

P W Hill
15 September 2011
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Exhibit: "PWH1"

IN THE MATTER OF THE LEVESON INQUIRY

EXHIBIT "PWH1"

This is the exhibit marked "PWH1" referred to in the Witness Statement of
Peter Whitehead Hill
dated this 15th day of September 2011

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PERSONAL

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9 August 2011

Dear Mr Hill,

Leveson Inquiry into the culture, practices and ethics of the press

It may have come to your attention that an Inquiry has been set up under the Inquiries Act 2005, chaired by the Rt Hon Lord Justice Leveson, following the recent "phone hacking" public scandal. Under Part 1 the Inquiry will inquire into the culture, practices and ethics of the press. Its Terms of Reference are available on-line at <http://www.number10.gov.uk/news/leveson-inquiry-panel-terms-of-reference/>.

Lord Justice Leveson's expectation is that witnesses will be willing to assist his Inquiry by providing both a statement and documents voluntarily and in the public interest.

However, given the timescales within which he has been asked to operate and the desirability of ensuring, with limited exceptions, consistency of approach to potential witnesses, he has decided to proceed in a formal manner using the powers conferred upon him by statute. No discourtesy is of course intended by this.

Notice under section 21(2) of the Inquiries Act 2005

Under section 21(2) of the Inquiries Act 2005¹, read in conjunction with the Inquiry Rules 2006 (S.I. 2006 No 1838)², Lord Justice Leveson, as Chairman of the Inquiry, has power to require a person, within such period as appears to him to be reasonable, to provide evidence to the Inquiry panel in the form of a written statement, and/or to provide any documents in his custody or under his control that relate to a matter in question at the Inquiry.

Lord Justice Leveson has determined that it is appropriate, in view of his Terms of Reference and his investigatory obligations, that you should at this stage be required to provide evidence to the Inquiry Panel in the form of a witness statement and to provide any documents in your custody or under your control as more specified below.

The company which owns the newspaper for which you write ("your newspaper") has been asked to provide corporate governance documents, written policies dealing with various matters (including checking of sources, ethical conduct, editorial guidance, compliance, use of private investigators and remuneration/bonus payments) and documents relating to

¹ <http://www.legislation.gov.uk/ukpga/2005/12/contents>

² <http://www.legislation.gov.uk/uksi/2006/1838/contents/made>

certain expenses, including disbursements to private investigators. Your witness statement should cover at least the following matters or issues, particularly relating to your time as editor of the Daily Express:-

- (1) Who you are and a brief summary of your career history in the media.
- (2) How you understand the system of corporate governance to work in practice at the newspaper where you were employed with particular emphasis on systems to ensure lawful, professional and ethical conduct;
- (3) What your role was in ensuring that the corporate governance documents and all relevant policies were adhered to in practice. If you do not consider yourself to have been responsible for this, please tell us who you consider to hold that responsibility;
- (4) Whether the documents and policies referred to above were adhered to in practice, to the best of your knowledge;
- (5) Whether these practices changed, and if so when and what the reasons for the change were;
- (6) Where the responsibility for checking sources of information (including the method by which the information was obtained) lies: from reporter to news editor/showbiz editor/royal editor to editor, and how this was done in practice (with some representative examples to add clarity);
- (7) To what extent an editor is aware, and should be aware, of the sources of the information which make up the central stories featured in your newspaper each day (including the method by which the information was obtained);
- (8) The extent to which you consider that ethics can and should play a role in the print media, and what you consider 'ethics' to mean in this context;
- (9) The extent to which you, as an editor, felt any financial and/or commercial pressure from the proprietors of your newspaper or anyone else, and whether any such pressure affected any of the decisions you made as editor (such evidence to be limited to matters covered by the Terms of Reference);
- (10) The extent to which you, as an editor, had a financial incentive to print exclusive stories (NB. It is not necessary to state your precise earnings);
- (11) Whether, to the best of your knowledge, your newspaper used, paid or had any connection with private investigators in order to source stories or information and/or paid or received payments in kind for such information from the police, public officials, mobile phone companies or others with access to the same: if so, please provide details of the numbers of occasions on which such investigators or other external providers of information were used and of the amounts paid to them (NB. You are not required to identify individuals, either within your newspaper or otherwise);
- (12) What your role was in instructing, paying or having any other contact with such private investigators and/or other external providers of information;
- (13) If such investigators or other external providers of information were used, what policy/protocol, if any, was used to facilitate the use of such investigators or other external providers of information (for example, in relation to how they were

identified, how they were chosen, how they were paid, their remit, how they were told to check sources, what methods they were told to or permitted to employ in order to obtain the information and so on);

