically -- that is why I felt I had to make the remarks I did in my Cudlipp lecture. I took the view that certain organisations had crossed the line and they needed to be called to account for their conduct.&quot; You've exhibited the Cudlipp lecture to your statement. It's not paginated and it's quite hard to find references in it, so perhaps you can tell us in your own words what you meant by &quot;certain organisations have not necessarily acted professionally or responsibly and certainly not ethically&quot; --</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>A. Well --</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>Q. -- and why you took the view that they'd crossed the line and needed to be calling to account for their conduct.</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>A. I was primarily referring, clearly, to News International and specifically the News of the World in the light of the phone hacking scandal, the details of which now everybody is aware of.</td>
<td>5</td>
</tr>
<tr>
<td>6</td>
<td>Q. Okay.</td>
<td>6</td>
</tr>
<tr>
<td>7</td>
<td>Q. Okay.</td>
<td>7</td>
</tr>
<tr>
<td>8</td>
<td>Q. Can we pause there and just find the reference. I think it's more helpful if we do. If we look within your exhibits, the number in the bottom right-hand corner will be 750.</td>
<td>8</td>
</tr>
<tr>
<td>9</td>
<td>MS PATRY HOSKINS: Sorry, it's all behind tab 4, 750, fourth paragraph down on that page.</td>
<td>9</td>
</tr>
<tr>
<td>10</td>
<td>A. Yes.</td>
<td>10</td>
</tr>
<tr>
<td>11</td>
<td>Q. You say this:</td>
<td>11</td>
</tr>
<tr>
<td>12</td>
<td>&quot;In this respect, the Daily Telegraph's decision to dispatch two journalists posing as constituents to interview the business secretary Vince Cable falls into a very different category than its earlier scoop on MPs' expenses. The latter story, although acquired for money and deeply damaging to the standing of the Westminster class, clearly met the public interest test. The first did not. It was nothing more than entrapment journalism.&quot;</td>
<td>12</td>
</tr>
<tr>
<td>13</td>
<td>A. Well, first of all I'd like just to make clear that I'm talking about the kind of methods and practices employed by the Financial Times and what we expect of our journalists in that we do not engage in misrepresentation.</td>
<td>13</td>
</tr>
<tr>
<td>14</td>
<td>A. Well --</td>
<td>14</td>
</tr>
<tr>
<td>15</td>
<td>Q. -- and why you took the view that they'd crossed the line and needed to be calling to account for their conduct.</td>
<td>15</td>
</tr>
<tr>
<td>16</td>
<td>A. I was primarily referring, clearly, to News International and specifically the News of the World in the light of the phone hacking scandal, the details of which now everybody is aware of.</td>
<td>16</td>
</tr>
<tr>
<td>17</td>
<td>Q. Okay.</td>
<td>17</td>
</tr>
<tr>
<td>18</td>
<td>A. I did make reference to the Daily Telegraph and the story in which two reporters misrepresented themselves as constituents to Vince Cable, the business secretary.</td>
<td>18</td>
</tr>
<tr>
<td>19</td>
<td>as constituents to Vince Cable, the business secretary.</td>
<td>19</td>
</tr>
<tr>
<td>20</td>
<td>Q. Can we pause there and just find the reference. I think it's more helpful if we do. If we look within your exhibits, the number in the bottom right-hand corner will be 750.</td>
<td>20</td>
</tr>
<tr>
<td>21</td>
<td>A. Well, first of all I'd like just to make clear that I'm talking about the kind of methods and practices employed by the Financial Times and what we expect of our journalists in that we do not engage in misrepresentation.</td>
<td>21</td>
</tr>
<tr>
<td>22</td>
<td>Q. -- and why you took the view that they'd crossed the line and needed to be calling to account for their conduct.</td>
<td>22</td>
</tr>
<tr>
<td>23</td>
<td>A. I was primarily referring, clearly, to News International and specifically the News of the World in the light of the phone hacking scandal, the details of which now everybody is aware of.</td>
<td>23</td>
</tr>
<tr>
<td>24</td>
<td>Q. Okay.</td>
<td>24</td>
</tr>
<tr>
<td>25</td>
<td>A. I did make reference to the Daily Telegraph and the story in which two reporters misrepresented themselves as constituents to Vince Cable, the business secretary.</td>
<td>25</td>
</tr>
<tr>
<td>Page 37</td>
<td>Page 38</td>
<td>Page 39</td>
</tr>
<tr>
<td>---------</td>
<td>---------</td>
<td>---------</td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>a paragraph starting:</td>
<td>journalists having a very clear view of their</td>
<td>the changes relating to online content in some detail.</td>
</tr>
<tr>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>&quot;Today, many members of the political elite in</td>
<td>responsibilities and how they conduct their</td>
<td>You discuss Wikileaks and other examples.</td>
</tr>
<tr>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Britain have all worked in or with the media industry.</td>
<td>relationships with politicians.</td>
<td>Perhaps I can ask the question in this way: what's</td>
</tr>
<tr>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>David Cameron worked in a commercial TV company. Jeremy</td>
<td>LORD JUSTICE LEVESON: And vice versa.</td>
<td>the purpose of close and careful press regulation if</td>
</tr>
<tr>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Hunt ran a publishing business.&quot;</td>
<td>A. Very much vice versa, sir. Again, it was taken as</td>
<td>Wikileaks or other bloggers can publish what they want</td>
</tr>
<tr>
<td>6</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>And so on. Now, can you tell us a little more about</td>
<td>conventional wisdom that in order to govern, in effect,</td>
<td>with utter impunity? Can online bloggers be regulated</td>
</tr>
<tr>
<td>7</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>why that's relevant, in your view?</td>
<td>with today's -- what is known as the 24/7 media</td>
<td>as well as in your view?</td>
</tr>
<tr>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>A. Well, it's first quite striking, the number of people</td>
<td>environment, where you have to, if you like, feed the</td>
<td>A. No, I don't believe they can and I wouldn't seek in any</td>
</tr>
<tr>
<td>9</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>who have worked in the media business. It would</td>
<td>press, feed the media with stories, and you need to be</td>
<td>way to regulate the Internet. This is a very difficult</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>certainly encourage me to believe that they understand</td>
<td>particularly sensitive to the demands of the popular</td>
<td>area. There are the questions of a two-tier media</td>
</tr>
<tr>
<td>11</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>the media business very well, but also it can lead to</td>
<td>press, that you needed to have somebody very close to</td>
<td>market, in effect, where you have a press which is</td>
</tr>
<tr>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>too cozy relationships, and we can talk about that.</td>
<td>you, as Prime Minister, or as indeed Chancellor, who</td>
<td>subject to certainly self-regulation to be discussed,</td>
</tr>
<tr>
<td>13</td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td>I'm not just talking about the fact that Ed Balls was an</td>
<td>understood the tabloid press, and these people assumed</td>
<td>but these people are within the media ecosystem but</td>
</tr>
<tr>
<td>14</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>editorial writer for the FT. He certainly doesn't agree</td>
<td>the role of almost policy-makers.</td>
<td>clearly unregulated. Of course, if they break the law</td>
</tr>
<tr>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>with our editorial line at the moment on the economy.</td>
<td>This, I would suggest, is a little bit dangerous.</td>
<td>could be brought before the courts, but I would look at</td>
</tr>
<tr>
<td>16</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>I think the problem is that -- again, this is</td>
<td>Politicians -- again, this is very much a personal view,</td>
<td>this -- it's a very complicated question, but I think if</td>
</tr>
<tr>
<td>17</td>
<td>17</td>
<td>17</td>
</tr>
<tr>
<td>a personal view. I'm not necessarily offering you</td>
<td>so I don't wish to -- I think I'm probably treading way</td>
<td>you're talking about the overall picture for how the</td>
</tr>
<tr>
<td>18</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>empirical evidence for my case, other than what I've</td>
<td>beyond my remit as such anyway, but I think -- I just</td>
<td>press should be regulated or regulate themselves in this</td>
</tr>
<tr>
<td>19</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>just described, but it did seem to me that in the last</td>
<td>feel that if you have a 179-seat majority, that's quite</td>
<td>country, you need to think about two principles.</td>
</tr>
<tr>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>ten years or 15 years, in the Blair/Brown years, perhaps</td>
<td>a mandate. It's pretty good in the second time around</td>
<td>The first is that we shouldn't think just about the</td>
</tr>
<tr>
<td>21</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>a bit -- latterly -- perhaps a little less so in the</td>
<td>as well.</td>
<td>press, because the press have significant -- and in many</td>
</tr>
<tr>
<td>22</td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>present government, and I'll come to that in a minute --</td>
<td>Again, if you read Piers Morgan's memoir -- it's</td>
<td>ways, thinking of the Guardian, certainly the Daily Mail</td>
</tr>
<tr>
<td>23</td>
<td>23</td>
<td>23</td>
</tr>
<tr>
<td>that there was a very close relationship between the</td>
<td>actually one of the first books that was given to me</td>
<td>and Telegraph and others -- have successful online</td>
</tr>
<tr>
<td>24</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>government and sections of the press, particularly</td>
<td>But it always struck me as very strange. Why would</td>
<td>content. At pages 4 onwards of the lecture, you discuss</td>
</tr>
<tr>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>News International.</td>
<td>a Prime Minister who had a 179-seat majority care so</td>
<td>Page 37</td>
</tr>
<tr>
<td></td>
<td>much about what the popular press, and particularly the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sun, was writing about the government and policies, day</td>
<td></td>
</tr>
<tr>
<td></td>
<td>in, day out?</td>
<td></td>
</tr>
<tr>
<td></td>
<td>22 MS PATRY HOSKINS: I'm going to come on to ask you about</td>
<td></td>
</tr>
<tr>
<td></td>
<td>political culture -- it was quite</td>
<td></td>
</tr>
<tr>
<td></td>
<td>extraordinary how much time Tony Blair seemed to have</td>
<td></td>
</tr>
<tr>
<td></td>
<td>spent with Piers Morgan. You'd have thought he had</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a bit of time running the country, but maybe not.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>LORD JUSTICE LEVESON: I'm interested to know -- and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>I accept you're expressing an entirely personal view,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>and it really is touching upon a later bit of this</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Inquiry -- what you would do about that.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>A. Well, you certainly can't -- you certainly would not</td>
<td></td>
</tr>
<tr>
<td></td>
<td>wish to regulate it or pass a law. This is about</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Politicians -- again, this is very much a personal view,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>so I don't wish to -- I think I'm probably treading way</td>
<td></td>
</tr>
<tr>
<td></td>
<td>beyond my remit as such anyway, but I think -- I just</td>
<td></td>
</tr>
<tr>
<td></td>
<td>feel that if you have a 179-seat majority, that's quite</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a mandate. It's pretty good in the second time around</td>
<td></td>
</tr>
<tr>
<td></td>
<td>As, No, I don't believe they can and I wouldn't seek in any</td>
<td></td>
</tr>
<tr>
<td></td>
<td>way to regulate the Internet. This is a very difficult</td>
<td></td>
</tr>
<tr>
<td></td>
<td>area. There are the questions of a two-tier media</td>
<td></td>
</tr>
<tr>
<td></td>
<td>market, in effect, where you have a press which is</td>
<td></td>
</tr>
<tr>
<td></td>
<td>subject to certainly self-regulation to be discussed,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>but these people are within the media ecosystem but</td>
<td></td>
</tr>
<tr>
<td></td>
<td>clearly unregulated. Of course, if they break the law</td>
<td></td>
</tr>
<tr>
<td></td>
<td>could be brought before the courts, but I would look at</td>
<td></td>
</tr>
<tr>
<td></td>
<td>this -- it's a very complicated question, but I think if</td>
<td></td>
</tr>
<tr>
<td></td>
<td>you're talking about the overall picture for how the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>press should be regulated or regulate themselves in this</td>
<td></td>
</tr>
<tr>
<td></td>
<td>country, you need to think about two principles.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The first is that we shouldn't think just about the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>press, because the press have significant -- and in many</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ways, thinking of the Guardian, certainly the Daily Mail</td>
<td></td>
</tr>
<tr>
<td></td>
<td>and Telegraph and others -- have successful online</td>
<td></td>
</tr>
<tr>
<td></td>
<td>and if they libel someone, or if they were to engage in</td>
<td></td>
</tr>
<tr>
<td></td>
<td>contempt of court, they could be brought to the law --</td>
<td></td>
</tr>
<tr>
<td></td>
<td>could be brought before the courts, but I would look at</td>
<td></td>
</tr>
<tr>
<td></td>
<td>this -- it's a very complicated question, but I think if</td>
<td></td>
</tr>
<tr>
<td></td>
<td>you're talking about the overall picture for how the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>press should be regulated or regulate themselves in this</td>
<td></td>
</tr>
<tr>
<td></td>
<td>country, you need to think about two principles.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The first is that we shouldn't think just about the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>press, because the press have significant -- and in many</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ways, thinking of the Guardian, certainly the Daily Mail</td>
<td></td>
</tr>
<tr>
<td></td>
<td>and Telegraph and others -- have successful online</td>
<td></td>
</tr>
</tbody>
</table>

