

RULING ON CORE PARTICIPANTS

The Rt. Hon. Lord Justice Leveson:

1. On 13 July of this year, the Prime Minister announced that I would be appointed to chair an Inquiry under the Inquiries Act 2005 (“the Act”), and promulgated draft Terms of Reference in relation to that Inquiry. Those Terms of Reference were finalised on 20 July, and they make clear that, because of an ongoing police investigation, the Inquiry will be held in two Parts. I was subsequently appointed jointly by the Secretary of State for Culture, Media and Sport and the Home Secretary.
2. Part 1 of the Inquiry concerns the culture, practices and ethics of the press, including contacts between the press and politicians and the press and the police; it is to consider the extent to which the current regulatory regime has failed and whether there has been a failure to act upon any previous warnings about media misconduct. It is also required to make recommendations for the future and, in particular, whether there should be a new regulatory regime and if so in what form; how future concerns about press behaviour, media ownership and so on can be addressed, and how the future relationship between the press, politicians and the police should be governed.
3. Part 2 of the Inquiry concerns the extent of unlawful or improper conduct within News International, other media organisations or other organisations. It will also consider the extent to which any relevant police force investigated allegations relating to News International, and whether the police received corrupt payments or were otherwise complicit in misconduct. This part of the Inquiry must also address the extent of any corporate governance or management failures at News International and other newspaper organisations and the role (if any) of politicians in relation to any failure to investigate wrongdoing at News International. Finally, Part 2 also requires that I consider recommendations for the future.

4. It is important to underline that Part 1 of the Inquiry is not concerned with the apportionment of personal or corporate responsibility. Although recommendations for the future would normally follow such an investigation, the delay consequent upon the police investigation and any subsequent prosecution would prevent an early resolution of the important structural and regulatory issues with which Part 1 deals. In the circumstances, I am only presently concerned with Part 1 and nothing that I decide impacts on any decision that might fall to be made when Part 2 comes to be considered.
5. In order efficiently to investigate the issues described in Part 1 of the Terms of Reference, I decided to split the terms into four separate modules although I accept that they will necessarily overlap. These are the Press and the Public; the Press and the Police; the Press and Politicians; and the Future. On 28 July 2011, I indicated that the Inquiry would commence with a consideration of Module 1, and I invited anyone who wished to be identified as a 'core participant' within the meaning of rule 5 of the Inquiry Rules 2006 to notify the secretary to the Inquiry of such by 31 August.
6. On 6 September 2011, I heard a number of such applications for core participant status at this Inquiry. As I explained, at this stage I was mainly, but not exclusively, considering applications for core participant status in respect of Module 1 of Part 1 ("The Press and the Public"), and I wish to make clear from the outset that all parties, including those who were not represented at that hearing are at liberty to apply for core participant status in respect of other modules in due course.

Statutory Framework and Relevant Matters for Consideration

7. Section 41 of the Act provides that rules may be made under it for certain purposes, and those rules have now been enacted as the Inquiry Rules 2006 [S.I. 2006 No. 1838] ("the Rules"). Thus, applications for core participant status fall to be considered under Rule 5 of the Rules which provides as follows:
 - (1) *The Chairman may designate a person as a core participant at any time during the course of the inquiry, provided that person consents to being so designated.*
 - (2) *In deciding whether to designate a person as a core participant, the chairman must in particular consider whether*
 - a. *The person played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;*

- b. *The person has a significant interest in an important aspect of the matters to which the inquiry relates; or*
- c. *The person may be subject to explicit or significant criticism during the inquiry proceedings or in the report, or in any interim report.*

(3) *A person ceases to be a core participant on –*

- a. *the date specified by the chairman in writing; or*
- b. *the end of the inquiry.*

