KEIR STARMER QC, DIRECTOR OF PUBLIC PROSECUTIONS

Statement No: 2

Date Statement Made: 27 March 2012

I believe the facts stated in this witness statement are true:

Keir Starmer QC

1. This is my second statement to the Leveson Inquiry. I hope, therefore, that I will be forgiven if I do not rehearse the preamble as to who I am, the position I occupy and the role of the Crown Prosecution Service[1] more generally.

SCOPE, BACKGROUND, METHODOLOGY

2. In this statement I use the expression "phone hacking investigation" as a useful shorthand to encompass:
   - Operation Caryatid (the original Metropolitan Police Service[2] investigation which ran from late 2005 until the conclusion of the trial in January 2007);
   - The 2006-2007 prosecution of Glenn Mulcaire and Clive Goodman;
   - The re-examination of the issues in 2009-2010;
   - Operation Varec (the 2010 MPS investigation into the matters raised in the New York Times article of 1st September 2010).

3. It is not intended to include Operations Weeting, Elveden *et al.*, for the reasons I give in the paragraphs which follow.

The scope of my evidence

4. This statement is based upon my memory of events which took place during the period between 9th July 2009 to 14th January 2011 and such records as exist.

5. The reason I have chosen these dates is as follows.

---

[1] 'CPS'

[2] 'MPS'

6. The original phone hacking investigation started in 2005 and ended in January 2007 when Messrs. Mulcaire and Goodman were sentenced to terms of imprisonment. I was not the Director of Public Prosecutions[3] during this period[4] and thus these matters are better dealt with by my predecessor, now Lord Macdonald of River Glaven QC. I have been shown his witness statement, and indeed I am familiar with many of the issues with which he deals, having answered a number of questions during my time in office to, amongst others, Parliamentary Select Committees.

7. By the time I became DPP the phone hacking investigation was of largely historic interest only, save for the fact that in 2009 the Culture, Media and Sport Committee[5] embarked upon an inquiry into Press standards.

8. Against this background, my involvement in the phone hacking investigation began on 9th July 2009, following the publication of an article in the *Guardian* newspaper.

9. This statement thus covers the period from the publication of that article until 14th January 2011, when I announced that I was going to order a wholesale examination of all the material in the phone hacking investigation, from 2006 to date. The reason I felt it was necessary to put in place a thorough examination of the material will become apparent in the course of the evidence set out in this statement.

10. I trust that the Inquiry will understand the reason that I have restricted my evidence to this period and do not deal with events following 14th January 2011. My announcement of the fresh examination of the material was rapidly followed

[3] 'DPP'

[4] I became DPP on 1st November 2008.

[5] 'CMS committee'

by the MPS announcement that it was to re-open the phone hacking investigation[6]. This new phase is called Operation Weeting and, as is a matter of public knowledge, continues to date and a number of people are on bail awaiting decisions as to whether or not they will be charged with any offence. There are in addition a number of related investigations, the best-known of which is Operation Elveden, which – again – are ongoing, live investigations.

11. I am grateful to the Chairman for his indication that he will not do anything which might jeopardise the fairness of any future trial, were one to take place. For the same reason I must, of necessity, be circumspect about what I say about the evidence against individuals (whether allegedly in existence in 2006 or since discovered).

The Background

12. In the paragraphs which follow I set out some of the difficulties which the CPS has faced in analysing what happened in 2005-7. This is relevant both to the events of 2009 -2010 and to the approach I have taken to making this statement.

13. During the original phone hacking investigation in 2005-7, all prosecution decisions taken on behalf of the CPS were made by a single lawyer, Carmen Dowd, then Head of the Special Crime Division. The role she performed is known in the CPS as that of the 'reviewing lawyer'. It is fair to say that she did not keep extensive notes, either of the advice she gave or of the meetings she attended, and there are plainly lessons to be learned from this. She did, however, brief the DPP and the Attorney General. By 2009 when the issue of phone hacking was receiving renewed attention, Ms. Dowd had left the CPS.

---

[6] 26th January 2011

14. In addition, as I have already said, by 2009 Lord Macdonald was no longer DPP nor was Lord Goldsmith QC any longer the Attorney General. Thus the three people who had most involvement with the CPS side of the prosecution were no longer in post.

15. In 2006, the CPS instructed and was represented at trial by two self-employed barristers, David Perry QC and Louis Mably. They are lawyers of considerable experience and distinction; their part in the events of 2006-7 are covered to some extent in the statement of Lord Macdonald, and in my letter dated 1st April 2011 to the Chairman of the CMS Committee[7]. I deal with their involvement in 2009-10 in the paragraphs which follow.

16. It follows from the above that at the time that I was first aware that phone hacking was once again a live issue (i.e. in July 2009), there was no lawyer remaining in the CPS who had had any direct involvement in the case.

17. In the normal course of events I would have asked the lawyer who had previously dealt with the case to deal with the new questions, but plainly that was not possible here. It was therefore necessary for me to put in place a mechanism for examining events which had taken place three years earlier. The DPP is required to be involved in very many serious cases and issues and the office is organised so that senior staff undertake reviews and present briefings or submissions on the key issues to the Director. I chose Simon Clements, the then Head of the Special Crime Division[8], who remained responsible for briefing me on phone hacking throughout 2009 -2010, as well as dealing with the numerous questions asked by Parliamentarians and the Press.

---

[7] At annex 83

[8] 'SCD'

The Methodology employed in the making of this statement

18. As I am giving evidence about events in 2009 – 2010, I am relying to an extent on my memory. However, I have needed to consult the documentation in order both to remind myself of the events of which I have personal knowledge, as well as to give an account of the actions of others of which I may not necessarily have been aware of at the time but for which I am responsible.

19. Much of the research for this statement has been conducted by my Principal Legal Advisor, Alison Levitt QC, who is best placed to do so given that it is she whom I appointed to conduct the wholesale review of phone hacking in January 2011. It should be said that whilst much of the work has been done, her review is not yet complete, for three reasons. First, much of its original purpose has been obviated both by the new MPS investigation and the establishment of this Inquiry. Second, I have asked Ms. Levitt to be responsible for the prosecutorial decisions in relation to the live investigations, which have on occasion had to take precedence. Thirdly, the review has become less immediately urgent as I have decided that it will not be made publicly available until either any trial is completed or a decision has been made that no individual will be charged.

20. Ms. Levitt[9] has provided me with much of the research she had already undertaken for her review into the events of 2006-11. In addition, on receiving the call for evidence from this Inquiry, she asked the officials from my Private Office (both past and present) to interrogate the CPS computer system using a variety of search terms. This has resulted in the production of many thousands of emails (often in 'chains') and their attachments, which Ms. Levitt has examined and made an edited version available to me. We are as confident as we can be that what has

[9] Like me, Ms Levitt joined the CPS after the trial of Messrs. Mulcaire and Goodman was completed. In January 2011, I asked her to undertake the review precisely because she was not involved in the decisions made in 2009-10; it follows that she has no personal knowledge of the events considered in this statement.

resulted is an accurate picture of events, but plainly there remains a risk that there are some events of which we have only incomplete knowledge.

21. A draft version of this statement was shown to David Perry QC and Louis Mably for their comments, which were then incorporated into the final version. I am therefore confident that the version of events set out below accords with their recollection not only of events in 2006-7, but also of 2009-10.

QUESTIONS 1 – 9

22. I have given careful consideration to the questions asked of me, and have concluded that questions (1) to (9) are best answered by means of a chronology. This is necessarily a detailed account given the complexity of the issues and the significance of the questions asked of me by the Inquiry. Specific years are covered as follows:

2009 – Paragraphs 23 - 112
2010 – Paragraphs 113 - 146
2011 – Paragraphs 147 – 153

Events in 2009

9th July 2009

23. Other than by virtue of my general knowledge of current events, I was unaware of the phone hacking case until **July 2009**.