Merrill Legal Solutions | www.merrillcorp/mls.com | 8th Floor 165 Fleet Street | London EC4A 2DY
(+44) 207 404 1400
operations. So they are news organisations. That's what I call the Financial Times. It's a news organisation. Don't just think about the press. If I may say, sir, without, again, wishing to stray beyond my remit, it would be a huge mistake for the Inquiry to focus just on the press. You need to think about the news in general and the general ecosystem.

Second principle is that -- so we have news, so we do have online operations, those should be subject to the law. We need to establish a code of conduct. We need to establish practices which are so good, so credible, so robust, that others would wish to join such a body of, say, independent regulation. We can discuss the details.

You will not, I believe, I suspect, have individual bloggers out there in the stratosphere joining, but I'm talking about media aggregators, people like, say, the Huffington Post, that are drawing on what is loosely described as mainstream media content, that they would feel that -- not necessarily an obligation but be encouraged to be part of a quality system of independent regulation in this country.

Q. All right. So the answer is not everyone can be regulated, but you could have a system of encouragement which meant that some people would choose to be regulated. For those who chose not to be regulated, do they not place the press at a competitive disadvantage?

A. Indeed they do.

Q. And is there any way of resolving that issue?

A. I've wrestled with this and I haven't come up with an answer. I think it's -- there is a real problem when, for example, some people in the -- on the Internet, web-based news organisations outside this jurisdiction can publish details, for example, of a famous footballer and his affair and -- or affairs, and the popular press in this country can't. That clearly puts them at a competitive disadvantage.

Now, one would have to go and ask the question about how legitimate is it to write that story, what is the public interest, et cetera. That's a separate matter. But if we are saying -- now, this is not the first case this has happened. I do refer in the lecture to the 1930s when the New York Times, that august publication, had a field day with King Edward VIII's affair with an American, Wallis Simpson. They were happily publishing juicy and raunchy details of the affair while the British press, and not just the tabloid press, couldn't print a word, or actually had an arrangement with Buckingham Palace that they would not cover the story.

LORD JUSTICE LEVESON: Is there a distinction to be made between the simple presentation of information and the provision of information in context mediated by opinion, reflective and all those words that you might describe --

A. Yes.

LORD JUSTICE LEVESON: -- as the high point of journalism -- and not just reflective pieces such as you might produce in the Financial Times but if I take the example from yesterday that Mr Mohan spoke about: descriptive analyses of complex issues in comparatively straightforward language, readily accessible by those who wouldn't necessarily want to read the Financial Times. You understand, the different expertise that all goes into making the press, but which isn't there on the Internet. Is that the distinction?

A. Well, again, sir, I think you've cut to the heart of the matter because if you think about --

LORD JUSTICE LEVESON: You don't need to be polite.

A. Probably flattering rather than polite, but there we are. But this is the case. This is the issue. Because if you talk -- and again, having spent a lot of time in the States, for those who do their journalism on the Internet and bloggers, they think they can publish anything and they believe that it can -- it will be corrected by peers on the Internet. So they don't feel an obligation, in other words, to go through the kind of processes which not only the Financial Times but also the tabloids do. That is what I would regard or describe as a crafted piece of journalism. And that craft means sourcing, multiple, but also in terms of --

LORD JUSTICE LEVESON: -- the high point of journalism --

A. Yes.

LORD JUSTICE LEVESON: That might be an area which actually identifies the difference and encourages those that want to be considered journalists and mainstream to join that particular club.

A. That would presume, sir, that they feel they want to be part --

LORD JUSTICE LEVESON: If they want to be.

A. It should be obviously up to them. I believe that is the way forward because this is a fast-moving train here, but I suspect from numerous conversations that there is -- that web-based journalists, bloggers, they...
I was just about to explain why I think we need to have a little bit more of the regulatory aspect and not just the mediation.

LORD JUSTICE LEVESON: Yes, please.

A. So I think we need a new body, we need a new composition, and we need -- of that body, and we need new powers. I'm happy to elaborate.

MS PATRY HOSKINS: Yes, please.

9. First of all -- and other editors or others have alluded to this, and others will elaborate on this, but I think first of all, in the event of serious breaches of the code, fines should be applicable. I also think that forcing or obliging newspapers to publish very prominently, according to the seriousness of the mistake, where they have erred or where they have got matters seriously wrong, and the PCC or the new body rules against it, then that should be prominently featured. And believe me, editors do -- they hate, I personally really -- you don't want to devote a large portion of your newspaper to explaining why you got something wrong. That's a deterrent. Don't underestimate the significance of that.

I also think that there should be a high bar -- I've alluded to this in the Fulbright lecture that I gave -- there should be a high bar but there should be powers of investigation if the new body seriously believes that there's been a serious breach of the code. One could think of mechanisms within the body where a serious qualification here -- they were lied to.

News International lied to them. So in that case, it's pretty difficult because you have a major news organisation that is part of your independent, self-regulatory set-up, and it's not telling you the truth, and you also don't have the powers to pursue that. The misstep was to -- and it was a serious misstep -- was to criticise the Guardian for its reporting and to minimise the significance thereof. And that was a serious misstep, and as a result of that I believe that the body has lost credibility.

LORD JUSTICE LEVESON: But it's not just that, is it, Mr Barber? Is it really a regulator at all? It's a complaints mechanism.

A. No, it is a complaints mechanism, and if I may say,
Day 23 AM Leveson Inquiry 10 January 2012

1 have been some changes, but certainly for too long the
2 PCC was dominated by insiders. You need to have some
3 people who are -- if not serving editors, certainly
4 people who have served as --
5 LORD JUSTICE LEVESON: With experience of the business?
6 A. Experienced people in the business of journalism. Not
7 just lawyers.
8 LORD JUSTICE LEVESON: I shouldn't be considered to be in
9 favour of giving everything to lawyers. I'm not.
10 A. I'm relieved. But we need to have some outsiders, and
11 I think that plays generally into the -- again, this is
12 very much a personal view but, you know, journalists are
13 not monks in cells. Journalists are members of the
14 community. Journalists should be accountable in the
15 court of public opinion. Journalists need to be more
16 open about how they conduct their business.
17 We should have nothing to fear from a robust body of
18 independent regulators. We should have nothing to fear
19 where some outsiders are brought into the process.
20 LORD JUSTICE LEVESON: Of course, journalists look at all of
21 the other institutions of the state and of the body
22 political. They look at politicians, they look at
23 schools, they look at the judiciary. Who looks at
24 journalists?
25 A. Well, at the moment, there's plenty of people offering

Page 49

1 opinions about the state of journalism.
2 LORD JUSTICE LEVESON: At the moment that is so, but we're
3 in unusual times, Mr Barber.
4 A. We are in certainly interesting times. My remedy, or
5 the remedy that should be considered, is bringing in
6 some outsiders so that it doesn't look like a cosy
7 stitch-up at the PCC where sitting editors decide the
8 rules and then enforce them.
9 I also would say that the new body needs strong
10 leadership. That's going to be a really important job,
11 and my preference would be to see somebody with
12 experience of journalism but also somebody who's done
13 other -- worked in other areas, perhaps, but somebody
14 with really strong leadership qualities to insist on the
15 highest standards of integrity and to make sure that
16 this new body works. Because, as I said just a few
17 months ago, we are in the last-chance saloon, drinking
18 our last pint.
19 LORD JUSTICE LEVESON: I think that was 20 years ago.
20 A. Well, not necessary -- well, I'm going to disagree with
21 you, sir. I think that what has happened in -- and I'm
22 basing my comments on conversations I've had with
23 members of the profession outside the Financial Times.
24 This has been a real shock, what happened at the
25 News of the World, not just in terms of the extent, the