8. It is clear from this provision, therefore, that in determining these applications, I am bound to consider the matters contained within rule 5(2), although this list is not exhaustive and it is also open to me to take into account any other relevant matters. In determining these applications, I make it clear that I have taken into account all those matters and, additionally, those advanced before me, both orally and in writing.
9. In that regard, however, it is important to emphasise that I do not consider that, for the purposes of Part 1 of this Inquiry, there need be a significant ‘bright line’ between those who are designated as core participants and those who are not. In particular, the teach-in, or briefing sessions (save for the session dealing with interception of communications), the seminars and the evidence sessions will be fully transparent to the public. As much documentary material as can be made available will also be published on line. It is then open to anyone to submit evidence to the Inquiry, to attend the evidence sessions, and to suggest lines of questioning to counsel to the Inquiry. Further, although it is open to core participants to seek to cross examine witnesses, I anticipate that I will pay strict attention to Rule 10 of the Rules and significantly limit (if not refuse) such applications. Finally, if I consider that it would be of value, I may also permit persons or bodies other than core participants to make written closing submissions which I shall consider. It is against that background that I consider the applications that have been made.

Core Participants

The Victims

10. Mr. David Sherborne and Mr. Jeremy Reed each sought core participant status on behalf of two, separately represented, groups of victims: that is to say individuals who each complain that they have been the victims of phone hacking or other invasions of privacy in the form of misreporting or unwanted (if not unethical) press intrusion. They include politicians, celebrities, sportsmen, lawyers, and the families of both

victims and perpetrators of crime. Some of these individuals have already commenced civil claims. Mr Sherborne applied on behalf of 14 named persons and one who is presently referred to only by initials. Mr Reed applied on behalf of 4 named individuals although in the light of my explanation of the manner in which I intended to allow the different views of different core participants who are victims to be expressed, he was content that his application be stood over, so that consideration could be given to joint representation: at least one has applied for core participant status and has now joined the larger group.

11. Mr Sherborne made it clear that only some of his clients had presently decided to apply to be core participants but that others might well join them: in a letter dated 9 September, his instructing solicitors, Messrs Collyer Bristow, have added 30 other names and intimated that others may still apply. In addition, I have received an application from Margaret and James Watson (whose daughter was murdered and who complain about subsequent press conduct). As I made clear during the course of the hearing, however, each core participant will have to be named, at least to the Inquiry team. I am not prepared to grant core participant status to anyone who is anonymous to me although I recognise that it might well be appropriate (so as not to create the publicity of which complaint is made) to make an order restricting publication of his or her name outside the Inquiry team. Further, if I am not prepared to make such an order in any particular case I will allow that person to withdraw the application for core participant status without publication of his or her identity.
12. It is sufficient for me to indicate that I am satisfied that the persons whose names are set out in an Annex to this ruling should be designated as core participants for the purposes of Module 1 of Part 1 of the Inquiry. I will consider any other application should it be made and, in particular, will consider the application made by HJK when I am aware of his or her identity. Although each individual person finally identified is entitled to designation as a core participant, this designation does not amount to a ruling that each person should be or will be entitled to separate representation. On the contrary, I direct pursuant to Rule 7(2) of the Rules that these individuals shall be represented by a single recognised legal representative. Although I hope that it will not be necessary, in default of agreement within 10 days of this judgment, acting pursuant to Rule 7(4) of the Rules, I shall designate an appropriate lawyer.
13. I express my reasons shortly. First and foremost, these are individuals who have, or may have, suffered as a consequence of press activity which has been (or may have

been) unlawful, unethical or otherwise in breach of Article 8 rights. They have thus potentially played a direct and significant role in respect of the subject-matter of Module 1, within the meaning of rule 5(2)(a). Their factual accounts will both help to establish a narrative of events and evidence the potential impact of such behaviour which is to be set alongside the Article 10 rights that the press enjoys. Furthermore, in my judgment, they also have a significant interest in important aspects of the matters to which Module 1 relates, within the meaning of rule 5(2)(b). As I have made clear, one aspect of Module 1 will relate to the extent to which (if at all) limits should be placed on what intrusive behaviour is justifiable in the public interest. It is my view that the victims may have a significant interest in that outcome, or are at least representative of those who have such an interest. I am satisfied that their interests in the outcome of the Inquiry are similar; the facts they are likely to rely on in the course of the Inquiry are similar; and it is fair and proper for them to be jointly represented.