24. It first came to my attention as a result of the article published on the *Guardian* website in the evening of **8th July 2009** and in the print version the following day, which revealed that News Group had settled a civil action brought by Gordon Taylor, one of the victims named in the 2006 prosecution. The article claimed that

phone hacking was endemic, that there were many more victims than the MPS had acknowledged and said:

> *"the full picture on News Group's involvement in phone hacking is still not clear, largely because the Metropolitan Police took the controversial decision not to inform the public figures whose phones had been targeted and the Crown Prosecution Service decided not to take News Group executives to court".*

25. The print version made clear that the journalist claimed to have access to the contents of the MPS files. He asserted that he had seen "paperwork" from those files which showed that a senior reporter at the News of the World[10] had received an email containing a transcribed version of voicemail messages left on Gordon Taylor's mobile phone and that a NOTW executive had offered Glenn Mulcaire a substantial bonus payment for the story. At this stage, no further details were given.

26. I was concerned by the assertions made in the *Guardian* and I therefore held a meeting with a senior lawyer in SCD, Asker Husain (Simon Clements' deputy) and others and asked them to conduct an examination of the material supplied to the CPS by the police three years ago so that I could be satisfied that appropriate action had been taken at the time. I asked in addition for a chronology, setting out the actions taken and the source of that information.

27. Simultaneously, my Private Office was contacted by officials from the Attorney General's Office[11] who informed us that an Urgent Question had been tabled by Dr. Evan Harris MP, asking the then Home Secretary

---

[10] 'NOTW'

[11] 'AGO'

"what steps he was taking to look into the actions of the police, the prosecutors and the Information Commissioner in respect of the use by newspapers of illegal surveillance methods".

28. As is customary, the CPS were asked for help with drafting a reply and to provide a background note. The question was emailed through at 10.17 a.m., with a requirement that a response should be provided by 11.00 a.m. (i.e. less than three quarters of an hour later) as the Home Secretary was going to answer the question that morning. This was not easy given that there was no lawyer within the CPS who had worked on the case. As will be obvious there was then a great deal of rapid activity to try and find information, as the case files had been archived years before.

29. By lunchtime, the Media had been in touch with my Press Office. In particular, David Leigh, the assistant editor of the *Guardian*, had made a 'bid' to interview me. The questions he had posed included the following:

- *Who took the decision to "confine" prosecution to the royal interception by Goodman and sample cases against Mulcaire,*
- *Why did the prosecution not include charges for [or even reference to] senior executives at NOTW,* "when the police possessed documentary evidence those executives were paying Mulcaire a bonus for the Gordon Taylor intercept materials*", and*
- *Were the CPS told of the full file of material in police possession?*

30. Plainly, I was in no position to answer questions such as these at this stage.

31. Further, also at lunchtime, I had been notified that Lord West was intending to make a statement at 6.30 p.m. that evening on behalf of the whole Government, and required lines on the CPS role in the case.

32. It will thus be apparent that whilst at that stage I had no way of knowing whether what the *Guardian* was asserting was true or false, I plainly needed to be briefed on the case and that briefing needed to be done quickly.

33. At 1.30 pm that day, Asker Husain sent an email to my Principal Private Secretary saying that he had made contact with Detective Chief Inspector Keith Surtees and had asked him to send an email setting out "*the approach taken by the prosecution team when the matter was originally brought to our attention*". This began a history of reliance on what the MPS told us about the events of 2006-7. But with no-one with personal knowledge among the CPS staff, I do not criticise Asker Husain's decision as he had a limited range of options available to him given the urgency of the various enquiries.

34. At 3.30 p.m. Assistant Commissioner John Yates made a statement to the Press[12]. At that stage, he and I had not spoken about this case and I was not consulted either about the fact that he intended to make a statement or its content. Indeed, given my lack of knowledge there was no useful contribution I could have made.

35. Mr Yates' statement dealt with his assessment of the 2005-7 investigation. Before his statement was made, I did not know that Mr Yates had carried out a review, nor was I or any member of the CPS asked to contribute to or comment upon it.

36. In his statement Mr Yates explained that he had been asked:

> "*to establish the facts around our inquiry into the alleged unlawful tapping of mobile phones by Clive Goodman and Glen Mulcaire*"

[12] At annex 1

37. Mr Yates went on to say that:

(i) *"their potential targets may have run into hundreds of people but our inquiries showed that they only used the tactic against a far smaller number of individuals;*

(ii) *"it is important to recognise that our inquiries showed that in the vast majority of cases there was insufficient evidence to show that tapping had actually been achieved;*

(iii) *"where there was clear evidence that people had potentially been the subject of tapping, they were all contacted by the police;*

(iv) *"No additional evidence has come to light since this case has concluded;*

(v) *"I therefore consider that no further investigation is required".*

38. At the time, Mr Yates was an Assistant Commissioner in the MPS and was by then in charge of the hacking case. I did not know at that stage the limit of his review, but had no reason to think that he had not looked at all the relevant material. For my part, I had no personal knowledge of this case, neither had any member of CPS. In the circumstances I took Mr. Yates' assertions at face value. It was only much later, that I came to know of the short time Mr Yates had spent considering the case.

39. This early statement by the MPS made no reference to the investigation having been curtailed or otherwise circumscribed by advice on the law given by the CPS.

40. That evening I issued a statement indicating that I had ordered an "urgent examination of the material that was supplied to the CPS by the police". The full statement is attached as annex 2. Although I had no reason to think that the CPS had not acted properly, I wanted to satisfy myself that we had taken appropriate action on the evidence supplied to us by the police in 2006-7.

41. I never intended the examination I had ordered to consider all the material (i.e. as at July 2009). That would have been an extensive and time-consuming exercise. That is why I confined my request to the material physically supplied by the police to the CPS (i.e. on our premises) and asked my team to consider whether the CPS took appropriate action in relation to that material.

42. The significance of this is that, as is invariably the case, the "unused" material remained in the possession of the police and had not physically been supplied to the CPS. Accordingly, it was never my intention that my team should examine the unused material and they did not do so. As will become apparent, the "for Neville" email was contained in the unused material held by the police and no copy was in the possession of the CPS.

43. On reflection however, I could have been clearer with my team than I was. They (thinking that I was most concerned about the advice which the CPS had given to the police at the time), concentrated on the correspondence between the CPS and the police at the time, and did not examine the entirety of the material in the possession of the CPS, which included the witness statements and exhibits used in the prosecution of Messrs. Mulcaire and Goodman. However, I am satisfied that this misunderstanding, in fact, made no material difference and the conclusions of the examination I had called for, would have been the same.

44. The following day I received a call for evidence from the CMS Committee[13]. The Chairman asked for details of my enquiry into the suggestion that illegal phone tapping was not confined to the activities of Clive Goodman.

Events in the week which followed the publication of the *Guardian* article

[13] Annex 3

45. I was aware that in carrying out the inspection for which I had asked, Asker Husain and Simon Clements were liaising closely with junior counsel instructed in 2006-7, (Louis Mably) and this gave me comfort, in the sense that although Simon Clements and Asker Husain were inevitably hampered by their lack of direct knowledge of what had happened at the time, they should ultimately have been at no disadvantage given counsel's involvement in the matters under consideration. Louis Mably attended a meeting at CPS Headquarters on 10th July, at which I was not present but the Minutes of which I have seen as part of my preparation of this statement[14]. During this Asker Husain commented upon the fact that Carmen Dowd had (in briefings both to the then DPP and Attorney General) observed that there seemed to be more victims than those who were ultimately named on the indictment. Louis Mably made the accurate observation that counsel had not been asked to provide any advice pre-charge and that in an email he had highlighted to Carmen Dowd the question of any more charges. Ms Dowd had responded by referring to a third suspect, in relation to whom a decision was subsequently made in November 2006 that there was insufficient evidence to prosecute.

46. At this meeting Louis Mably referred to the issue of "ring-fencing" which had first been discussed in 2006. Much has been made of this expression and it has been suggested that it denotes a strategy of limiting the prosecution to a handful of victims and the two defendants in question. Everything that I have seen both in 2009 and since has entirely satisfied me that the limitation in question was directed at evidence rather than victims or suspects: what was meant was that the case should be circumscribed in such a way that Princes William and Harry would not have to give evidence, nor would the content of their voicemails become public. The "ring-fencing" in question referred to the calling of those who worked for the Princes as witnesses rather than the Princes themselves, and to that extent it was not only successful but was, in my view, entirely justified.