Page 50

1 industrial scale of phone hacking, but the pattern of
2 lies and also the result, which was shocking. The
3 closure of a national newspaper with a circulation of
4 several million, and a newspaper actually that has done,
5 in its own way over the years, some very good stories.
6 I'm thinking of the price-fixing -- no, the cheating in
7 the Test match. So this was a shocking episode. And
8 all of us -- I speak for myself -- believe that as
9 a result we need to change the way we do business. If
10 this isn't a wake-up call, I'm not sure what is.
11 LORD JUSTICE LEVESON: You'll understand my concern that
12 there have been wake-up calls in the past and
13 everybody's woken up and then it all just appears to
14 have drifted off again. Is that unfair?
15 A. It's certainly a fair characterisation of what happened
16 20 years ago, but I would make two points in response.
17 First of all -- and I don't want to steal anybody's
18 thunder, but I believe that Lord Hunt will be putting
19 forward some interesting proposals on independent
20 regulation shortly, probably before this Inquiry.
21 LORD JUSTICE LEVESON: I certainly hope so, because I've
22 encouraged everybody to be thinking about it
23 and I expect them to be thinking about it. What I've
24 said -- and I'm happy to make it clear publicly, if I've
25 not done so -- is that I hope that the business of

Page 51

1 journalists, journalism, is considering it on the basis
2 that it has to work for them but it will also have to
3 work for the public. It won't be good enough, in my
4 present view -- and I'm obviously listening and will
5 continue to listen with great care to everything that
6 everybody is saying -- just to think that one can tinker
7 around the edges.
8 A. I agree with that, sir, and it is incumbent on the
9 industry to produce new, credible proposals for
10 independent regulation. That is the lesson of the phone
11 hacking scandal, and to a degree it's the lesson of
12 what's already come out in this Inquiry. I think
13 I speak for fellow editors: we're serious about this.
14 We want to produce something which is new.
15 But my second point is everybody should read what
16 Chief Justice judge said last year about the importance
17 of the independence of the press and that we will make
18 mistakes and reputations may be damaged, but the
19 principle of free expression is really critical. So
20 before anybody thinks about introducing new laws to
21 regulate the press, let us at least look at the quality
22 of proposals which are going to be put on the table.
23 LORD JUSTICE LEVESON: Yes, the Lord Judge wasn't actually
24 saying that there shouldn't be a framework. Lord Judge
25 was emphasising the importance of free speech and
<table>
<thead>
<tr>
<th>Page 53</th>
<th>Page 54</th>
<th>Page 55</th>
<th>Page 56</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. freedom of expression, views which I think I have</td>
<td>1. journalism to be robust, but following certain</td>
<td>1. MS PATRY HOSKINS: Was there anything you wanted to add on</td>
<td>14 (Pages 53 to 56)</td>
</tr>
</tbody>
</table>
| 2. repeated more than once over the last six months, but he | 2. standards. | how you would encourage the various different parties to | Merrill Legal Solutions 8th Floor 165 Fleet Street
(+44) 207 404 1400 London EC4A 2DY www.merrillcorp/mls.com |
| 3. was identifying the importance of having a system that | 3. LORD JUSTICE LEVESON: Somebody will bring it to account, | sign up to this new system? | |
| 4. actually worked and wasn't one that was entirely | 4. and also, of course, I just need to make the point: it’s | 4. A. Again, I think that it just has to be seen as a new | |
| 5. optional. | 5. not just phone hacking. Nobody could have listened to | industry standard. | |
| 6. A. Again, I subscribe to that view. It can't be optional. | 6. the evidence that I've been hearing since November and | 6. Q. It just has to be a really good one and one that the | |
| 7. Everybody needs to buy in to the new arrangements. | 7. think that this is a problem just restricted to phone | industry is proud to be part of? | |
| 8. Otherwise they won't be credible. But I think if they | 8. hacking. Would you agree? | 8. A. Well, credible. "Pride" is a loaded term. But it has | |
| 9. are good enough, robust enough -- there is, by the | 9. to be credible and it's not just got to be credible to | 9. to be credible and it's not just got to be credible to | |
| 10. way -- the matter which we haven't touched on, which is | 10. the people who are part of the system; it has to be | the people who are part of the system; it has to be | |
| 11. rather important, is the cost. Credibility may come | 11. credible to the public at large. We'd hope that it | credible to the public at large. We'd hope that it | |
| 12. with a high cost, and the press in this country -- and | 12. would receive the support of politicians but we're not | would receive the support of politicians but we're not | |
| 13. I'm thinking not just in London, but elsewhere -- is not | 13. going to go begging in that direction. We will just | going to go begging in that direction. We will just | |
| 14. exactly flushed with cash at the moment. So this will | 14. produce the ideas, the format, and hope that people feel | produce the ideas, the format, and hope that people feel | |
| 15. be the price. If it means paying more money -- I'd | 15. it's different. It has to be qualitatively different. | it's different. It has to be qualitatively different. | |
| 16. better be careful here, because I don't control the | 16. Q. I have two final questions, if I can. The first is | 16. Q. I have two final questions, if I can. The first is | |
| 17. budgets. But this is important. | 17. picking you up on something you said about changes to | picking you up on something you said about changes to | |
| 18. LORD JUSTICE LEVESON: I understand the problem of cost. | 18. the PCC. You said one of the things that you fear as an | the PCC. You said one of the things that you fear as an | |
| 19. A. Yes. | 19. editor is having to publish apologies and taking up | editor is having to publish apologies and taking up | |
| 20. LORD JUSTICE LEVESON: And there are all sorts of potential | 20. space in your newspaper having to publish corrections or | space in your newspaper having to publish corrections or | |
| 21. issues that arise in relation to that, which may | 21. apologies. Have you ever given consideration to the | apologies. Have you ever given consideration to the | |
| 22. actually be tied into the sort of model that one | 22. possibility of having a readers' editor at the Financial | possibility of having a readers' editor at the Financial | |
| 23. eventually alights upon. So I understand the problem. | 23. Times, and if not, why not? | Times, and if not, why not? | |
| 24. A. Sir, if I may add that one of the tests of the new body | 24. A. Well, when this idea first came up, I was very | 24. A. Well, when this idea first came up, I was very | |
| 25. will be: could the events of 2008, 2009, 2010 and the | 25. sceptical, not least because I consider myself to be the | 25. sceptical, not least because I consider myself to be the | |

1. phone hacking that went beforehand occur and not be
2. prevented or tackled with rigour and promptness by the
3. new body? If that new body fails that test, it's not
4. credible.
5. LORD JUSTICE LEVESON: Is it very much an opportunity, which
6. is why I've encouraged you and your fellow editors to
7. think about sensible solutions, not just to see how near
8. to the present system they can persuade me to go but
9. actually be prepared to be forward-thinking, to address
10. all the issues, not merely those you have mentioned but
11. also the others that have been brought up over the last
12. six months.
13. A. Well, we want to be careful, to coin a phrase, of
14. fighting the last war. We definitely need to think
15. ahead as well as draw lessons from the past, and this
16. sorry, appalling episode of phone hacking. So we do
17. need to think about the future. We need to think about
18. our processes. We need to be opened up. We need to be
19. able to show that our processes and our standards are
20. robust and accountable.
21. I think this is a word I'd like to just emphasise.
22. The public needs to feel that the press, the media --
23. talking about the media in this country -- I'm leaving
24. aside broadcasting because that's separate -- is
25. accountable and can say in public why it considers its

14 (Pages 53 to 56)
A. Indeed. I don't wish to pre-judge what Alan Rusbridger, the editor of the Guardian, may want to say on this, because he's done a lot of serious thinking and from what I've seen I think it's promising, to look at whether this new body, the Media Standards Board, whatever you want to call it -- by the way, it will have to have a new name -- can offer an arbitration process or some form of resolution where parties do not immediately resort to the court, forcing news organisations to employ highly expensive barristers, and before you know where you are, you've seen £100,000 plus disappear. We don't have that kind of money.

Therefore -- and this is a real problem, because the Financial Times is an independent news organisation with plenty of resources. We have more than 600 journalists, more than 100 foreign correspondents. We're happy to write about the connection between oligarchs and the Kremlin, we've written thousands of words in that particular area and others, and every time we write about the rich and famous, particularly people who have really substantial sums of money, we get a letter -- a very threatening, bullying letter from a law firm, and I'm thinking one in particular -- that is simply outrageous. And, you know: "If you do not capitulate before noon on Saturday, you will be hung at dawn on Sunday", and this is bound to have -- even if you think that you're robust and the story is robust, it can have a chilling effect because you are aware of the cost of a libel action.

LORD JUSTICE LEVESON: But that's why it can't just be consensual because your extremely wealthy person would never go down that route. So to protect everybody from that sort of tactic, there has to be some framework to it which is not merely consensual, if that's one of the things you want to achieve.

I offer that to you not for you to provide me with an instant response but to put into your deliberations.

A. We'll certainly take that under consideration, but I think my views on any form of statutory regulation are fairly clear. But --

LORD JUSTICE LEVESON: I'm not talking about statutory regulation. I'm talking about a framework which then has built onto it a mechanism for everything to be done consensually, but without some background, then the
There are plenty of other countries, in which I have
direct experience, whether it be Hungary or
South Africa, that are looking at new media laws to curb
the freedom of the press and the media and we should not
go down that road in this country.

LORD JUSTICE LEVESON: Again, I've said many, many times my
strength of belief about freedom of expression and the
freedom of the press, which aren't quite the same thing.
But one just has to be careful, doesn't one, that one
doesn't seek to justify that which you, in uncoded
language, have condemned as unlawful and wrong, that one
doesn't, as it were, say, well, the price of freedom of
expression is that we just have to put up with that
stuff.