The Metropolitan Police

14. Mr. Neil Garnham QC made an application on behalf of the Acting Commissioner of the Metropolitan Police (Mr Tim Godwin) and the Metropolitan Police Service (“MPS”) to be designated as a core participant for all four modules relating to Part 1. He contended that the MPS had a significant role and interest in respect of all four modules and that although I was focussing on Module 1, it was appropriate to deal with his application on the wider basis.
15. In my judgment, in the case of the MPS, all the considerations in Rule 5(2) may well apply. I accept that they have played a significant role in relation to the matters being considered within Module 1, and they also have a significant interest in the outcome of this module. I also accept that the MPS may also be the subject of explicit or significant criticism during the inquiry proceedings relating to Module 1 notwithstanding that it will not be appropriate to deal in any specific detail with the investigations that have been undertaken. Without in any way prejudging the issue, I am satisfied that given the criticisms of the MPS which are already in the public domain, it would be prudent to apply the considerations set out in Rule 5(2)(c).
16. I am therefore satisfied that the MPS should be designated as core participants for the purposes of Module 1 of Part 1 of the Inquiry but I entirely agree that it is only right now to identify that I am also satisfied that the MPS should also be designated as core participants for Modules 2, 3 and 4: all the considerations in rule 5(2) may

equally apply in relation to those aspects of the Inquiry and I accept that making this designation at this stage may well save costs and the time of the Inquiry.

17. I add that two further applications were intimated. Mr Rory Phillips Q.C. appeared on behalf of the Metropolitan Police Authority, in its capacity as the regulator of the Metropolitan Police. In the light of the fact that I was concerned with Module 1, he recognised (and, in my judgment, was entirely correct to do so) that the concern of the Metropolitan Police Authority in relation to Part 1 of the Inquiry was in respect of Module 2 (that is to say the relationship between the press and the police). The same approach was adopted by Mr Duncan Penny on behalf of Mr John Yates, formerly an Assistant Commissioner. In the event, neither made an application for core participant status for Module 1.

NI Group Limited

18. Mr. Rhodri Davies QC made an application for NI Group Limited to be designated as a core participant; as with the Metropolitan Police Service, his application extended to all four modules relating to Part 1. It was made on the basis that all four newspapers ultimately owned by his client (The Sun, The News of the World, The Times and the Sunday Times) would be represented by one legal team.
19. In the case of NI Group Limited, it is clear that all the considerations in rule 5(2) may apply. The Group has played a significant role in relation to the matters being considered within Module 1, not least because one of its titles has been the main focus, to date, of the 'phone hacking' scandal. Along with other major representatives of the print media, I further take the view that it has a significant interest in the outcome of this Inquiry. Finally, without expressing any view, I also accept that even in advance of Part 2 of the Inquiry, NI Group Limited may also be the subject of explicit or significant criticism during the inquiry proceedings. Given the phone hacking claims that are already in the public domain, in relation to NI Group Ltd, it is appropriate to include a consideration of Rule 5(2)(c) of the Rules.
20. In the circumstances, I designate NI Group Ltd as a core participant for the purposes of Module 1 of Part 1 of the Inquiry. I am also prepared to go further because I am also satisfied that NI Group Limited should also be designated as a core participant for Modules 2, 3 and 4 on the basis that that all the considerations in rule 5(2) also apply in relation to those modules. Making such a designation now will also save costs and the time of the Inquiry.