[14] Annex 4

47. In the Minutes of that meeting, reference is made to Simon Clements waiting for a report from the MPS which would permit him to complete his briefing and deliver it to me[15]. This again shows the extent to which, at this stage, and for the reasons set out above, my team inevitably had to rely on information that was provided to them by the MPS.

48. On **Monday 13th July 2009**, Mr Clements and Mr Husain met Mr Yates at Scotland Yard[16]. He told them that he was happy to help with "*piecing together the evolution of the prosecution strategy regarding potential 'victims'*". Although I have seen no Minutes of this meeting, an email sent the following day makes it clear that it had been agreed that Detective Chief Superintendent Philip Williams, who had been the Senior Investigating Officer at the time, would provide a note on various issues[17].

49. The same day, the Home Secretary asked for the terms of reference of my review. I decided that they should be articulated thus:

- Whether the CPS gave any advice to the police at the investigative stage in 2007 (and if so, what?);
- What information was passed to the CPS to consider prosecution and who was considered;
- What strategy we adopted in charging and prosecuting;
- Whether any of those now alleging that their cases were not considered for prosecution were in fact considered in 2007;
- If so, why were they not considered for prosecution, or if they were, why were they not prosecuted?;

[15] See also annex 5

[16] Annex 6

[17] Annex 7

- If not, why not?

50. It is fair to say that Simon Clements was under some pressure to complete his task. I have seen from the email exchanges that he was being asked to draft a response from me to the CMS Committee, the Home Secretary was due to appear before the Home Affairs Committee to answer questions on this issue and needed to be briefed, and the Home Office, Ministry of Justice and AGO were continually asking for progress reports. There were in addition various letters from firms of solicitors acting for clients who were contemplating bringing civil actions against the police, all of whom were requesting information from the CPS.

51. On **14th July 2009**, the journalist Nick Davies (the author of the original *Guardian* story) gave evidence to the CMS Committee. As part of his evidence he presented the Committee with copies of a number of documents, which included what has come to be known as the "for Neville" email, and a contract between Mulcaire and a NOTW executive which related to the payment of a 'bonus' for the Gordon Taylor story. For obvious reasons I make no comment upon the possible probative value of these, other than to observe that they were plainly the documents relied on by the *Guardian* on 9th July as demonstrating that the evidence was more extensive than that presented during the prosecution of Messrs. Mulcaire and Goodman. The production of these documents received wide publicity.

52. On **14th July 2009**, David Perry QC and Louis Mably produced a short note[18], in which they said that back in 2006, they had personally enquired of the police whether there was evidence which implicated the editor of the NOTW, or connected Glenn Mulcaire with other NOTW journalists. They were told that there was not, and their note says that they never saw any such evidence. This is detailed in the witness statement of Lord Macdonald. As far as this aspect of their collective memory is concerned, Mr Perry personally emphasised to me (in 2009;

[18] Annex 7

see below) that he had a firm recollection of asking these questions. I had then and have now no reason to doubt Mr Perry's recollection and the significance of this should not be underestimated. What was contained in Mr Perry's note about these two questions posed to the police, and the answers given, influenced my understanding of how the original prosecution had been handled and the extent to which there was any need for a re-evaluation in 2009.

53. The same day, Asker Husain received an email from Mr Williams[19]. Mr Williams said that the selection of victims had been made at a conference on 21st August 2006 (some two weeks following arrest and charge) at counsel's chambers, in which the following criteria were applied, namely that they should be representative of the scale and breadth of those Mulcaire may have been targeting, having regard to:

- Frequency and duration of calls,
- Strength/integrity of available data,
- A broad spread of the airtime providers, for reasons of business reputation,
- The victim's background and standing in society,
- Willingness of the victims to give evidence.

54. Concluding his email, Mr Williams said that the number of victims selected was a proportionate response, given that any higher number would not have led to any increase in sentence. I note that there is again no mention of the prosecution advice on the law as having been a restricting factor, nor is there any reference to any further possible suspects.

[19] Annex 8

55. This email was followed by a longer email the following day (**15th July 2009**[20]). In this, Mr. Williams said that in addition to the discussion about the selection of victims, it was agreed that the police were not going to inform all potential victims as this might prejudice any possible prosecution and that there were now safeguards by virtue of the fact that the airtime providers had now put systems in place to ensure that this could not happen again.

56. This email also deals with the question of other suspects. Mr Williams says that this too was considered with counsel, the MPS were open to the potential for there to be other defendants, and that Louis Mably had been was asked to consider the possibility of using a production order to get more evidence.

57. The second email was forwarded to Mr Mably, who said that he "broadly agreed with it", save to this extent: that neither he nor David Perry had any recollection of either advising or agreeing that other potential victims should not be informed[21].

58. Later that day, **15th July 2009**, Asker Husain sent me a formal submission, accompanied, as requested, by a chronology and copies of the supporting documentation taken from the file[22]. He also produced a draft Press statement for my consideration. I was informed that Mr Husain had read his chronology to the original reviewing lawyer, Carmen Dowd, over the telephone and she expressed herself to be content. The submission presented to me on 15th July included the following passages:

[20] Annex 9

[21] annexes 11-12

[22] Annex 10

"In addition to Goodman and Mulcaire, a third man [SM] was arrested but was not charged due to there being insufficient evidence to proceed against him. No other suspects were considered or charged. This has been confirmed to Asker Husain by DCI Surtees: "no other named subjects – apart from Goodman, Mulcaire and [SM] were identified as suspects of criminal activity through this investigation". Prosecution counsel has also confirmed that the police informed them that there were no other suspects apart from these three individuals.

60. The following day (**16th July 2009**) I met with my team to discuss the case and finalise the Press statement. On the basis of the information supplied to me, I was satisfied that the CPS had been properly involved in providing advice to the police at the time, that the police seemed to have provided the CPS with all relevant information and that the approach to charging Messrs, Mulcaire and Goodman had been appropriate. Later that day I issued a Press statement which included my findings. This is attached at annex 14.

61. Looking again at the Press statement which I issued, I note that I indicated that an examination of all the material which was supplied to the CPS by the police at the time had taken place. At the time, that is what I understood to have been the position. However, for reasons already explained, my team had, in fact concentrated on the CPS advice given to the police.

62. Later that evening, my Press officers received an enquiry from Nick Davies of the *Guardian* as to whether or not I had called for the two documents (i.e. the contract and the "for Neville" email) that he had placed before the CMS Committee two days earlier.

63. At about 10 p.m. that evening, I emailed Simon Clements to ask him whether he had looked at these documents as part of the review[23]. At about midnight he responded that neither he nor Asker Husain had looked at material "*extraneous to the case papers we had at the time*" because they had not understood that to be the purpose of the examination. Mr Clements said that in the light of my request he had spoken to Mr Yates and would try and clarify the answers to the following questions the next morning: did the MPS have the email? If so, did they pass it to the CPS? If so, did the CPS appreciate its significance?

64. The following day, **17th July 2009**, Simon Clements embarked on an investigation into whether or not the CPS had known about this email in 2006-7.

65. Also on 17th July, Mr Clements was sent a copy of the MPS response to the CMS Committee. This - for the first time to my knowledge – contained a passage which implied that the MPS investigation might have been curbed by the belief that an offence could only be established where there was evidence to prove that the interception had taken place before the intended recipient had accessed the message. I attach a copy of the MPS evidence at annex 18.

66. It is this that has come to be known as the "narrow view" of sections 1 and 2 of RIPA. As a result of subsequent events it is now clear to me that the MPS investigation was in no sense limited or circumscribed as a result of any prosecution advice to this effect. However, I acknowledge that there has been considerable confusion surrounding this issue; I explain how this came about in the paragraphs which follow below.

[23] Annex 15

The investigation into the "for Neville" email

67. Simon Clements asked one of his staff to make enquiries of the police as to where the two documents which had been mentioned in the original *Guardian* article (and subsequently presented to the CMS Committee) were to be found.

