

NI Group Limited
J. M. Witherow
Fourth Statement
8 November 2012

**IN THE MATTER OF THE LEVESON INQUIRY INTO THE CULTURE, PRACTICES AND
ETHICS OF THE PRESS**

**FOURTH WITNESS STATEMENT OF
JOHN MOORE WITHEROW**

I, John Moore Witherow, c/o The Sunday Times, Times Newspapers Limited of 3 Thomas More Square, London E98 1XY, will say as follows:

1. I am the Editor of The Sunday Times and have been since 1995. This is my fourth witness statement to the Leveson Inquiry. The purpose of this statement is to explain further the reasons why The Sunday Times' investigation in 2000 into Gordon Brown's purchase of a flat was in the public interest, and why the methods used were justified. I gave evidence on this during my oral evidence to the Inquiry on 17 January 2012.
2. I believe this story goes to the heart of freedom of expression and the role of the press in public life. The ability of the media to hold the powerful to account and to scrutinise their behaviour is a valuable inhibitor of improper or corrupt behaviour. I would argue that the press's relentless scrutiny of politicians is a powerful reason why there is relatively little corruption in British public life. The knowledge that the press is actively seeking out illegal or unethical behaviour deters many politicians from behaving improperly, however strong the temptation.
3. The Sunday Times has been especially active in recent years in exposing grey areas, such as lobbying, in which there is either undeniably corrupt behaviour or behaviour that contravenes rules and guidelines or the public's expectations. I would refer you to the 'cash for questions' and 'cash for honours' investigations by this newspaper, and more recently the exposure of corruption within FIFA, the story about the former Tory co-Treasurer Peter Cruddas offering access to politicians in return for donations and most recently our 'generals for hire' story. All of these involved undercover operations with journalists pretending to be someone else. They did this in order to get to the truth. Subterfuge is often a much better means of establishing the veracity of information than using second or third-hand sources. One is, so to speak, hearing it from the horse's mouth.

I would argue strongly that all these investigations were in the public interest and have led to improvements in standards of public life.

4. That brings us to the case of Gordon Brown, who was Chancellor of the Exchequer at the time we published a story twelve years ago, in January 2000. It has been suggested in some quarters that there may have been 'fishing' in the pursuit of this story. To say this is to misunderstand how investigative journalism often works. The Editor's Code forbids fishing expeditions but sets the bar for investigations by asking whether there is sufficient evidence to proceed. In my view any right-minded person would expect the press to pursue a story if they discovered that the Chancellor had bought a flat from a company owned by a corrupt businessman which was connected to a Labour paymaster who had already been caught up in another scandal on funding a Cabinet minister's house. This was the backdrop to the investigation. To have abandoned or ignored it would have been irresponsible. It was incumbent on the paper to check that each aspect of the purchase by Mr Brown was above board. If it later turned out there had been corrupt or irregular behaviour and The Sunday Times had dropped the story on the say-so of the Chancellor, we would have looked inept and amateurish for failing in our duty to investigate.
5. The investigation has to be seen in the context of the times. Labour had been elected in 1997 with a pledge to clean up Conservative sleaze, much of which had been exposed by The Sunday Times. However, in 1998 Peter Mandelson, the Trade secretary, had been forced to resign after it was reported that an aide of Mr Brown had leaked information that Mr Mandelson had not declared a large interest-free loan for buying a house. That loan came from Geoffrey Robinson, who was well known as a political and financial supporter of Mr Brown and a friend.
6. Our reporters had gone through the Land Registry to look at property purchases by prominent cabinet ministers. They discovered that Mr Brown had bought a Westminster flat in 1992 from a company called AGB, which had been owned by Robert Maxwell, the recently-deceased fraudster. That year Mr Brown had gone from Shadow Trade Secretary to Shadow Chancellor. As Shadow Trade Secretary he had led Labour's campaign to expose Robert Maxwell's frauds and protect pensioners. The flat was an asset potentially available to compensate the pensioners who had lost out from the collapse of the Maxwell empire. They were entitled to expect that the assets were sold at the full market value. This in itself was enough to arouse interest, but then they discovered from Companies House documents that the firm was part of the Maxwell empire and none other than Mr Robinson was a director of a parent company of AGB. The next logical step was to make enquiries to see if Mr Brown had paid the full market price for the Westminster apartment and how he had funded the purchase.