Other Media Groups

21. For other media groups, Mr James Dingemans QC appeared on behalf of Northern and Shell Network Ltd (which is the holding company of the publishing group that includes the Daily Express, the Sunday Express, the Daily Star and the Daily Star Sunday), Mr David Glen appeared on behalf of Guardian News and Media Ltd (the publishing company of The Guardian and The Observer) and Mr Keith Mathieson of RPC appeared for Associated Newspapers Ltd (the Daily Mail and Mail on Sunday). Mr Dingemans and Mr Glen both applied for the status of core participants in relation to each of the four modules of Part 1 of the Inquiry; because of the absence of the editor, Mr Mathieson sought time before advancing such an application but one has since been made in writing.
22. The grounds of each application were common to all. Every aspect of Part 1 touches upon the press and its outcome will inevitably be relevant to (if not impact upon) the approach to certain types of news gathering and its dissemination, along with the relationship between the press and the public, the police, potential regulators and politicians. Thus, if the culture and practices of the press require change, the effect will be upon all. In the circumstances, I have no doubt that each of these media groups is entitled to core participant status for each module of this Part.
23. I have considered whether it is appropriate to make an order under Rule 7(2) limiting the legal representation of these groups. I was urged not to do so not only because of the very different approaches adopted by different media groups but also because the commercial imperatives of each are likely to be different. Mr Dingemans made the point that designating each group as a core participant did not mean that I was abandoning my powers to manage the involvement of each in a proportionate way and I accept that approach. In the circumstances, I do not make an order under Rule 7(2) in each of their cases.

Mrs Rebekah Brooks

24. Formerly the Editor of News of the World, The Sun and, finally, Chief Executive Officer of News International Ltd, Mrs. Rebekah Brooks applied through Mr. Mukul Chawla QC for core participant status which, following reflection, is pursued in relation to all modules relating to Part 1 of the Inquiry. Mr Chawla's written submissions pressed the application more strongly than did his oral argument: I have taken both fully into account.

25. Mr Chawla relies on Mrs Brooks' career history and, in particular, the facts that she gave evidence to Committees of Parliament in 2003, 2009 and 2011, was Editor of News of the World at the time of the report of the Information Commissioner in relation to Operation Motorman, was responsible for devising the strategy to deal with civil claimants for victims of voicemail intercepts and provided information to the Metropolitan Police which led to Operation Weeting. She has regularly engaged with the public, politicians and the police, has been responsible for a number of campaigns which have engaged with all three (leading to changes of policy and public engagement on issues of real importance) and would have been at the heart of co-ordinating the response to this Inquiry on behalf of News International had she not resigned from her position. Mr Chawla points to the fact that Mrs Brooks' voicemails were intercepted for a period of time. He also notes her present position on police bail, having been arrested on suspicion of conspiracy to intercept communications.
26. It is in those circumstances the written application describes Mrs Brooks as being in a unique position to assist the Inquiry. It is there submitted that she has played a direct and significant role in relation to the matters to which the Inquiry relates and has a significant interest in an important aspect of the matters to which it relates (mirroring the requirements of Rule 5(2) of the Rules) and can be distinguished from other newspaper editors, whether tabloid or broadsheet. This submission is to be contrasted with Mr Chawla's observations in argument when I pointed to the fact that the first part of the Inquiry was a more general analysis from which specific or individual criticism was unlikely to flow and asked to what extent Mrs Brooks was in a different position from others in editorial positions on tabloid newspapers. Mr Chawla responded:
- "To no real extent. In terms of what she can provide, she is in a position to provide information which may be similar not necessarily in content but in subject matter terms to a number of different editors. But in terms of how significant that information is, that obviously is a matter of perhaps interpretation."*
27. Although I can understand the reason for this application, in my judgment, it does not pay sufficient attention to the terms of Part I of the Inquiry which is to analyse the way forward in the light of the broad experience (not descending into the detail required by Part 2 of the Inquiry) of the past. Mrs Brooks has very considerable knowledge and experience; I hope and believe that her input into the Inquiry will be of enormous value but, at this stage and in the context of what I am presently required to do, I do not consider that it is necessary or appropriate to designate her as a core participant.