68. It was rapidly established that the contract had been relied on by the prosecution as against Mulcaire and thus had been included in the exhibits bundle served both on the court and the defence.

69. No trace, however, could be found of the "for Neville" email in the CPS papers[24].

70. Simon Clements' staff contacted DCI Surtees. He told them that the email formed part of the "unused material". As such, for the reasons set out above, it was in the possession of the MPS along with the other unused material and no copy had ever been physically supplied to the CPS.

71. Simon Clements' lawyers were informed by DCI Surtees that the "for Neville" email had formed part of the unused material; it was listed on the sensitive schedule as item WAB/107, described as "black bin bag containing various notepads". We now know that this item also contained some of the Mulcaire notebooks.

72. The police have pointed out that following charge but before trial, junior counsel, Louis Mably, spent two days examining the unused material for disclosure purposes. Mr Mably has no recollection of having seen the email and it must be remembered that he was conducting a disclosure exercise (in criminal proceedings the prosecution is required to disclose material which is capable of undermining the case for the prosecution or assisting the case for the accused), rather than one

[24] Annex 16

aimed at advising as to further investigation. It appears that Carmen Dowd, the reviewing lawyer may have joined Mr Mably for a short time, but there is no indication that she looked at any material.

73. Having ascertained that the "for Neville" email was in the unused material, Simon Clements sent me an email in which he explained that he had spoken to D/Supt Haydon and in his email to me, Mr Clements indicated that "*the Met do not consider that the email in question has the significance that the Guardian attribute to it*". A copy of the email was faxed through from the police later that day (**17th July 2009**)[25]. To the best of my knowledge this was the first time that the CPS had had a copy in our possession. It was certainly the first time I had seen it.

74. Having read the "for Neville" email, I decided that I needed to speak to someone who had first hand knowledge of what had happened at the time. Junior counsel was on an aeroplane, and I thus invited leading counsel at the time, David Perry QC, to meet me in my office at Ludgate Hill to discuss the implications of the email. Whatever view others took about this email, I was concerned about it. Taken at face value, it seemed to me to suggest that both the author and recipient were possible suspects.

75. The meeting with Mr Perry on **17 July 2009** started at 4 p.m[26]. At that meeting he confirmed to me what he had said in his note of 14th July 2009, namely that in conference in 2006 he had enquired of the police whether there was evidence which implicated the editor of the NOTW, or connected Glenn Mulcaire with other NOTW journalists and he had been told that there was not[27].

---

[25] Annex 17

[26] Copy of my diary at annex 19

[27] Please see annex 20 at which the manuscript notations to the agenda for the conference on 21.8.06 are to be found, plus an email the following day confirming this

76. The implications of the "for Neville" email and Mr Perry's recollection of what he was told in 2006 concerned me. I therefore decided to write to Mr Yates and invite him to consider whether further investigation should now be made regarding the contents of the "for Neville" email. At 5.42 p.m. a draft statement was prepared to that effect, and is attached at annexes 21 and 22.

77. At 5.25 p.m[28]. I telephoned the then Commissioner of the MPS, Sir Paul Stephenson, to tell him of my intention. I cannot now remember the details of that call but I think Sir Paul asked me to discuss it with Mr Yates. That seemed to me to be a perfectly reasonable and sensible suggestion.

78. I then had two telephone conversations with Mr Yates, one at about 6 p.m. that evening and the second at about 6.55 p.m[29]. I cannot now remember the details of those calls but, as a result of my conversations with Mr Yates, I was persuaded not to issue the statement I had proposed to issue but, instead, to meet Mr Yates on the following Monday morning to discuss the "for Neville" email in greater detail.

79. Following my conversations with Mr Yates, at 7.12 p.m. I issued a statement which merely said "*the DPP is now considering whether any further action is necessary*". I attach a copy at annex 23.

80. At 7.30 p.m. emails were sent to Mr Yates, Simon Clements, Asker Husain and my Press Officers to arrange a meeting for 11.00 a.m. on Monday morning[30].

[28] Copy of my diary at annex 19

[29] Copy of my diary at annex 19

[30] See also annex 24

The meeting on 20th July

81. The meeting on **Monday 20th July 2009** took place at 11 a.m. and was attended by Mr Yates, DCS Philip Williams, D/Supt Haydon[31], Simon Clements, Asker Husain and Pam Teare (the then Head of Communications at the CPS[32]). I pointed out that when I issued my statement on 11th July (9 days earlier) I did so on my understanding that there were no other suspects other than Messrs. Mulcaire and Goodman at the time of the 2006-07 prosecutions. I then said that in my opinion the "for Neville" email tended to suggest that there may have been other suspects. I explained that counsel had told me that he could not remember discussing the "for Neville" email at the time and asked the officers present whether there were any notes from 2006-7 recording whether it was considered. DCS Williams said that there had been some discussion at the time about other defendants. I then said that, as I understood it, David Perry QC and Louis Mably had asked at the time whether there was evidence suggesting that the editor or other journalists were suspects and that they had been told that there was no such evidence.

82. Mr Yates at the meeting on **20th July 2009** made clear to me that none of this was 'new' material, it had been seen by counsel and the focus had been within the parameters set, which was an "operational matter for the police." He expressed the view to me at the meeting that the "email will go nowhere."

83. I, however, remained concerned about the email and I concluded the meeting by indicating that out of "an abundance of caution" I would ask David Perry QC to give me further and specific advice about the "for Neville" email. I indicated that I intended to ask him to advise me (a) what approach he would have taken if he had seen the email at the time (2006-7) and (b) what approach he would take now

[31] Annex 25

[32] Please see Minutes taken by the MPS at annex 26

(2009). I ended the meeting by asking the police to confirm the date upon which the "for Neville" email had been seized. It was agreed that this would be done.

84. Mr Yates suggested that DCS Williams could compile a note which would set out the rationale followed at the time. This note turned out to have great importance for what was to follow.

85. In light of the events of the previous week, I was anxious to resolve the issue as quickly as possible. Simon Clements spoke to David Perry QC who agreed to provide "overnight" advice. I now realise, but did not at the time, that in doing so Mr Perry did not have access to his original brief. I think both he and I would now agree that, with the benefit of hindsight, it would have been better if he had had a little more time and had been given the opportunity to check his papers before committing himself.

86. Mr Perry was asked by me to answer four very specific questions in his written advice, namely:

(i) Based on his knowledge of the case in 2006 and in particular the technical and practical issues associated with proving offences of interception, what advice would he have given to the CPS/police at the time in respect of the "for Neville" email, had it been brought specifically to his attention?
(ii) Based on his knowledge now, would his advice be any different?
(iii) Based on his knowledge in 2006 whether he is of the view that the police had sufficient to arrest and/or interview 'Ross' and/or 'Neville'
(iv) Based on his knowledge now whether he is of the view that the police had sufficient to arrest and/ or interview Ross and/ or Neville.

87. A draft brief to Mr Perry was sent to me for approval. At 4.48 p.m. I replied saying that the questions looked fine, but that we needed to see the documents

from the police before finalising them[33]. This was a reference to Mr Yates' offer for DCS Williams to provide a note explaining the rationale of the approach taken in 2006. I asked Simon Clements whether there was any news about the progress of this note.

88. At 5.12 p.m., Mr Clements emailed me. He said that the note had been prepared but was with Mr Yates for clearance. Mr Clements decided to send the brief to David Perry then and there, and to forward the police note as soon as it arrived, as Mr Perry needed as much time as possible (given that he was in the Court of Appeal on another case the following day[34]).

89. At 6.03 p.m. DCS Williams sent an email to Simon Clements, saying that he was just back from Mr Yates' office, and that he hoped that the enclosed note "covers the points that your[*sic.*] was asking for"[35].