7. Our reporters asked estate agents the likely price of such an apartment in 1992. They were told that the going rate at that time for similar apartments was between £163,000 and £212,000.
8. They then had to find how much Mr Brown had paid. They discovered that Mr Brown had bought the flat from Arthur Andersen, the accountants charged with selling off Mr Maxwell's assets, after he died in 1991. The sale was confirmed by Land Registry records, but at that time the purchase price was not available from the Land Registry, as I have now had confirmed. When I gave evidence Counsel to the Inquiry understandably assumed that the information was available from the Land Registry, as I did, as this was what an article published in July 2011 stated. In fact we have now confirmed that purchase prices for properties did not become available to the public until April 2000, which was after the article was published. I'm sorry that this error appeared and I have only now found out about it.
9. Unable to obtain it from official records, the reporters decided to use low-level and perfectly legal subterfuge to find the purchase price. A businessman called Barry Beardall, who had worked for the paper on other occasions, was asked to telephone Allen and Overy, lawyers for Arthur Andersen. Mr Beardall, using his own name but not disclosing he was acting for a newspaper, was told that Mr Brown had paid £130,000, a heavy discount on the market rate. The Editors' Code of Practice permits use of subterfuge where information cannot be obtained by other means, and the inquiry was legitimate in my view in the context of the public interest in the investigation.
10. Separately, someone acting on behalf of the newspaper pretending to be Mr Brown had tried to get information about whether he had a mortgage with the Abbey National building society. The inquiry was an attempt to confirm how much money he had borrowed or whether he had received a personal loan as Mr Mandelson had. Since Mr Robinson, who had provided the loan to Mr Mandelson, was involved in the transaction this was in my view an important point to check. This was the clear line of enquiry to pursue in the face of the overall overwhelming public interest in the story and again I am satisfied that it was the proper course of action.
11. In response, Mr Brown has said that there was no wrongdoing on his part and therefore no reason to investigate. However, I believe the press has an obligation to investigate and not to accept a denial at face value. Sometimes we have to employ what may be regarded as unethical steps in order to 'stand-up' a story. That involves starting from a sufficient basis to begin making enquiries, and then piecing together facts one by one, which ultimately aims to show a more complete picture. Frequently reporters do not know what more they may uncover or where those initial facts will lead them. This is not 'fishing' if set against a matrix of information which raises or contributes to significant matters of public interest, as was the case here.

12. In the course of this investigation The Sunday Times broke no laws. The 1998 Data Protection Act clearly contains a public interest defence for obtaining personal information. As the Editor, I make the decision at the outset as to whether I should pursue a story in the public interest, and I revisit that decision before publication. The law requires me to show that I reasonably believed in the public interest in the story, and I would argue that ethics dictate the same. I would say that nothing could be more in the public interest than finding out whether one of the most powerful politicians in the country had received an indirect cash benefit when purchasing a flat.
13. I have always said that I believe our investigations were justified and that the outcome should have been published. The fact is that the Chancellor bought a flat below the market value from a company owned by Mr Maxwell. To have taken his denial as absolute proof there was nothing in the story would have been naive. We also knew Mr Brown would use his powerful media operation to denigrate the story, which he duly did. We could not show that there was corrupt behaviour, but the very act of publishing put the facts and questions raised into the public domain and allowed the public to form their view. If those views are critical of the story, as Editor I accept that. But I do not accept that we should be fettered in pursuit of such stories. There may often be different views on what is in the public interest, but I make the decision and am then held accountable by the public and if necessary the courts or authorities.
14. I firmly believe that the story was in the public interest to investigate and publish and that the methods we used were justified. Mr Brown denied that he had paid below the market rate, saying there had been a dip and that in any case he did not know the flat had been owned by Mr Maxwell's company or that Mr Robinson had any connection with it. He got a fair hearing in the paper and could use his media machine to get over his version to other media outlets.
15. I would also bring us back to my opening remarks. The press has a role in acting as the eyes and ears of the public and holding the powerful to account. The very act of publication, justified as it was in this case, is a deterrent to corruption, and there can be no more important role for the media than in keeping public life honest.

I believe that the facts stated in this witness statement are true.

Signed ...



Dated

November 8, 2012