28. Had Mrs Brooks still been employed by News International Ltd, it may be that she would have co-ordinated its response; that responsibility now passes to someone else and I have no doubt that the views of NI Group Ltd will be clearly expressed. She will doubtless have strong views on each aspect of the Inquiry but these views can still be expressed and are not necessarily of greater or lesser value than the views of editors of other broadsheet and tabloid papers. She has appointed a lawyer to act on her behalf and, in addition to being able to suggest lines of questioning to Counsel to the Inquiry, to such extent as the evidence of a witness directly relates to her evidence, Rule 10(3) is available to provide a mechanism for her legal representative to apply to ask questions. She can apply to put in written submissions at the end.
29. I add this further point. Although Part 1 of the Inquiry is not intended to focus on any assessment of the failings of individuals but rather on generic or systemic issues, I can visualise the possibility that Mrs. Brooks may be the subject of explicit or significant criticism or at least may perceive herself to be so. It is, of course, open to me to reconsider her status at any stage of the Inquiry and I also make it clear that if I were provisionally minded to make any criticism of Mrs. Brooks, I would reflect both the letter and the spirit of Rules 13-16 of the Rules and provide ample opportunity for her to deal with such personal criticism. Needless to say, I am prepared to consider further applications from Mrs. Brooks in relation to future modules relating to Part 1 of the Inquiry and will doubtless be guided to some extent by my experience of the first module.

Mr William Jonathan Rees

30. Mr. Rees is a private investigator (at one stage employed by News of the World) who complains that he has been the subject of attempts to pervert the course of justice, wrongful disclosure by the police of confidential information with evidence of police corruption: the underlying facts were investigated in a criminal prosecution involving an application alleging abuse of process which lasted some five months. Mr Richard Christie Q.C. appeared on his behalf and contended that he should be designated as a core participant for the purposes of Module 1 on the basis that there might be significant criticism of him. He also submitted that he had evidence to contribute both as to the way in which the press dealt with the public and the negative aspects of its relationship with the police.

31. Although Mr Christie believed that Mr Rees had been required to provide a statement pursuant to Rule 9 of the Rules, no such requirement had been made: he had, in fact, been asked whether he would be prepared to assist by making a statement. This was on the basis that he could add to the narrative of events both in relation to the use by the press of private investigators and as to his own experience of press interaction with the police although, even in that regard, there is no question of the Inquiry descending into the detail (said to include 50,000 pages of documents, 11,226 exhibits and 14,578 'non-sensitive' objects held by the Metropolitan Police). Part 2 of the Inquiry will cover specific allegations of police misconduct in relation to the media but, even during that phase of the Inquiry, I doubt that it will be appropriate to devote the time to a specific series of allegations of the type that Mr Rees makes. As for Part 1, however, broad (evidenced) allegations could be of real assistance and I hope that Mr Rees will feel able to assist. To such extent as he does so, his legal representatives will be able to initiate an application under Rule 10(3) should that be necessary.
32. I add only this. Mr Christie referred to the prohibitions in s. 17 of the Criminal Procedure and Investigations Act 1996 which prevent the dissemination of unused material. If there are a limited number of such documents, having raised the matter with the prosecutor, I have no doubt that a written application could be made to the Crown Court (presumably to Maddison J) for permission under s. 17(4) to disclose that material to the Inquiry. In the first instance, I do not anticipate that more would be of assistance. Further, I do not anticipate that I will be considering the specific behaviour of individuals (not least because of the pending police investigations and possible prosecutions). Thus, I do not believe that, in this Part, Mr Rees is likely to fall within Rule 5(2)(c).
33. In the circumstances, I am not satisfied that Mr. Rees has played such a significant role, or has such a significant interest in the subject-matter of this module that he is entitled to core participant status. Given the extensive knowledge that he and his legal team will have acquired of the material that formed the basis of the prosecution, I would hope that any statement that he wishes to make (for I repeat that the request remains short of a Rule 9 requirement) can be put together comparatively easily: if more is then required, it can be sought later.