90. Mr Williams' note (also at annex 28) was to prove to be the source of much future misunderstanding.

91. The significant parts of this note read as follows:

> "*This briefing is intended to provide the CPS with an overview of some of the challenges posed by this investigation back in 2006, particularly in terms of bringing a case of interception of voicemail to trial. Those challenges would largely apply today subject to the fact that, as a consequence of this case, the airtime providers have since introduced a range of measures to prevent a reoccurrence.*

[33] Annex 27

[34] Annex 27

[35] Annex 28

"Challenges

"The Law – s1 RIPA

"to prove the criminal offence of interception, the prosecution must prove that the actual message was intercepted prior to it being accessed by the intended recipient. Further the initial level of proof being worked upon was a) to prove a mail message had been left, b) to prove that message had been accessed prior to it being opened by the intended recipient. ...."

92. The note went on to say that:

"In the end the only victim for which there was believed to be absolute proof was Jamie Lowther-Pinkerton (JLP)..... All of the evidence for the other victims was built around the 'best fit' centred on the victim selection criteria thereby combining whatever we could show in terms of technical data with statements from the victims themselves, provided that it did not require them to reveal intimate details of actual conversations / other parties. Thus, based upon success with the JLP evidence, they all stood or fell together in terms of trying to represent the scale and breadth of what was happening [36] *.....*

"There was also a quantity of electronic media recovered including some recordings of apparent voicemail conversations, it is reasonable to expect some of the material, although classed as personal data, was in their [Mulcaire's and Goodman's] legitimate possession due to their respective jobs".

93. DCS Williams then went on to make nine separate points about the "for Neville" email, all of which would tend to suggest that neither in 2006 nor 2009 could it amount to evidence in this case. These included the fact that the email was dated 2005 whereas the investigation was focussed on 2006, that there would be no

[36] For the avoidance of doubt, I have subsequently had confirmed to me by David Perry QC that these considerations, in fact, played no part in drafting the indictment in 2006-7

possibility of getting telephone data from 2005, that there was nothing to suggest who "Neville" was, whether he had ever seen the email and even if he had, that in itself was not evidence of a conspiracy.

94. At 6.17 p.m. on **20th July 2009** this note was emailed by Simon Clements to David Perry QC to help him prepare his overnight advice[37].

95. Also that day (20th July) I received a letter from Chris Huhne MP asking me to "direct" the police to reopen their inquiry, as he believed that there was strong evidence that other journalists at the NOTW were involved[38].

96. David Perry's advice[39] arrived at 9.40 a.m. the following morning (**21st July 2009**). In it he said that:

> "*I now have only a dim recollection of the decisions taken in relation to the investigation and prosecution strategy but I have found the note prepared by Detective Chief Superintendent Williams to be extremely helpful and it certainly accords with such recollection as I do have*".

97. Mr Perry said that the "for Neville" email "*was seen by counsel when deciding whether any of the unused material in the case might reasonably be considered capable of undermining the case for the prosecution or assisting the case for either defendant*" (para. 10), but that he could not say for certain whether it had been brought to his personal attention (para 14). He also made reference to eight of the nine points made by DCS Williams in relation to the relevance and the evidential possibilities of the email for any prosecution.

---

[37] Annex 29

[38] Annex 30

[39] Annex 31 - it is headed "draft" but no other version was ever received.

98. Mr Perry's answers to the four questions I had posed to him to be asked were:

(i) "*based on my knowledge of the case in 2006 and the investigation and prosecution strategy identified in the note prepared by Detective Chief Superintendent Williams, it appears to me unlikely that I would have advised the Crown Prosecution Service / Metropolitan Police that further investigations should be undertaken in relation to the ["for Neville"] email*";

(ii) his advice would not be any different today (20th July 2009);

(iii) it appeared to him unlikely that he would have formed the view that the police had sufficient grounds to arrest and / or interview either of the two men identified by newspaper reports as being the likely author and recipient;

(iv) again, his advice would not be any different today.

99. Mr Perry gave as one of the reasons for his conclusions to questions (i) and (iii) the fact that in order "*to prove the criminal offence of unlawful interception contrary to section 1(1) of the Regulation of Investigatory Powers Act 2000, it is necessary to prove that the message was intercepted before it was accessed by the recipient.*" A year later, in October 2010, he was to acknowledge that this statement about the law was too emphatic, and that (contrary to what was being said by the police) the prosecution had never proceeded on the basis that the "narrow view" of sections 1 and 2 of RIPA was settled law. I deal with this in the section dealing with 2010 below.

100. Returning to **21st July 2009**, I read David Perry's advice and noted that he not only expressly adopted and agreed with the views of the police, but described the officers as having been both assiduous and conscientious. Given that neither I, nor Simon Clements and his team, had any personal knowledge of what had happened. I relied on Mr Perry's advice and accepted it.

101. However, in the interests of completeness, I asked Mr Clements to consider whether the other unused material should not also be considered[40]. He again consulted David Perry QC, and both were of the view that there was no need[41]. The reasons articulated by Mr Clements were essentially that the duty to review all unused material only arises in live cases, that we had spent a good deal of time responding to the specific issue raised by the *Guardian* (i.e. the "for Neville" email) and that if the *Guardian* had further evidence, we should take the usual course of inviting them to submit it to the police, bearing in mind that as DPP I had no power to order a reinvestigation in any event. Mr Clements also reminded me that the original prosecution team was a strong one and the DPP and AG of the day were consulted, albeit they would not have gone into details relating to the unused material.

102. That, in effect, concluded the exercise I had asked my team to undertake. The view I took at the time (**end July 2009**) was that I had sought and received comprehensive assurance about the case not only from the MPS, including from Mr Yates, a high ranking police officer then in charge of the case, but also from leading and junior counsel instructed at the time (2006-7), who had subsequently reviewed what I considered to be the critical issue, namely whether the "for Neville" email had been considered at the time and/or whether it formed a basis for re-opening the case then (i.e. July 2009). I had been assured that it did not.

103. On **30th July 2009** I replied[42] to the letter I had received from the Chairman of the CMS Committee (Simon Clements, out of an abundance of caution, had asked David Perry QC to check the draft of my letter[43]). In it I said of the law:

---

[40] Annex 32

[41] Annexes 33 and 34

[42] Annex 37

[43] Annex 35

"*to prove the criminal offence of interception the prosecution must prove that the actual message was incepted prior to it being accessed by the intended recipient*".

105. The basis for this was the express articulation, set out in David Perry QC's advice of 20th July, that this was an essential element of the offence. What, however, I had not realised at the time but came to know much later, was that, much in the way I had based my letter upon David Perry's advice, he in turn had based his advice on the assertion of the law contained in DCS Williams' note of 20th July. A reply in similar terms was sent to Chris Huhne MP and to Nick Davies of the *Guardian.*

106. When later in 2010 I came to reflect on this statement of the law, I became increasingly concerned that it reflected only one possible interpretation of the offence under RIPA and that other interpretations were also possible. As will become apparent, this is important because the interpretation offered by David Perry QC and adopted by me in my letters to the CMS Committee and Chris Huhne MP and in my reply to Nick Davies at the *Guardian* formed the basis of my evidence to the CMS Committee on 3 November 2009. However, by the time I next came to consider the interpretation of the offence under RIPA in 2010, I concluded that the CPS should not adopt the narrow interpretation offered in 2009 by David Perry QC but instead should take a broader approach.

Events between August and December 2009

107. During **August 2009** the only developments of which I was aware were as follows:

6th August A letter was sent by the CMS Committee asking for a copy of the indictment and to be told which counts had been left to lie on the file (reply sent 10th August)[44];

25th August A request was made by the clerk of the CMS Committee to be told why no one else was named in counts 16-20 (those faced by Mulcaire alone and to which he pleaded guilty). Simon Clements explained that had there been evidence to show that he had been involved with other identifiable people, they too would have been charged.

108. On **2nd September 2009**, Mr Yates gave evidence to the CMS Committee. It was during the course of this that he said that his assessment of the case announced on 9th July had in fact been completed during the course of a single day. I have to confess that I did not read the evidence given by Mr Yates at the time and the fact that he had said this simply did not register with me at the time, nor indeed did it until 2011.