A. No, I do not believe that we should put up with that
stuff, as you say.

LORD JUSTICE LEVESON: No, neither do I.

A. And I'm not condoning law-breaking. But I am defending,
and I will to the last breath, freedom of expression.
So I think we should leave it perhaps there on that high
note. Thank you.

MS PATRY HOSKINS: Thank you very much indeed.

LORD JUSTICE LEVESON: Thank you, Mr Barber. Thank you very
much. That's rather longer than I think you probably
anticipated but it covers a lot of very important
Page 63
Q. Before we just touch on the corporate structure at the
Independent and your role within that corporate
structure, I'd like to touch upon something that you say
at paragraph 9 of your statement. Just turn back to
where we were just reading from.
A. Yes.
Q. You draw a distinction between serious news and
celebrity kiss-and-tells, and that distinction that you
make there at paragraph 9 is stressed a lot in the
evidence that you give. I have this question for you:
should ethical standards or codes of conduct differ
depending on the content of the newspaper in your view?
A. No.
Q. Also, does the fact that you may not seek this type of
story, celebrity kiss-and-tells and so on, mean that it
is altogether easier to be ethical?
A. I think that's probably a better question for the
editor.
Q. We'll move on to corporate governance.

LORD JUSTICE LEVESON: But your view about the approach to
editing or what should be in newspapers or shouldn't be
in newspapers professionally appropriately hasn't
differed whether you've been at the Times or the Mail or
whenever?
A. I've never been involved in the editorial sign-off
Page 65

process of stories, but I think people believe that it's
effectively the same in each newspaper group but some
newspaper groups have a harder challenge because they
have more stories of a certain type, so the pressure on
the business may be greater, so they probably are going
to get it wrong slightly more times than people that
don't have such challenging stories.

LORD JUSTICE LEVESON: They have different challenges, because you may do a story that's nothing to do with
celebrities but equally involves the same sort of
questions you might ask if you were looking at
a celebrity, but on a serious subject, a different
subject.
A. Yes.

LORD JUSTICE LEVESON: All right.

MS PATRY HOSKINS: Can I take you to paragraph 12 onwards of
this statement to go through the system of corporate
governance at IPL. You explain that you have a board
structure in place which consists of a chairman and
various other directors. The board is supported by
Mr Malhotra, who we'll hear from shortly, and he also
attends board meetings and takes minutes and so on.
You then explain that board governance covers
a number of elements but is primarily about the
financial management of the business of producing and
printing the newspaper. But as you've already
mentioned, the philosophy of the titles is that
editorial staff are not subject to proprietorial control
or influence. You say this:

"As such, whilst there is an editorial and legal
clearance procedure, it is generally kept separate from
the financial and commercial side of the business."

So two questions, please. First of all, what do you
mean by the word "generally"? In what situations would
the editorial and legal procedure not be kept separate
from the financial and commercial side of the business?
A. Newspaper businesses tend to work on annual plans and
budgets pre-agreed on an annual basis, and we separate
commercial and editorial to create clear editorial
independence. If the editorial team is delivering their
costs to the pre-arranged budgets and the sales of the
newspaper are going in line with expectation, there
would be no reason to challenge editorial processes or
procedures at all from a commercial side. However, if
something did go wrong and the sales were affected
dramatically or there was a huge change in the cost of
the editorial structure, it could come up to a board
level and it would be debated and discussed and the
editor would talk through the issues, why they had
occurred, and we'd work out whether the board needed to
be involved in any shape or form.
Q. Okay. The second question: why is editorial
independence considered so important at the Independent
or the IPL titles?
A. I think it is every newspaper. It's the traditional
way. The editorial teams are very, very separated from
the commercial teams. It's built up over history. We
believe it's the right way, and there's a sort of phrase
that goes on: if it ain't broke, don't fix it. At the
Independent, we have few PCC complaints, we have very
small costs in terms of legal fees, we deal with things
very quickly and we don't think there is an issue that
would suggest we should change that historical process.
Obviously we've been looking at things considerably
in the last year in the light of what's been going on,
but history suggests that it's been working for us.
Q. You go on to say at paragraph 14 that board governance
can be summarised in a specific way: there's a company
strategy and you're responsible for that.
A. Yes.
Q. That's then approved and endorsed by the board. You
have annual financial planning and budgeting, you have
monthly board meetings and so on, and you explain at the
end of the paragraph that in terms of editorial staff,
they have budgets that they have to meet, and you look
Page 67
commercial teams have been merged between the two
businesses, so as the head of both businesses, I was the
only person who could actually be involved to a deep
degree in terms of trying to pull together policies. So
yes, I was very much involved in it.
Q. Does the code of conduct apply across the titles or just
to the Independent?
A. Across the titles.
Q. You go on to explain in paragraph 18 that you consider
your role to be absolutely fundamental and critical to
all of the business strategy, etcetera, and central to
corporate governance, and I think I am pretty much aware
of everything that happens in that respect."
A. I certainly am now, yes.
Q. Okay. What do you mean you certainly are now?
A. Because the history of editorial separation and
a business like ours, which has been losing a lot of
money in threat of going out of business, there are
different focuses and priorities. If the phone hacking
hadn't gone on, I think we'd have probably taken
a longer time to get our code of conduct out, but it was
very necessary and important that we did it for both
businesses because it pulled together and created
clarity on a range of issues that were cropping up
across the industry and a couple that were occurring in

Q. Is that correct? Thank you. You explain at 17 that
there are documents with cover some of the relevant
issues. For example, employment contracts, contributory
agreements, terms for freelancers, the PCC code, the
staff handbook, and you've just introduced a formal code
of conduct as well which covers policy matters in one
document. That, you say, was triggered by the advent of
the Bribery Act. How much input did you have into that
process, the code of conduct coming into being?
A. A lot. The Evening Standard, which I also manage, has
HR help and legal help from DMGT, its shareholder, but
when IPL was sold, all of the corporate overstructure
was removed and documentation needed to be updated. The
Day 23 AM Leveson Inquiry 10 January 2012

Q. And you say to the best of your knowledge no, and then at paragraph 30 you say this: "If this question covers payments to freelancers, then yes, IPL does make payments to freelancers. However, to my knowledge, IPL would not use a freelancer who paid for information from private investigators or public officials. We do not run those kind of stories." What does that mean, "run those kind of stories"?

A. I think that's about the secondary sources and primary source argument. I think the editor will confirm that we mainly run primary source-type stories and therefore we know all the sources involved. I think that's mainly the line that's taken there.

Q. I understand. Have you, in your time at IPL, ever considered the possibility of appointing a readers' editor?

A. I think we'd like to --

Q. You globally, rather than you personally.

A. No, I think we're in the game of trying to reduce our costs and give more responsibilities to fewer people, so -- we're very, very tight on people and costs, so I don't think we're looking to expand our remit.

Q. Is it a question of cost rather than principle?

A. I think the argument about the editor being the readers' editor is probably the best answer. That's certainly the case on the sister publication, the I, which is very, very interactive with readers and the whole dialogue is about reader comments and feedback on a daily basis, online and within the paper. Less so on the Independent for historical practice, I think, but we're not looking to take on more people if we possibly can, I think is the best way of replying to that.

Q. Is there anything you'd like to add?

A. No.

MS PATRY HOSKINS: Thank you very much then.

LORD JUSTICE LEVESON: Thank you very much indeed.

MS PATRY HOSKINS: Mr Malhotra next, please.

MR MANISH MALHOTRA (sworn)

Questions by MS PATRY HOSKINS

MS PATRY HOSKINS: Thank you very much. Could you give your full name to the Inquiry, please?

A. Manish Malhotra.

Q. You've provided a witness statement to the Inquiry.

It's behind tab 3 in the bundle before you. Can you please confirm that the contents of it are true to the best of your knowledge and belief?

A. I can confirm that.

Q. Can we turn, please, to your career history starting at paragraph 7 of this statement. You explain that you are currently the finance director and company secretary of

Page 73

Q. What does that mean, "run those kind of stories"?

A. I think that's about the secondary sources and primary source argument. I think the editor will confirm that we mainly run primary source-type stories and therefore we know all the sources involved. I think that's mainly the line that's taken there.

Q. I understand. Have you, in your time at IPL, ever considered the possibility of appointing a readers' editor?

A. I think we'd like to --

Q. You globally, rather than you personally.

A. No, I think we're in the game of trying to reduce our costs and give more responsibilities to fewer people, so -- we're very, very tight on people and costs, so I don't think we're looking to expand our remit.

Q. Is it a question of cost rather than principle?

A. I think the argument about the editor being the readers' editor is probably the best answer. That's certainly the case on the sister publication, the I, which is very, very interactive with readers and the whole dialogue is about reader comments and feedback on a daily basis, online and within the paper. Less so on the Independent for historical practice, I think, but we're not looking to take on more people if we possibly can, I think is the best way of replying to that.

Q. Is there anything you'd like to add?

A. No.

MS PATRY HOSKINS: Thank you very much then.

LORD JUSTICE LEVESON: Thank you very much indeed.

MS PATRY HOSKINS: Mr Malhotra next, please.

MR MANISH MALHOTRA (sworn)

Questions by MS PATRY HOSKINS

MS PATRY HOSKINS: Thank you very much. Could you give your full name to the Inquiry, please?

A. Manish Malhotra.

Q. You've provided a witness statement to the Inquiry.

It's behind tab 3 in the bundle before you. Can you please confirm that the contents of it are true to the best of your knowledge and belief?

A. I can confirm that.

Q. Can we turn, please, to your career history starting at paragraph 7 of this statement. You explain that you are currently the finance director and company secretary of

Page 74

IPL, positions that you have held since the 29th and 30 September 2010 respectively. You explain that you are also finance director and company secretary of

Evening Standard Limited and prior to your current roles you were a finance director of the Evening Standard division of Daily Mail and General Trust plc, group financial controller of Associated Newspapers Limited, financial controller of investments of

Associated Newspapers Limited and finance manager, group finance at Associated Newspapers Limited. And prior to joining the media industry, you worked at Baker Tilley as a business services manager and an audit senior.

That is a correct summary, is it?