English PEN and Index on Censorship

34. Two organisations vitally concerned with issues surrounding freedom of expression, the relationship between Articles 8 and 10 of the ECHR and the dangers and potentially chilling effect of state regulation applied for status as core participants. Mr Jonathan Heawood, Director of the writers' association, English PEN explained that his organisation was the founding centre of an international writers' association which has 144 centres now in over 100 countries with members who are writers, journalists, publishers and editors. It has 90 years' experience of working with and on behalf of writers whose freedom of expression has been threatened with loss of liberty and persecution as a consequence. He was anxious that the Inquiry understand some of the dangers that different regulatory frameworks could pose. In addition, Mr John Kampfner, Chief Executive of Index on Censorship (with a trustee, Mark Stephens of FSI Law) was also concerned with freedom of expression and explained that, in 40 years of work specifically with news media in this country and around the world, they were able to help build a narrative for Part 1 and assist with the navigation of a path between free expression, privacy, the determination of the public interest, and the prevention of otherwise well-meaning legislation having a chilling effect on press freedom.
35. I have no doubt that both groups have significant and valuable experience which will assist the Inquiry both in relation to evidence and submission as I seek to establish the narrative, and consider whether, and if so in what form, regulation of the press ought to be considered. Further, in one sense, both have a significant, albeit not, perhaps, direct interest in an important aspect of the matters to which the inquiry relates. Having said that, however, I am not satisfied that either need have core participant status in order to achieve the ends which both seek. Thus, I indicated to both that they may submit evidence, attend and potentially participate in seminars and apply to make closing representations to the Inquiry. In the circumstances, these applications are refused.

Future Applications

36. I add two further observations. The first is in relation to those who, at this stage, have either not been designated as core participants or have not applied for core participant status. Having regard to the provisions of Rule 5(1) of the Rules, I will keep the issue of core participant status under review: if the Inquiry proceeds along lines that cause me to consider that my view should be changed, I shall invite further

representations. In any event, as I said during the course of the hearing, although different considerations and potential rights might arise, I do not consider there to be a bright line between the consideration that I will give to the evidence and arguments of those who are designated as core participants and those who are not.

37. The second concerns further aspects of the Inquiry. Neither designation as a core participant only in respect of Module 1 nor refusal to designate a party as a core participant in respect of Module 1 precludes a further application in respect of later modules, or, in due course, in relation to Part 2. Those who have reserved their position will not be prejudiced as a consequence. At each stage, I will consider any application entirely on its merits.

Annex to Ruling of Core Participants

- 1 Chris Bryant MP
- 2 Tessa Jowell MP
- 3 Denis MacShane MP
- 4 The Rt Hon Lord Prescott of Kingston upon Hull
- 5 Joan Smith
- 6 Christopher Shipman
- 7 Tom Rowland
- 8 Mark Lewis
- 9 Mark Thomson
- 10 Gerry McCann
- 11 Kate McCann
- 12 Christopher Jefferies
- 13 Max Moseley
- 14 Brian Paddick
- 15 Paul Gascoigne
- 16 David Mills
- 17 Sienna Miller
- 18 Hugh Grant
- 19 Ben Jackson
- 20 Ciara Parkes
- 21 Simon Hughes MP
- 22 Max Clifford
- 23 Sky Andrew
- 24 Ulrika Jonsson
- 25 Mark Oaten
- 26 Michele Milburn
- 27 Abi Titmuss
- 28 Calum Best
- 29 Claire Ward
- 30 Mary-Ellen Field
- 31 Gary Flitcroft
- 32 Ian Hurst
- 33 Shobna Gulati
- 34 Mike Hollingsworth
- 35 Kieron Fallon
- 36 Ashvini Sharma
- 37 Tim Blackstone
- 38 Valatina Semenenko
- 39 Sally Dowler
- 40 Bob Dowler
- 41 Gemma Dowler
- 42 Sheryl Gascoigne
- 43 Graham Shear
- 44 JK Rowling
- 45 James Watson
- 46 Margaret Watson