109. On **20th October 2009**, the CMS Committee again wrote to me[45], asking me to provide a number of documents from the trial, including:

- both prosecution and defence bundles,
- David Perry's opinion relating to the "narrow" interpretation of section 1 RIPA,
- the reason for the charge period having been shortened, and
- confirmation as to whether the requirements of RIPA were relevant to the gathering of emails about how Helen Asprey's voicemails were intercepted.

[44] Annexes 38 and 39

[45] Annex 40

110. Simon Clements again felt that, given our lack of knowledge of events in 2006, it was prudent to refer the request to counsel[46]. On **22nd October 2009**, in an email[47], junior counsel (Louis Mably) informed Mr Clements that so far as the law was concerned, there had been no written opinion on the proper interpretation of RIPA, rather that their opinion was given orally in conference. Their view had been based on the observations of Lord Woolf in *R (on the application of NTL) v Ipswich Crown Court* [2002] QB 131; they had concluded that the observations of Lord Woolf were correct, that they accorded with the rationale of the prohibition in section 1(1) and that there was nothing to be gained from seeking to contend for a wider interpretation. A reply was drafted to the CMS Committee, and Mr Mably was invited to comment on it. A copy of my final letter, dated **3rd November 2009**, which incorporated counsel's suggestions and was sent to counsel for final approval, is attached at annex 44.

111. In **November 2009**, one of the claimants in the civil actions approached the trial judge, the Honourable Mr Justice Gross, to ask him to provide copies of Messes. Mulcaire and Goodman's Pre-Sentence reports. The judge concluded that it was not a matter for him to give or refuse consent and responded to the claimant accordingly[48].

112. There were no further events of note in 2009.

---

[46] Annex 41

[47] Annex 42

[48] Annex 45

Events in 2010

113. In the first part of 2010, there were further letters from the CMS Committee, principally inviting me to disclose the Pre-sentence Reports of Messrs Goodman and Mulcaire. Once again David Perry QC and Louis Mably were asked to advise; they concluded that the terms of section 159 of the *Criminal Justice Act* 2003 would not permit the CPS to disclose the reports to third parties, consent having been refused by the defendants in question[49]. A further letter was written to the Chairman of the Committee to this effect on **8th February 2010** (at annex 50).

114. On **24th February 2010** the CMS Committee published its report. It concluded that the police had been wrong not to investigate further the contract or the "for Neville" email, and said that the MPS' reasons for not doing so seemed inadequate.

115. Throughout the late spring and summer 2010 there were intermittent reports in the Press about phone hacking, and the *Guardian*, in particular, periodically submitted questions, generally directed at the narrow interpretation of RIPA. These were usually answered by saying that there was nothing the CPS wished to add to our previous statements. At every stage Simon Clements ensured that counsel was content with the approach we were taking.

116. Nothing further of significance occurred before **1st September 2010**.

[49] Annexes 46 - 49

The article in the New York Times[50]

117. On **1st September 2010**, the NYT published an article[51] in which a number of allegations were made. They can be summarised thus:

- The civil litigation (including the applications for judicial review) was beginning to expose the true extent of phone hacking, something which the MPS investigation had failed to do;
- That police and prosecutors had failed to discuss crucial clues that Messrs Mulcaire and Goodman were not acting alone;
- One of the reasons that the MPS was reluctant to conduct a wider inquiry was in part because of its close relationship with NOTW;
- The NYT had interviewed more than a dozen former reporters, two of whom said that the then editor, Andy Coulson, had been present during discussions about phone hacking;
- Others said that Andy Coulson had imposed a "hypercompetitive ethos" such that reporters openly pursued improper tactics including hacking in order to satisfy demanding editors - a "do whatever it takes" mentality;
- Phone hacking was widespread across the newspaper industry, and every tabloid journalist knew it was done – such illicit practices were known as the "dark arts";
- The MPS detectives had faced pressure from within their own organisation, which had a symbiotic relationship with NOTW;
- The MPS had not discussed the full extent of the evidence with the CPS, including the notes which suggested the involvement of other reporters.

[50] 'NYT'

[51] Annex 51

- By "sitting on" the evidence for so long, the MPS had made it impossible to get information from phone companies, which do not keep records indefinitely;
- By only notifying a small proportion of those whose phones may have been illegally accessed, the MPS had effectively shielded the NOTW from a large number of civil actions;
- Rupert Murdoch had a great deal of political influence as a result of his newspaper ownership.

118. On **3rd September 2010**, one of the reporters quoted in the NYT article, Sean Hoare, was interviewed on Radio 4[52]. He repeated the expression "the dark arts" and said that phone hacking was endemic in the industry. He said that Andy Coulson was not only aware of the practice but had himself asked him (Sean Hoare) to hack into phones.

119. On **6th September 2010**, the BBC reported that the police were saying that they would reopen their investigation if further information was provided. Our information was that they were intending to interview Sean Hoare and would consult the CPS once they had done so.

120. Late that evening (**6th September 2010**) Mr Yates made contact with the CPS. This was the first contact that the police had had with the CPS since the NYT article was published. Mr Yates did not telephone either Simon Clements or me, but instead telephoned the Chief Crown Prosecutor for London (who had had no dealings with this matter). She sent me an email the following morning[53], saying that Mr Yates had wanted to bring me up to date with what they were doing. Apparently he had told her that he did not intend to reopen the investigation, but

[52] Annex 52

[53] Annex 53

merely intended to clarify what had been said in the NYT article by inviting the journalists for their material and then interviewing Sean Hoare. They might then come to the CPS for advice.

121. Counsel were informed, and Simon Clements opened a new file.

122. On **8th September 2010**, D/Supt Haydon emailed Asker Husain setting out the action the MPS was proposing to take following the NYT article. In his email[54] he said that he had been asked:

> "*to clarify the new information in the public domain (since 1st September 2010) to establish if there is any new evidence in the phone hacking case..... I wish to make it clear that I am not reinvestigating the original case so knowledge of the case and retrieving case papers is not necessary*" (original emphasis)

123. He set out a number of actions he was proposing to take, which included speaking to Sean Hoare. Significantly, he made reference to the need to make an operational decision whether he should treat Mr Hoare as a whistle-blower, a significant witness or a suspect and that he was interested in Asker Husain's views on this. As far as I am aware Asker Husain did not express a view one way or the other. In due course it became apparent that the MPS had interviewed Sean Hoare under caution, whereupon Mr Hoare declined to answer any questions. I do not know the basis upon which the decision was made to interview Sean Hoare under caution, but this was an operational decision made by the police without advice from the CPS.

124. The following day, AGO contacted the CPS to say that there were two things which needed attention: there needed to be clarity about CPS involvement in the

[54] At annex 54

police inquiry into the NYT story (this was needed for a Parliamentary debate) and, in addition, further work was needed on the ambit of sections 1 and 2 of RIPA.

125. Whilst respecting the views of David Perry QC and Louis Mably, I had in fact had concerns for some time about the emphatic view of the construction of sections 1 and 2 of RIPA that had been articulated by Mr Perry QC in 2009 and adopted by me in my letters and evidence to the CMS Committee. I therefore decided that it would be sensible to look again at the matter, particularly since it appeared that the CPS might be required to give the MPS advice in relation to the allegations in the New York Times.

126. I decided to commission two written advices[55]. The first was to be from David Perry QC and Louis Mably, who would be asked to consider the original papers (including the statement of the expert) and give a definitive view of the approach taken to RIPA in 2006-7. The second advice was sought from fresh counsel, Mark Heywood QC, who (as someone with no previous connection to the case) was to be invited to give an opinion as to his view of the proper construction of the sections under consideration.

127. On **14th September 2010**, I received David Perry QC's advice[56]. Having had an opportunity to consider the papers, he concluded that for the purposes of the 2006 prosecution it had not in fact been necessary to resolve the question as to whether or not RIPA required proof that the interception had taken place before the intended recipients had accessed the message. This was because the defendants pleaded guilty to conspiracy and in any event did not seek to argue the point. In relation to the majority of victims there was no evidence one way or the other, and

[55] Annexes 55 and 56

[56] Annex 58

therefore the proper construction of the section had no bearing on the charges brought against the defendants or the proceedings generally – indeed, the issue did not arise for determination. He advised had the defence sought to press the issue, the prosecution might have proceeded on the narrow basis for the pragmatic reason that that would have avoided a trial, but in the event this proved to be unnecessary. The oral advice given in 2006 had been that the proper construction of the sections was a difficult issue, with tenable arguments either way, but that the judgment of Lord Woolf in the NTL case seemed to point to the narrow interpretation. However, there were grounds to argue that Lord Woolf's observations did not in fact go that far, or if they did, they were wrong. Mr Perry also confirmed that a narrow approach to the construction of RIPA had not limited the scope of the police investigation.