A. That's correct.

Q. I want to ask you about two things, Mr Malhotra: first of all, IPL's financial scrutiny of journalists' practices and expenses, and secondly, briefly, matters that you raised on the IPL code of conduct. Again, if those are matters best addressed to Mr Blackhurst, just tell me and I'll move on.

Let's start with financial controls. Please. At paragraph 11 of your statement, you explain that financial governance is extremely important to IPL and that you have strict procedures in place for authorising payments, expenses and so on. Why is it, in your view,

Page 75

IPL, positions that you have held since the 29th and 30 September 2010 respectively. You explain that you are also finance director and company secretary of

Evening Standard Limited and prior to your current roles you were a finance director of the Evening Standard division of Daily Mail and General Trust plc, group financial controller of Associated Newspapers Limited, financial controller of investments of

Associated Newspapers Limited and finance manager, group finance at Associated Newspapers Limited. And prior to joining the media industry, you worked at Baker Tilley as a business services manager and an audit senior.

That is a correct summary, is it?

A. That's correct.

Q. I want to ask you about two things, Mr Malhotra: first of all, IPL's financial scrutiny of journalists' practices and expenses, and secondly, briefly, matters that you raised on the IPL code of conduct. Again, if those are matters best addressed to Mr Blackhurst, just tell me and I'll move on.

Let's start with financial controls. Please. At paragraph 11 of your statement, you explain that financial governance is extremely important to IPL and that you have strict procedures in place for authorising payments, expenses and so on. Why is it, in your view,
Q. I'm going to give you a theoretical example. I know you say at Independent or IPL titles, you don't use private investigators, but imagine you had a situation where you were trying to obtain information from someone like a private investigator, something that you believe to be above board. He may well be paid in a way which is completely in compliance with the systems you have in place but nevertheless is obtaining information illegally. How can a system of financial controls ever stop that occurring?

A. I would go back to the person who has to approve that payment would be -- generally within editorial payments is the managing editor's office, and they would always ask the person who's putting in the claim what exactly this money is for, and if they're not satisfied with the answer, I don't think they would make a recompense to that individual.

Q. I understand. You then tell us that as far as you're aware these practices are adhered to in practice. Is that still the case?

A. Yes, it is.

Q. I'm going to ask you briefly about the code of conduct, simply because you refer to it in the statement and in your appendix to your witness statement. It's in your exhibit 1 to your statement. Do you see that? You explain that it came into force in September 2011. What input did you have into drafting the code, putting it in place?

A. I was involved in to a certain extent in the drafting and the initial kick-off meetings around it. I think the majority of the work was done by our in-house legal team, and Andy as managing director took a great lead in driving this forward as well. Once the code had been pushed up to board level and approved, then the distribution of it was down to the HR department and I took a hand in that as well.

Q. You explain at paragraph 35 that the code formed an integral part of editorial practice at IPL and your approach, you say, is: "Our journalists are required to work within the criminal law and the PCC code."

So what does the IPL code of conduct add to the PCC code?

A. I think it's a wider document because it covers both commercial and editorial operations. It also goes into the use of hospitality and guidance and policies around that. So it's broadening out and bringing into one document a whole series of policies.

Q. I want to ask you about paragraphs 36 and 38 of your statement now, the contributory agreements which...
A. Yes.

Q. I understand that contributors have to sign a particular agreement and freelancers have to comply with certain terms which you append to your statement, but is there any oversight over the practices of self-employed contributors and freelancers over and above their agreement to those terms?

A. I think the relationship generally with freelancers will be with the commissioning editors on the desks, so there you have a very good working relationship between the two individuals involved. So I think that is generally -- the series of checks and balances will be around that relationship.

Q. Finally, I need to ask you about paragraph 39. You explain that one of the non-executive directors, Mr Whittam Smith, has carried out an internal review of IPL’s practices which looked at some of the issues which you refer to above:

A. That’s right.

Q. Now it’s been about six months?

A. That’s correct.

Q. Paragraph 6 of this statement contains your previous understanding is that it was a series of verbal interviews. Whether he then took it further, I don’t know.

A. I’m not 100 per cent sure, if I’m honest, but my understanding is that it was a series of verbal interviews. Whether he then took it further, I don’t know.

Q. Again, you’ve provided a statement to the Inquiry following the provision of a section 21 notice. Can you confirm that the contents of that statement are true to the best of your knowledge and belief?

A. Yes.

Q. You’ll find that statement behind tab 2 in the bundle that you should have before you.

A. Yes.
1 there anything substantial that you want to alter as a result of your additional experience?
2 A. No.
3 LORD JUSTICE LEVESON: Thank you.
4 MS PATRY HOSKINS: I'm not going to ask you about corporate governance or financial governance, you'll be glad to hear.
5 A. Good.
6 Q. But I am going to ask you about some of the matters that you deal with in your statement. Can we start, please, with paragraph 9. You say this -- and I have to pick you up on this. You'll see why.
7 "I am aware, as editor of the Independent, that we are expected to operate according to the highest ethical standards. The Independent -- I would say out of all the national newspapers -- prides itself on taking a high ethical stance. It is at the core of the newspaper's brand."
8 Why do you say "of all the national newspapers"?
9 A. I think it's a historic thing, really. I think when the Independent was founded by Andreas and Steve Glover and Matthew Simons back in 1986 that it did take a very different stance and always has done. It certainly happened in practice may be different, so can you tell us a result of your additional experience?
10 Q. But I am going to ask you about some of the matters that you deal with in your statement. Can we start, please, with paragraph 9. You say this -- and I have to pick you up on this. You'll see why.
11 "I am aware, as editor of the Independent, that we are expected to operate according to the highest ethical standards. The Independent -- I would say out of all the national newspapers -- prides itself on taking a high ethical stance. It is at the core of the newspaper's brand."
12 Why do you say "of all the national newspapers"?
13 A. I think it's a historic thing, really. I think when the Independent was founded by Andreas and Steve Glover and Matthew Simons back in 1986 that it did take a very different stance and always has done. It certainly happened in practice may be different, so can you tell us a result of your additional experience?
14 Q. Before I forget, I am going to ask you about some of the matters that you deal with in your statement. Can we start, please, with paragraph 9. You say this -- and I have to pick you up on this. You'll see why.
15 "I am aware, as editor of the Independent, that we are expected to operate according to the highest ethical standards. The Independent -- I would say out of all the national newspapers -- prides itself on taking a high ethical stance. It is at the core of the newspaper's brand."
16 Why do you say "of all the national newspapers"?
17 A. I think it's a historic thing, really. I think when the Independent was founded by Andreas and Steve Glover and Matthew Simons back in 1986 that it did take a very different stance and always has done. It certainly happened in practice may be different, so can you tell us a result of your additional experience?
18 Q. But I am going to ask you about some of the matters that you deal with in your statement. Can we start, please, with paragraph 9. You say this -- and I have to pick you up on this. You'll see why.
19 "I am aware, as editor of the Independent, that we are expected to operate according to the highest ethical standards. The Independent -- I would say out of all the national newspapers -- prides itself on taking a high ethical stance. It is at the core of the newspaper's brand."
20 Why do you say "of all the national newspapers"?
21 A. I think it's a historic thing, really. I think when the Independent was founded by Andreas and Steve Glover and Matthew Simons back in 1986 that it did take a very different stance and always has done. It certainly happened in practice may be different, so can you tell us a result of your additional experience?
22 Q. Before I forget, I am going to ask you about some of the matters that you deal with in your statement. Can we start, please, with paragraph 9. You say this -- and I have to pick you up on this. You'll see why.
23 "I am aware, as editor of the Independent, that we are expected to operate according to the highest ethical standards. The Independent -- I would say out of all the national newspapers -- prides itself on taking a high ethical stance. It is at the core of the newspaper's brand."
24 Why do you say "of all the national newspapers"?
25 A. I think it's a historic thing, really. I think when the Independent was founded by Andreas and Steve Glover and Matthew Simons back in 1986 that it did take a very different stance and always has done. It certainly happened in practice may be different, so can you tell us a result of your additional experience?
<table>
<thead>
<tr>
<th>Q.</th>
<th>What happens in practice? Would you notify the subject?</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>I would expect us to, yes.</td>
</tr>
</tbody>
</table>

23 Q. And the situations in which you wouldn't would be dictated by the fact that in the past you'd had a bad experience.  
24 A. Not me personally or the paper. I think it's just knowledge that one or two types of organisations, particularly where there's constant press attention on them -- or where you phone up with a story and you just have to be a bit wary that it's going to leak and it's going to be passed on to another journalist on another paper, and it is -- as I say, it is an extremely competitive environment in which we operate.  
25 Q. If someone was to say to you: "Mr Blackhurst, we've decided that actually prior notification in every case is going to be compulsory", would you have a concern about that?  
26 A. Not really, no. No.  
27 Q. I was going to ask you about attribution policies within the code of conduct as well. Page 6 internally.  
28 A. Yes.  
29 Q. Do you see that under the heading "Stage 2, pre-publication"?  
30 A. Yes.  
31 Q. "All substantial material and quotes must be attributed correctly [and so on] ... whatever the source of the material." Then it goes on over the page to discuss quotes: "If quoting someone directly, you must use their exact words. Take care if you want to quote someone anonymously. Ask yourself what their motivation is, if they are not prepared to go on the record ..." And so on. Did you hear Mr Barber give evidence earlier?  
32 A. Yes.  
33 Q. What's the Independent's policy on using words such as "sources said" or "sources close to X said"?  
34 A. We don't like them. I much prefer it that we actually name somebody or as close as could, give some sort of -- not identification but make it plain that we were talking to somebody on the inside. There are stock phrases like "sources close to the Prime Minister", which now is sort of ingrained in our brains, and we all know that's somebody at Number 10 or close, one of his advisers or whatever, but generally I think we try and avoid it.  
35 Q. The last thing I want to ask you about is stage 3, post-publication.  
36 A. Yes.  
37 Q. Complaints handling. This is on the same page, page 7.  
38 A. We have a column on the -- I can't give you the page number but on the letters page there's a strip down which we do use for those.  
39 Q. Is that a daily column, a weekly column?  
40 A. Well, fortunately we don't have daily corrections and clarifications. I mean, I'd say once a week, twice a week. If somebody's -- obviously if we have got something wrong and they are seeking a correction in the place where it appeared, I think we go along with that.  
41 Q. I was about to ask you where you were on the prominence of apologies debate.  
42 A. I think we try and publish them as prominently as we can. I mean, I -- I've not had cause to put one on the front page yet. If I had to -- I wouldn't want to, but if I had to, I would.  
43 Q. So again, a theoretical example. If someone was to come to you and say, "Actually, we've decided that the industry-wide standard will be that all corrections and apologies must be published on page 2" -- that's only a theory -- would you have a problem with that?  
44 A. None --  
45 Q. Or do you think that each newspaper should be allowed to publish corrections where it sees fit?  