- (14) If there was such a policy/protocol, whether it was followed, and if not, what practice was followed in respect of all these matters;
- (15) Whether there are any situations in which neither the existing protocol/policy nor the practice were followed and what precisely happened/failed to happen in those situations. What factors were in play in deciding to depart from the protocol or practice?
- (16) The extent to which you were/are aware of protocols or policies operating at your newspaper in relation to expenses or remuneration paid to other external sources of information (whether actually commissioned by your newspaper or not). There is no need for you to cover 'official' sources, such as the Press Association;
- (17) The practice of your newspaper in relation to payment of expenses and/or remuneration paid to other external sources of information (whether actually commissioned by your newspaper or not). There is no need to cover 'official' sources such as the Press Association;
- (18) In respect of editorial decisions you have made to publish stories, the factors you have taken into account in balancing the private interests of individuals (including the fact that information may have been obtained from paid sources in the circumstances outlined under paragraph 11 above) against the public interest in a free Press. You should provide a number of examples of these, and explain how you have interpreted and applied the foregoing public interest;
- (19) Whether you, or your newspaper (to the best of your knowledge) ever used or commissioned anyone who used 'computer hacking' in order to source stories, or for any other reason.
- (20) If you cannot answer these questions, or take the view that they could be more fully answered by someone else, you must nonetheless provide answers to the extent that you can, and to the extent that you cannot you must provide the Inquiry as soon as possible with names of those who would be able to assist us further.

The documents you should provide to the Inquiry Panel should relate to the following matters or issues:

- (a) Any policies or protocols referred to above;
- (b) Any details or documents relating to expenses paid to private investigators and/or other external sources of information;

The terms of this formal notice should not necessarily delimit the evidence, including documentary evidence, which you provide to the Inquiry. It may well be that you can give important additional evidence beyond the four corners of the statutory requirements being imposed on you by this notice: if you can, you are encouraged to do so in line with the general invitation extended by Lord Justice Leveson during the course of his opening remarks on 28th July 2011.

Lord Justice Leveson is required under his Terms of Reference to complete his report on the matters or issues under Part 1 of the Inquiry within 12 months. With this in mind, and having regard also to the scale and scope of his foregoing requirements of you, he has determined for the purposes of section 21(2) of the Inquiries Act 2005 that you should comply with this notice by **4pm on Friday 16th September 2011**.

Lord Justice Leveson is also directed by law to explain to you the consequences of failing to comply with this notice. He therefore draws to your attention the provisions of section 35(1) of the Inquiries Act 2005 which make it a criminal offence to fail without reasonable excuse to do anything which is required by a notice under section 21. He wishes to make it clear that all recipients of section 21 notices are having their attention drawn to this provision, since it is a formal legal requirement.

He is also directed by law to indicate to you what you should do if you wish to make a claim under sub-section (4) of section 21, namely a claim that you are either unable to comply with this notice at all, or cannot reasonably comply with this notice within the period specified or otherwise. You are invited to consider the full text of section 21, including for these purposes sub-sections (3)-(5), if necessary with the benefit of legal advice. Lord Justice Leveson invites you to make any such claim in writing and as soon as possible, addressed to the Solicitor to the Leveson Inquiry into the Culture, Practices and Ethics of the Press, c/o Royal Courts of Justice, Strand, London, WC2A 2LL.

Furthermore, Lord Justice Leveson has power under section 19(2)(b) of the Act to impose restrictions in relation, amongst other things, to the disclosure or publication of any evidence of documents given, produced or provided to the Inquiry, including evidence produced under section 21. Lord Justice Leveson will be considering the exercise of his powers under section 19 in any event, but if you seek to invite him to exercise those powers in respect of your evidence, including documentary evidence, or any part of it, you should set out your position in writing as soon as possible.

Finally, Lord Justice Leveson draws to your attention the provisions of section 22 of the Act which state that you may not under section 21 be required to give, produce or provide any evidence or document if you could not be required to do so if the proceedings of the Inquiry were civil proceedings in a court in the relevant part of the United Kingdom, or the requirement would be incompatible with a Community obligation. No doubt you will take legal advice as to the effect of this provision, but, in the spirit of openness and with the wish to ensure that all possible aspects of his Terms of Reference are fully considered, he invites you nonetheless to waive privilege in relation to any such document or evidence. Please therefore state in your response to this notice whether you are prepared to do so.

For the avoidance of doubt, this notice only covers one aspect of the Terms of Reference and, as the Inquiry moves into other areas, it may well prove appropriate to serve further section 21 notices.

Yours sincerely,



Kim Brudenell
Solicitor to the Inquiry