128. So far as the interpretation of RIPA was concerned, I was concerned that this did not correspond entirely with what I had been told in 2009, which had been the basis for my letters and evidence to the CMS Committee. I therefore asked Simon Clements to try and discover where the reference to the narrow interpretation had originated from. Mr Clements discovered that the original source was the report from the police dated 20th July 2009 (see above)[57], which David Perry QC had relied on when preparing his advice of the same date.

129. In light of this, I was concerned to know whether any of this affected the advice that David Perry QC had given me in 2009 as to the "for Neville" email. On 16th September I asked Simon Clements to invite Mr Perry to consider this[58].

130. Meanwhile, on **15th September 2010**, Simon Clements and others had a meeting with D/Supt Haydon and DCI Morgan to discuss progress since the NYT article

[57] Annex 14

[58] Annex 62

two weeks earlier[59]. This stage of the matter was now called Operation Varec. In addition to the "fact-finding exercise" in relation to matters raised in the article, there was a further case involving Kelly Hoppen, who claimed that her phone had been hacked by a NOTW reporter named Dan Evans. Amongst other things, D/Supt Haydon told Simon Clements that Sean Hoare had been interviewed under caution and had said nothing.

131. As set out above, on **16th September 2010** I asked Simon Clements to invite David Perry to address his mind to the question of how the "for Neville" email fitted into the narrative in his more recent advice. Later the same day, David Perry QC provided a note[60] in which he confirmed that the construction of RIPA set out in his advice written eighteen months earlier (on 20th July 2009)[61] had been taken from the note drafted by DCS Williams. He had been asked at the time to provide "overnight" advice and had had none of his original papers to which to refer, so he had been driven to rely on Mr Williams' recollection. Now, having had the opportunity to consider his original papers and greater time in which to do so, he was clear that the police analysis was not, in fact, the basis upon which the scope of the prosecution case was determined. However, in his note, Mr Perry made clear that his conclusions in relation to the "for Neville" email remained unchanged (i.e. as of 16 September 2010).

132. On **17th September 2010,** Mark Heywood QC delivered his advice[62]. He concluded, (much as David Perry had), that the arguments about the construction of RIPA were finely balanced. He himself inclined to the view that the broader construction was to be preferred, having regard to the purpose underpinning the

[59] Annex 61

[60] At annex 64, again headed 'draft' but the only version sent to us

[61] Annex 31

[62] Annex 65

legislation. Thus his advice was that investigators should have regard to the wider view. He added that, in any event, even if the narrow interpretation should turn out to be correct, it would make no difference to investigators, as offences of conspiracy or attempt would be unaffected by a narrow construction of RIPA. A few days later, (on **20th September 2010**) First Parliamentary Counsel sent some additional material to Mark Heywood, who provided a short addendum advice[63] indicating that his conclusions were unaffected by the material he had been shown, not least because he was reassured by the fact that the draftsman had intended the wider construction.

133. A meeting was held between Simon Clements, Asker Husain and the officers involved in Operation Varec on **1st October 2010**[64]. I was not present but have seen the Minutes. The officers updated the CPS on their inquiries. D/Supt Haydon asked specifically about the "for Neville" email; it appears that Asker Husain and Simon Clements repeated the advice given by David Perry QC in his 2009 written advice (which he had at the stage recently confirmed on 16th September 2010 in his note) to the effect that the email would have had no effect at the time of the first investigation as it had no real evidential value.

134. Simon Clements also updated the officers in relation to RIPA, namely that Mark Heywood's view was that the broad interpretation was correct and that a prosecution could go ahead in respect of a message which was listened to even after the intended recipient had accessed it.

135. On **7th October 2010** I received a letter from the Chairman of the Home Affairs Committee[65], asking me to give my views as to whether the relevant statutes

---

[63] Annex 66

[64] Annex 67

[65] Annex 68

presented difficulties in terms of gathering sufficient evidence to prosecute a case of phone hacking. At a meeting with AGO officials on **19th October 2010**, I discussed this request from the Home Affairs Committee. The meeting was organised to discuss Mark Heywood's advice about RIPA and I was concerned that if there was any ambiguity in the RIPA provisions, there were risks to the CPS if any prosecution were brought on what may turn out to be the wrong interpretation of the law. I attach the minutes of that meeting at annex 69.

136. Simon Clements attended the meeting and, for completeness, I attach his manuscript note[66]. Mr Clements has included in his notes the following:

> "DPP
> No-one wants re-open the investigation"

Mr Clements has been asked about this note and has indicated that to his best recollection I was expressing frustration that no-one appeared to want to re-open the investigation. I have no personal recollection of saying this.

137. On **29th October 2010** I responded to the Home Affairs Committee and a copy of my response is attached as annex 71. This was a letter to which AGO had also had some input and which was shown to Louis Mably. In it I explained the approach that had been taken in 2006 (as articulated by David Perry in his 13th September 2010 advice) and concluded that:

> "*Since the provisions of RIPA in issue are untested and a court in any future case could take one of two interpretations, there are obvious difficulties for investigators and prosecutors. However, in my view a robust attitude needs to be taken to any unauthorised interceptions and investigations should not be inhibited by a narrow approach to the provisions in issue. The approach I*

[66] Annex 70

intend to take is therefore to advise the police and CPS prosecutors to proceed on the assumption that a court might adopt a wide interpretation of sections 1 and 2 of RIPA. In other words, my advice to the police and to CPS prosecutors will be to assume that the provisions of RIPA mean that an offence may be committed if a communication is intercepted or looked into after it has been accessed by the intended recipient and for so long as the system in question is used to store the communication in a manner which enable the (intended) recipient to have subsequent, or even repeated, access to it." (original emphasis).

138. Following this letter there were a number of questions from journalists, Parliamentary Questions and some requests under the Freedom of Information Act.

Operation Varec

139. The next development was the formal request from the police for advice as to the prospects of prosecuting anyone as a result of the "fact-finding" exercise conducted by them following the NYT Article. This was received on **12th November 2010**. I attach a copy of the request prepared by D/Supt Haydon at annex 72. In it D/Supt Haydon makes clear: "I must stress that my task was not to re-open or re-investigate the R v Goodman and Mulcaire case but clearly there were links and crossovers or both."

140. I am unclear whether I was actually shown this document at the time or merely told of its content.

141. The request for advice concluded thus:

"I accept that the evidential position does not meet the threshold for a referral to the CPS but in view of the vast media, public and political

scrutiny in this case and due to both the MPS and CPS involvement to date, I consider a referral is appropriate in order to agree a joint current and future position in this case..."

142. A fortnight later, on **24th November 2010**, a further request for advice was received from the MPS, this time in relation to the allegations against Dan Evans. They were seeking advice as to whether the officer was correct in his assessment that he should not investigate further. I attach a copy of this at annex 73.

143. On **10th December 2010**, Simon Clements delivered his advice on Operation Varec to the police. He concluded that as no one had been prepared to provide evidence, the case did not pass the evidential stage of the test contained in the Code for Crown Prosecutors, namely that there must be sufficient evidence to establish that there is a realistic prospect of conviction. I attach a copy of Simon Clements' advice as annex 74.

144. I announced his conclusions in a Press statement that da[67]y, which made it clear that if there was any further evidence it would be considered, and to that end I intended to establish a panel of police officers and prosecutors to assess any future allegations in order to determine whether or not investigations should take place.