day 23 am leveson inquiry 10 january 2012

25 Q. Where do you publish in the Independent corrections and clarifications?  
26 A. Personally, in an ideal world with a large organisation, lots of resources, it would be a nice thing to have. In my time as editor of the Independent and actually prior to that, when I was deputy editor for a many longer period than I've currently been editor, I've always -- I've not felt the need for it. If somebody writes to me, I will read their letter, I will read their email, I will pass them to the managing editor, some I may respond to personally, or they will respond. I have not felt the need. On the other hand, I have no problem with it. As was pointed out, it is a cost, and we are not an overly rich organisation and we live in hard times.  
27 Q. Do you think that each newspaper should be allowed to have the need for a readers' editor who is independent from the editor himself?  
28 A. None --  
29 Q. Or do you think that each newspaper should be allowed to have the need for a readers' editor who is independent from the editor himself?  
30 A. Personally, in an ideal world with a large organisation, lots of resources, it would be a nice thing to have. In my time as editor of the Independent and actually prior to that, when I was deputy editor for a many longer period than I've currently been editor, I've always -- I've not felt the need for it. If somebody writes to me, I will read their letter, I will read their email, I will pass them to the managing editor, some I may respond to personally, or they will respond. I have not felt the need. On the other hand, I have no problem with it. As was pointed out, it is a cost, and we are not an overly rich organisation and we live in hard times.  
31 Q. Where do you publish in the Independent corrections and clarifications?  
32 A. Personally, in an ideal world with a large organisation, lots of resources, it would be a nice thing to have. In my time as editor of the Independent and actually prior to that, when I was deputy editor for a many longer period than I've currently been editor, I've always -- I've not felt the need for it. If somebody writes to me, I will read their letter, I will read their email, I will pass them to the managing editor, some I may respond to personally, or they will respond. I have not felt the need. On the other hand, I have no problem with it. As was pointed out, it is a cost, and we are not an overly rich organisation and we live in hard times.  
33 Q. Do you think that each newspaper should be allowed to have the need for a readers' editor who is independent from the editor himself?  
34 A. None --  
35 Q. Or do you think that each newspaper should be allowed to have the need for a readers' editor who is independent from the editor himself?  

23 (Pages 89 to 92)
<table>
<thead>
<tr>
<th>Page 93</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. No, if the industry-wide standard is page 2, then page 2 it is. I have no problem with that at all.</td>
</tr>
<tr>
<td>Q. Can I ask you to turn back to your statement now, please, and ask you about your section on page 5, starting at paragraph 19. You were asked about where the responsibility for checking sources of information lies. You've told us a bit about attribution and so on, but I want to ask you about the responsibility now for checking sources. You say this at the start of this section:</td>
</tr>
</tbody>
</table>
| "As a preliminary comment, I would say that, from my experience, this is not an issue that arises very often at the Independent. Most of the stories we publish are relatively straightforward news reporting, comment and analysis, rather than investigative or in-depth feature pieces which might rely on a wider array of sources."

<table>
<thead>
<tr>
<th>Page 94</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q. You explain at paragraph 21 how, if it was necessary to check the source of information, it works. Each level?</td>
</tr>
<tr>
<td>A. Yes.</td>
</tr>
<tr>
<td>Q. The original reporter and then the editor or the foreign editor, depending whether it was a news or a foreign story. Then deputy editor and then to you, with legal advice.</td>
</tr>
<tr>
<td>A. Yes.</td>
</tr>
<tr>
<td>Q. Is that a proper process? You're happy with that process?</td>
</tr>
<tr>
<td>A. Yes. I mean, I think we're giving slightly the wrong impression there. I stand by the words but we're not talking about a corridor of offices. We are -- we work with each other. I'm with the news editor, the foreign editor, the deputy editor pretty much all day long, and they're around me, and it's not a case of formal up and down the line requests. If I want to ask a reporter:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Page 95</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;Where's the story come from?&quot; I'll ask them. I won't wait for the deputy editor to speak to the news editor to speak to the reporter. We haven't got all day. I mean, just get on with it.</td>
</tr>
<tr>
<td>Q. Fine. Let's move on to private investigators, please. This is the section starting at paragraph 30 of your statement. You were asked whether the newspaper has ever used or paid or had any connection with private investigators in order to source stories or information.</td>
</tr>
<tr>
<td>You say: to the best of the knowledge in the ten weeks that you'd been editor, the newspaper had never used, paid or had any connection with private investigators, and you say this:</td>
</tr>
</tbody>
</table>
| "Generally speaking, the sorts of stories that we publish in the Independent are not the sort that would require a private investigator or payments to the types of third parties referred to in the question. If a journalist on the newspaper did intend to use a private investigator, I would expect the journalist or their desk head to clear that with me in advance."

<table>
<thead>
<tr>
<th>Page 96</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does that mean that you don't rule out the possibility of using private investigators?</td>
</tr>
<tr>
<td>A. I don't rule them out, no, but I'd say if I felt that a story was of such paramount importance in the public interest and there was a piece of information that was vital, be it a phone number or an address or something that was in the public interest, that that information was obtained and we could not obtain it another way, then I might sanction it, but it hasn't happened.</td>
</tr>
<tr>
<td>Q. Over the page, paragraph 41, you were asked about whether or not you pay -- or whether there are protocols or policies in place relating to payments to other external sources and you say that the Independent has a diary page which publishes out-and-about and social event-type stories. It doesn't publish inherently private stories such as exclusive celebrity kiss-and-tells, but you say you sometimes pay for tips for stories on the diary page.</td>
</tr>
<tr>
<td>Can I ask you this: you can't have seen but did you hear or read of the evidence of Mr Atkins to this Inquiry? He's the gentleman who produced a film called Starsuckers and who planted false stories in showbiz and diary columns?</td>
</tr>
<tr>
<td>A. No. You're going to tell me that the Independent --</td>
</tr>
<tr>
<td>Q. No, I'm not going to tell you that he rang the Independent, but I am going to ask you how you ensure that tips for diary pieces don't encourage fictional stories planted essentially for payment?</td>
</tr>
<tr>
<td>A. I think we'd have to -- I'm very wary. I mean, I have -- in my own experience, I've edited diaries, and</td>
</tr>
</tbody>
</table>

24 (Pages 93 to 96)
<table>
<thead>
<tr>
<th>Page 97</th>
<th>Page 98</th>
<th>Page 99</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>I was always very wary of people just ringing up who we didn't know. If it's from a named journalist who is a freelancer, who we have a relationship with, that's different. I'm very wary indeed of somebody phoning with a tip just like that, and we would only pay --</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>I would only pay, as a point of principle, if subsequently the story checked out. You wouldn't be agreeing and paying -- you know, no one can just ring up and say, &quot;Pay me 50 quid, here's a story and I want it in my bank account now.&quot; That's not how it works. It would be -- if the story checked out, they might get 50 quid.</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>Q. Do you publish a phone number or an email address in your diary column for the public to ring in with tips?</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>A. No, we're not that -- I mean, we've got -- lots of people know where we are. They can get us online. There's email addresses published and phone numbers, but we don't -- we're not seeking -- I mean, we're not actively sort of putting signs up saying, &quot;Please send us your really nasty stories.&quot; That's not how we work.</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>Q. Are there two topics that I need to ask you about before we break for lunch. The first is the Johann Hari scandal, in inverted commas.</td>
<td>5</td>
</tr>
<tr>
<td>6</td>
<td>A. Yes.</td>
<td>6</td>
</tr>
<tr>
<td>7</td>
<td>Q. Then I'm going to ask about regulatory reform. Can we do it in that order?</td>
<td>7</td>
</tr>
<tr>
<td>8</td>
<td>A. Sure.</td>
<td>8</td>
</tr>
<tr>
<td>9</td>
<td>Q. Can I ask you about the Johann Hari issue first of all. First of all, I understand that the Johann Hari scandal broke very shortly before you became editor?</td>
<td>9</td>
</tr>
<tr>
<td>10</td>
<td>A. Yes.</td>
<td>10</td>
</tr>
<tr>
<td>11</td>
<td>Q. Can you tell us roughly how long that was?</td>
<td>11</td>
</tr>
<tr>
<td>12</td>
<td>A. Gosh, I think the paper first became aware, it was a great way.</td>
<td>12</td>
</tr>
<tr>
<td>13</td>
<td>Q. I was always very wary of people just ringing up who we didn't know. If it's from a named journalist who is a freelancer, who we have a relationship with, that's different. I'm very wary indeed of somebody phoning with a tip just like that, and we would only pay --</td>
<td>13</td>
</tr>
<tr>
<td>14</td>
<td>I would only pay, as a point of principle, if subsequently the story checked out. You wouldn't be agreeing and paying -- you know, no one can just ring up and say, &quot;Pay me 50 quid, here's a story and I want it in my bank account now.&quot; That's not how it works. It would be -- if the story checked out, they might get 50 quid.</td>
<td>14</td>
</tr>
<tr>
<td>15</td>
<td>Q. Can I ask you about the Johann Hari issue first of all. First of all, I understand that the Johann Hari scandal broke very shortly before you became editor?</td>
<td>15</td>
</tr>
<tr>
<td>16</td>
<td>A. Yes.</td>
<td>16</td>
</tr>
<tr>
<td>17</td>
<td>Q. There are two topics that I need to ask you about before we break for lunch. The first is the Johann Hari scandal, in inverted commas.</td>
<td>17</td>
</tr>
<tr>
<td>18</td>
<td>A. Yes.</td>
<td>18</td>
</tr>
<tr>
<td>19</td>
<td>Q. Then I'm going to ask about regulatory reform. Can we do it in that order?</td>
<td>19</td>
</tr>
<tr>
<td>20</td>
<td>A. Sure.</td>
<td>20</td>
</tr>
<tr>
<td>21</td>
<td>Q. Can I ask you about the Johann Hari issue first of all. First of all, I understand that the Johann Hari scandal broke very shortly before you became editor?</td>
<td>21</td>
</tr>
<tr>
<td>22</td>
<td>A. Yes.</td>
<td>22</td>
</tr>
<tr>
<td>23</td>
<td>Q. Johann Hari was and remains an interviewer and columnist for the Independent?</td>
<td>23</td>
</tr>
<tr>
<td>24</td>
<td>A. He doesn't remain an interviewer.</td>
<td>24</td>
</tr>
<tr>
<td>25</td>
<td>Q. All right. We'll come on to what happened but he was at__the time an interviewer and columnist for the Independent?</td>
<td>25</td>
</tr>
<tr>
<td>Page 101</td>
<td>Page 102</td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>My response -- I don't know if I'm heading off your</td>
<td>news to me. We had no inklings of the plagiarism at</td>
<td></td>
</tr>
<tr>
<td>questions or not, but if you want to keep asking me</td>
<td>all. Indeed, one of the problems with the Johann affair</td>
<td></td>
</tr>
<tr>
<td>questions --</td>
<td>was that nobody had ever complained. No journalist that</td>
<td></td>
</tr>
<tr>
<td>Q. If I can, I want to ask you specific questions.</td>
<td>he'd plagiarised, no person that he'd interviewed, no</td>
<td></td>
</tr>
<tr>
<td>A. Yes.</td>
<td>member of the public, no reader, no colleague, nobody</td>
<td></td>
</tr>
<tr>
<td>6 Q. Because there are two fundamental points which have been</td>
<td>had alerted us to the fact that he had drawn his</td>
<td></td>
</tr>
<tr>
<td>put, which I must put to you.</td>
<td>information from somewhere else. If they had, it might</td>
<td></td>
</tr>
<tr>
<td>8 A. Yes.</td>
<td>have been nipped in the bud at a much earlier stage.</td>
<td></td>
</tr>
<tr>
<td>9 Q. You can deal with it in whatever form you would like.</td>
<td>The fact was it continued.</td>
<td></td>
</tr>
<tr>
<td>10 First of all, the allegation is that the Independent or</td>
<td>What happened was that interview, 29 June -- and</td>
<td></td>
</tr>
<tr>
<td>editors at the Independent had known about this for some</td>
<td>I took over literally -- that's the Wednesday. I took</td>
<td></td>
</tr>
<tr>
<td>time and had done nothing about it, secondly that the</td>
<td>over on the Monday. One of my first acts was to ask</td>
<td></td>
</tr>
<tr>
<td>sum consequence of all of this is that Mr Hari has not</td>
<td>Andreas Whittam Smith to investigate the allegations</td>
<td></td>
</tr>
<tr>
<td>been sacked from the Independent. He remains at the</td>
<td>against Johann so -- and at that stage it was just the</td>
<td></td>
</tr>
<tr>
<td>Independent, although he's had a leave of absence, which</td>
<td>plagiarism. We did not know about the Wikipedia. That</td>
<td></td>
</tr>
<tr>
<td>I'm sure you'll tell us about it in a moment. The</td>
<td>happened later when Nick Cohen wrote his article in the</td>
<td></td>
</tr>
<tr>
<td>argument that's levelled against the Independent is that</td>
<td>Spectator. Again, we had absolutely no knowledge.</td>
<td></td>
</tr>
<tr>
<td>you have essentially protected your own, in much the</td>
<td>I certainly didn't. I don't believe any of my</td>
<td></td>
</tr>
<tr>
<td>same way as it has been suggested to News of the World</td>
<td>colleagues did. They had absolutely not knowledge that</td>
<td></td>
</tr>
<tr>
<td>that after the scandal involving Neville Thurlbeck and</td>
<td>Johann Hari was messing about on the Internet under</td>
<td></td>
</tr>
<tr>
<td>the comments made by a High Court judge, that they</td>
<td>a false name amending people's Wikipedia entries.</td>
<td></td>
</tr>
<tr>
<td>protected their own. He did not face the sack from</td>
<td>I mean, we just had no knowledge.</td>
<td></td>
</tr>
<tr>
<td>23 News of the World despite having been heavily criticised</td>
<td>Q. So you started an investigation into what happened --</td>
<td></td>
</tr>
<tr>
<td>for his actions.</td>
<td>A. Andreas Whittam Smith started an investigation.</td>
<td></td>
</tr>
<tr>
<td>25 If we could just take those in stages, first of all,</td>
<td>Q. How did that conclude? What were the conclusions that</td>
<td></td>
</tr>
<tr>
<td>Page 103</td>
<td>Page 104</td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>the issue of cover-up. I've seen there's an interview</td>
<td>you reached?</td>
<td></td>
</tr>
<tr>
<td>in the bundle with Mr Kelner in which he said that he</td>
<td>A. What happened was -- and there's two issues. The two</td>
<td></td>
</tr>
<tr>
<td>would investigate which editors knew about this. If you</td>
<td>issues are the plagiarism and let's call it the</td>
<td></td>
</tr>
<tr>
<td>look behind tab 10, it's probably easier than me reading</td>
<td>Wikipedia. The plagiarism -- I know it's hard for the</td>
<td></td>
</tr>
<tr>
<td>it out. You'll see an article headed &quot;Johann Hari row</td>
<td>rest of the world to understand but I've read Andreas'</td>
<td></td>
</tr>
<tr>
<td>is political&quot;. It's the third article in to that tab.</td>
<td>report. We won't publish it, simply because it is an</td>
<td></td>
</tr>
<tr>
<td>It's dated Wednesday, 29 June 2011. It's a Guardian</td>
<td>internal report into an employee. It is a disciplinary</td>
<td></td>
</tr>
<tr>
<td>article. Do you see that?</td>
<td>matter. No company -- even though we're the</td>
<td></td>
</tr>
<tr>
<td>A. Yes.</td>
<td>Independent, we can't set a precedent of publishing</td>
<td></td>
</tr>
<tr>
<td>10 Q. At the top of the second page, the interviewer quotes</td>
<td>disciplinary reports about employees. That wouldn't be</td>
<td></td>
</tr>
<tr>
<td>Mr Kelner as saying this:</td>
<td>on.</td>
<td></td>
</tr>
<tr>
<td>12 &quot;Kelner confirmed that the paper is investigating</td>
<td>I know it's hard for -- I mean, on the plagiarism,</td>
<td></td>
</tr>
<tr>
<td>which editors knew about Hari's interview technique and</td>
<td>Johann genuinely believed he was doing nothing wrong.</td>
<td></td>
</tr>
<tr>
<td>that they would review some of his past articles.&quot;</td>
<td>He wasn't amending people's words. He did fabricate</td>
<td></td>
</tr>
<tr>
<td>First of all, can you tell us whether or not the</td>
<td>things like: &quot;He took another sip of wine and said&quot;, and</td>
<td></td>
</tr>
<tr>
<td>issue was investigated and whether, as part of that</td>
<td>obviously he wasn't taking another sip of wine, and then</td>
<td></td>
</tr>
<tr>
<td>investigation, there was an investigation into whether</td>
<td>the bit he said he'd borrowed from elsewhere, but the</td>
<td></td>
</tr>
<tr>
<td>editors knew about Hari's interview technique?</td>
<td>fact that nobody complained, the fact that nobody</td>
<td></td>
</tr>
<tr>
<td>19 A. I think the word &quot;investigating&quot; there is probably quite</td>
<td>spotted it, Johann did not believe he was doing anything</td>
<td></td>
</tr>
<tr>
<td>strong. I think Simon -- I mean, I can't speak for</td>
<td>wrong, and there was an issue, which came back to the</td>
<td></td>
</tr>
<tr>
<td>Simon. Maybe you want to ask Simon to speak for</td>
<td>fact that Johann left university -- he left Cambridge in</td>
<td></td>
</tr>
<tr>
<td>himself. But I think that the -- as I stressed, the</td>
<td>2001, I think I'm right in saying, and in 2002 he was as</td>
<td></td>
</tr>
<tr>
<td>paper was in deep shock. The paper hadn't -- I'm</td>
<td>staff columnist on the Independent, and at no stage had</td>
<td></td>
</tr>
<tr>
<td>surprised you say that there was cover-up in the sense</td>
<td>he had any training.</td>
<td></td>
</tr>
<tr>
<td>that we'd had inklings before, because that is genuinely</td>
<td>Q. Is that an excuse?</td>
<td></td>
</tr>
</tbody>
</table>
A. No, because there are plenty of journalists who have no training who know the difference between right and wrong, and I accept that, and he should have known what he was doing was wrong, but nobody told him. I think in terms of plagiarism, it wasn't as stark and as severe as the Jayson Blair case. He wasn't fabricating hard news, as far as I was aware.

On the Wikipedia, he was able to produce evidence that he acted in the way he did -- I mean, I don't want to too much into this.

Q. No, let's not go there.

A. But he produced his medical history, which showed that -- which, again, is another reason for not publishing the report -- which showed he acted in the way he did. Andreas took those into account. Andreas produced a very tightly argued reasoning as to why, while he had committed misdemeanours, he did not think it sufficient for him to lose his job.

Q. What sanctions were imposed?

A. Johann's now had four months without pay. He's had no -- his salary was stopped. That's four months entirely without pay from the Independent. He's gone to New York at his own cost to do ethics courses at Columbia and NYU. He will be returning to the paper in about four or five weeks' time as a columnist. He understands he won't be interviewing people. He understands -- I hope he understands that if anything arises that damages the paper's reputation, then I'm afraid that's it, and everything he writes will be heavily looked at, as I'm sure it will be by the outside world. There's a whole Twitter community who probably can't wait for him to start writing again, but that's what's going on happen. I think, as Roy Greenslade wrote in the Guardian, he thought it was a proportionate punishment.

Q. So did you protect your own?

A. No. I think if you're publicly suspending somebody for four months without pay -- his reputation has been very, very severely damaged. The reputation of the Independent in relation to Johann Hari has been severely damaged. He produced cogent reasons why he did what he did. We are the Independent. We had to respect those. I don't think we covered up at all.

Q. I want to move on to ask you about press regulation and reform, please. If you look at tab 9 in your bundle, you will find an article which is headlined: "Independent editor backs plan for bad journalists to be struck off."

This sounds like you are in support of some kind of licensing of journalists, which is interesting. I think we've not had a witness yet who is in favour of that.

Perhaps you could outline your views on this.

A. I'm not in favour of state licensing. I think that the -- as much as I regret saying it, I think the Press Complaints Commission has become tarnished in the eyes of the public. It is what the words say on the tin. It's a receptacle for complaints, and it ought to be -- I think the industry now recognises, and certainly when the editors meet and we talk among ourselves, we now recognise that there is need for substantial reform.

What I'm profoundly against is state intervention, state control of the media. I think if we can find a formula so that all the newspapers are brought within the new body -- I think much is made of this, but the government has a way of defining newspapers for VAT purposes, and so if they can be defined and brought in, that might need a small statute. They are then in the body, whatever this body is called. It is then enshrined in every journalist's employment contract and every condition of payment for a freelancer that they abide by the code of this new body and failure to abide by the code may lead to disciplinary measures, and in the case of employed journalists, those employed by the news organisations, as opposed to freelancers, it could mean that they lose their job.

I certainly would advocate fining the newspapers and I think this new body should be far more proactive. The example I give -- I would have dearly loved in the Johann Hari case to have passed the Johann Hari file to the PCC and said, "There you are, you look at this, I will respect this, because it won't damage --" I mean, I wouldn't be sitting here -- it's not standing, you're standing -- I wouldn't be sitting here being accused of a cover-up if I'd passed the file to the PCC and they'd come back with a verdict on Johann that I followed. There's no means in the system for doing that.

If you look at -- I mean, we all sort of in a way poke fun at slightly anachronistic organisations like the Jockey Club. The Jockey Club has a way of dealing with jockeys. The Law Society has a way of dealing with solicitors. The GMC -- if you're a hospital manager and you suspect negligence, you go to the GMC and they look into it and they might move against a doctor. There is nothing in our industry for that.

LORD JUSTICE LEVESON: One of the problems with that -- and I'm very interested in what you've just said and I'd certainly like to take it up with you, but one of the problems with your recent analogies is that the state is entitled to say who could practice as a doctor, who can practice as a lawyer or an optician or whatever, but
it's fundamental to freedom of expression that what you are doing when you're writing something is doing no more than exercising your right of free speech.

A. Um...

LORD JUSTICE LEVESON: Whether that means you have to have a job is different, and I take the point you make.

A. I think the way I would do it, and I have given some thought to this, is that this new body, if they said -- I mean, you know, let's use hypothetical -- I don't really want to use Johann, it's not fair on him, but say they came back to me and said, "We believe that Johann Hari broke our code, broke the code, and in our view he should not continue to be employed by the Independent."

Obviously we have our own HR. The contract is with us, the employer, but in that contract, if there was a clause saying that it would be a disciplinary matter, that if you broke the code, we would then hold -- it would be quite a brave organisation that then turned around and said, "Actually, you know what, we hear what you say but we're going to ignore it."

LORD JUSTICE LEVESON: You can tweak that slightly and fit in with employment law responsibilities by saying that a disciplinary matter could be adjudged by a press complaints authority, whatever it's called --

A. Sure.

Page 109

LORD JUSTICE LEVESON: -- and passed back to the management of the newspaper to deal with the particular journalist as they felt right.

A. Yeah.

LORD JUSTICE LEVESON: I could see that, but I'd like to go back on what you've just said, because what you did say is that -- hang on: "If we can find a formula so that all newspapers are brought within the new body ..."

And you said that might require a small statute.

You probably heard my exchange with Mr Barber, that I'd be very keen to ensure that whatever regulation there was was independent.

A. Yes.

LORD JUSTICE LEVESON: I like that word, if you'll allow me to use it.

A. It's a good word.

LORD JUSTICE LEVESON: That it isn't in any sense state-controlled or state-influenced. But to get some of the bells and whistles in place, do I gather --

A. We have a problem at the moment, as you know, with Express Newspapers not wishing to be part of the PCC, and therefore we don't have -- in terms of our national title, we don't have an all-encompassing referee.

LORD JUSTICE LEVESON: And there are lots more, too. There are magazines that don't subscribe.

A. Yes.

LORD JUSTICE LEVESON: It's not merely the Express.

A. I think if you were -- obviously it is the right of everybody to go to a photocopying machine and start writing and photocopying and handing out pamphlets in the street. That's the sort of society we believe in and the sort of society we want, and that's a principle that we hold very dear, all of us in this room. Well, I can't speak for everyone, but we do.

LORD JUSTICE LEVESON: Well, I'm going to agree with you.

A. Yes, good. But on the other hand we need to find a way of defining newspapers and magazines, if they're taking paid-for advertising. The government is able to find a way. The HMRC defines it for the purposes of VAT.

Newspapers are exempt from VAT. I haven't looked at how they define but they do define it.

LORD JUSTICE LEVESON: It could be also the trade or business of journalism.

A. Yes.

LORD JUSTICE LEVESON: So, in other words, one analogy, if I take a quite different example: if you sell your car individually, then you're not within the trade description legislation.

Page 111

LORD JUSTICE LEVESON: If, however, every single week you're advertising three different cars in a newspaper, then it's an inference that you're in the trade or business of selling cars and you are then --

A. That's right.

LORD JUSTICE LEVESON: -- so it's that sort of thing.

A. That's right, and I think that then spills over onto other areas, because obviously one area of concern is the Internet, but it strikes me that there's an enormous amount of concern about people blogging and saying what they like on the Internet, but how often does it actually come back to the story not being true until a recognisable, reputable news organisation has actually reported it? And that happens all the time.

Yes, there's a blogosphere out there, but it's the BBC -- until it's on the BBC reporting it, or until it's in the Independent, the Guardian, the Times or the Sun or whatever, it's not regarded as true. Therefore, some type of badging, whether it's kite marks or standards or whatever, could easily be applied. If you want that standard, you have to play by these rules. I don't see that as -- it wouldn't affect the way I go about my business as a journalist, and would not affect the way the Independent goes about its business.

LORD JUSTICE LEVESON: Sorry. I'll have a go after you.
MS PATRY HOSKINS: I'm very conscious of the time and the fact that you may have questions for Mr Blackhurst.

LORD JUSTICE LEVESON: Yes. Let me just carry on a little bit.

You also heard the exchange about libel and the whole cost of litigation, and you've heard me speak about some sort of arbitral system which allowed people cheaply to resolve issues without incurring these vast expenses, both sides.

A. Yeah. I think -- I heard Lionel Barber and I agree with him and I think I know the law firm he was referring to, and when you get one of their letters, you feel you're going to be boiled in -- you know, they're pretty horrific.

LORD JUSTICE LEVESON: I'm not going to get too involved in what law firms or how they write letters. I'm more concerned with the idea of providing a mechanism, but if it's consensual, then the very, very wealthy will simply say, "I'm not interested". If that's the only way they can do it, then actually that has an advantage for the vast majority of people, and indeed for the press as well.

A. Yes. I'm intrigued as to -- in my time, and I've worked, as has been said, on Sunday Times, Express, Observer, Independent, Independent on Sunday -- I've not Page 113

really come across these people who are libelled and have no form of redress. I'm not entirely sure that -- but nevertheless, if this new body had --

LORD JUSTICE LEVESON: Mr Blackhurst, with respect, you wouldn't, because if they have no money and have not been able to go to libel lawyers, then they'll be told, "I'm very sorry, unless you have £X thousand to invest in it, you're wasting time."

A. Except now we operate in a different world of conditional fee arrangements.

LORD JUSTICE LEVESON: That's only comparatively recently.

12 A. Yeah. I -- it would not cause me a problem, and I don't believe it would cause a Independent a problem, if this new body had some sort of -- let's call it arbitration division or complaints division that actually dealt with these cases and both sides respected. It wouldn't bother me at all. I am all for legal disputes being settled in an afternoon by both parties in a room, and that's it, and I've always thought that should be the best way to operate. If it's left to lawyers, dare I say it, it will be strung out because -- you know.

LORD JUSTICE LEVESON: We're not that evil.

A. No, no, no, lots of my friends are lawyers.

LORD JUSTICE LEVESON: That doesn't necessarily disagree with what you just said.
A. Yeah.

LORD JUSTICE LEVESON: The problem and the trick is going to be to separate out all that is good, and there is a great deal that is good, as I've said several times.

A. I would stress very heavily there's a lot more good than bad.

LORD JUSTICE LEVESON: Yes, that's as may be, that's as may be; but, on the other hand, there certainly have been some practices which are not entirely laudable.

A. Sure.

LORD JUSTICE LEVESON: And it's not just phone hacking.

A. No, it's not just phone hacking, although I stress on phone hacking, if the police had not had such a cosy relationship with News International, as they possibly had, it may have been investigated a lot earlier and people dealt with.

LORD JUSTICE LEVESON: Except, we have to be a little bit careful about that as well, Mr Blackhurst, because we don't have a society where a policeman can sit on everybody's shoulder, and I'm not making any finding about this at all.

A. Sure.

LORD JUSTICE LEVESON: But I've read some of what has been said in Parliament, and it is at least plausible that if you're investigating or concerned about enormous crimes against the country, terrorism or the like, that how much you investigate every single allegation of data protection or hacking -- I'm not in any sense applauding, approving; I'm merely saying there's a balance even there.

A. Yes.

LORD JUSTICE LEVESON: But one has to be a little bit careful about saying if the police had done their job -- if it's to do with their relationship with everybody's shoulder, and I'm not making any finding about this at all.

A. Sure.

LORD JUSTICE LEVESON: That takes me back to the early part of July, which is what I said when I was first appointed. Mr Blackhurst, thank you very much indeed.

A. Thank you.

LORD JUSTICE LEVESON: We'll say 2.10 pm.

(1.08 pm)

(The luncheon adjournment)
Day 23 AM
Leveson Inquiry
10 January 2012
Page 131