145. On **22nd December 2010** Simon Clements completed his second advice, this time in relation to Dan Evans. I attach a copy of that advice at annex 76. In it he states that officers have asked for clarification in relation to the law, and Mr Clements set out the advice detailed in my letter to the Home Affairs Committee. As far as further investigation of this allegation was concerned, he concluded that the evidence in this case fell far short of the threshold for prosecution, but the police should keep a watching brief on this and the other civil cases in case any further evidence should emerge.

[67] Annex 75

146. This concluded the phone hacking case for 2010.

Events in 2011

147. On **6th January 2011**, the *Guardian* asked the CPS a series of detailed questions about whether or not the CPS had been aware in 2006 of the evidence that was emerging from Sienna Miller's civil action against the NOTW.

148. Since there was no-one to hand within the CPS who had first hand knowledge of the investigation and prosecution in 2006, these were not easy questions to answer. I therefore had two options: (1) not to attempt an answer on the basis that the only person with real knowledge about the 2006-07 matters (Carmen Dowd) had left the CPS; or (2) to ask for a much wider ranging examination of all the materials available at the time. Although the second option would inevitably be resource intensive, I was becoming increasingly concerned by the evidence emerging from the Sienna Miller civil action and therefore decided that the time had come for a much fuller exercise. What I wanted at that stage was an examination of all material available at the time (whether in the possession of the police or the CPS) and for some further assurance to be given to me about what consideration was given to it at the time. That day (6th January) I asked Simon Clements either to conduct that examination himself or to appoint someone senior to do so.

149. On **12th January 2011**, the MPS sent an email to Simon Clements which made it plain that the items in issue in the Sienna Miller case were in the unused material, appeared on the sensitive schedule and many (though not all) of them were marked as having been "examined and signed off" by Louis Mably. Simon Clements prepared a briefing for me, which I attach as annex 77.

150. This revelation significantly added to my concern. I therefore decided that the time had come for a root and branch review to be carried out. I wanted to know precisely what material had been passed to the CPS by the MPS at the time, what consideration had been given to it. I also wanted to know precisely what was included in the unused material and what consideration had been given to it. I telephoned Tim Godwin, then Acting Commissioner, to tell him of my thinking. We agreed to meet to discuss the issue, but in the event the meeting was with Mr Yates[68].

151. On **Friday 14th January 2011** I had a meeting at CPS HQ with Mr Yates and D/Supt Haydon, Simon Clements and Asker Husain. To the best of my recollection, Mr Godwin did not attend. At that meeting I outlined my concerns and indicated that nothing short of a full review of all the material available at the time and subsequently would satisfy me now. Mr Yates had a number of concerns about how the review would be handled, but he did not resist my proposal that there be a root and branch review. Initially we discussed the possibility of the review being carried out by the joint police/ CPS panel that we had established to consider any new evidence, but then decided that it would be better if a lawyer with no previous involvement in the case was asked to conduct the review. Mr Yates was keen that the MPS should request the review rather than having me, in effect, impose it on them. We therefore agreed that he would formally invite me to conduct a review and, later that day, we exchanged letters to that effect[69]. The notes of this meeting are attached as annex 79.

152. After the meeting I decided that my Principal Legal Advisor, Alison Levitt QC, should carry out the review[70]. I then telephoned the Attorney General to tell him

[68] Annex 78

[69] Annex 80

[70] Annex 82

of my decision. A joint MPS/ CPS press statement was issued later on **14th January 2011** announcing the review[71].

153. Twelve days later, on **26th January 2011**, the MPS announced that it was reopening its investigation into allegations of phone hacking.

[71] Annex 81

Question 1: Please set out a full and detailed account of your awareness of, and involvement in, any investigations by the MPS into phone hacking at the News of the World and please provide a full account of any contact between the CPS (including you) and the MPS in relation to the same, during your tenure as the DPP. Without prejudice to the generality of this request please include:

a. **When and in what circumstances you were first seized of the matter.**
b. **What issues were raised with you and who raised them with you.**
c. **What action you took in relation to those issues.**
d. **What documents you personally read.**
e. **What discussions or communications about the case you had with:**

   i. **any CPS personnel.**
   ii. **any MPS personnel including, but not limited to, former Assistant Commissioner John Yates and former Commissioner Sir Paul Stephenson.**
   iii. **David Perry QC.**
   iv. **Lord Macdonald QC.**

Please set out, as best you can remember, the approximate date(s) and the gist of the communication(s) you had with each person.

f. **Details of any briefings you received relating to the case, including, as best you can remember, approximate dates, persons present and the gist of the briefings.**
g. **What thought you gave to the relevant law.**
h. **What your own view was at the time as to the relevant law.**
i. **What the basis was for your understanding of the relevant law at that time.**
j. **The conclusions you reached and actions you took.**
k. **Details of any legal advice you gave the MPS.**

l. Details of any directions that the CPS gave the MPS in relation to the conduct of the investigation.

m. What written record/s you made of the actions you took and of the information you received, from whatever source.

154. Please see the chronological account set out above.

Question 2: Please set out details of any requests for advice from the MPS relating to the phone hacking investigation. In relation to each request for advice, please set out a summary of what advice the CPS gave the MPS.

155. Please see the chronological account set out above.

Question 3: What contact, if any, did the CPS have with the Guardian newspaper after the Guardian newspaper reported on the phone hacking story in July 2009? Please set out the approximate date(s) and gist of the communication(s).

156. It is not possible to single out every phone call or email received or sent, but from the records Press Office has[72], the *Guardian* was in contact with the CPS on numerous occasions from July 2009 until April 2011 concerning the Goodman and Mulcaire prosecutions. They were pursuing several lines of enquiry about the interpretation of RIPA and evidence given to Select Committees; what evidence was seen by the CPS at the time of the original investigation; and decision making by the CPS.

157. In addition I spoke to Nick Davies on 24 January 2011 about the interpretation of RIPA.

[72] Annex 85

Question 4: In your evidence to the Home Affairs Committee on 19 July 2011, you said that David Perry QC asked the police in conference two particular questions, to which the answer to both questions was no: (i) whether there was any evidence that linked the editor of the News of the World to any wrongdoing and (ii) whether there was any evidence linking Glenn Mulcaire with any other journalist at News of the World in relation to the wrongdoing. Are you now able to say which police officers and lawyers were present at that conference?

158. I have no direct knowledge of this as I was not in post at the time; this is therefore a question best addressed to counsel. From what has been said by the police and from some short notes that were found in counsel's brief[73] it appears that this conversation took place during a conference on 21st August 2006, and that those present included David Perry QC, Louis Mably, Carmen Dowd and Detective Chief Superintendent Philip Williams. It is likely that other police officers were present, but I do not know their names.

Question 5: Without prejudice to the generality of question (2)(e)(ii) above, did former Assistant Commissioner John Yates consult you or the CPS at all about his review in July 2009 of the phone hacking investigation, either at the time of the review or after he had conducted the review? What communications, if any, did you have with Mr Yates about the correctness of his decision not to conduct any further investigations? Did you express concerns to him about the remit or adequacy of the investigation and prosecutions in 2006? If so, what concerns did you express and what was Mr Yates' response to them? Please set out the gist of the communications as best you can remember.

159. Please see the chronological account set out above.

---

[73] Annex 20

Question 6: Did you come to the same conclusion as Mr Yates about his 2009 review of the phone hacking investigation?

160. Please see the chronological account set out above.

Question 7: What communication(s), if any, did you have with Mr Yates or any other member of MPS about the "for Neville" email? Did you ask the police whether they had investigated the "for Neville" email? If so, what answer were you given and by whom? Please set out the approximate date(s) and gist of the communication(s) as best you can remember.

161. Please see the chronological account set out above.

Question 8: In 2009 what did the CPS know about the level of co-operation provided by the News of the World? What account did the CPS take of it? What advice, if any, did the CPS give the MPS in relation to securing the co-operation of News of the World and in relation to the exercise of any powers of compulsion against the News of the World, in order to obtain further evidence? Do you consider that powers of compulsion could or should have been used?

162. There is a passage in the note prepared by DSU Williams on 20th July 2009[74] in which he said:

> "on the day of the arrests and searches News of the World (NOTW) actively engaged their lawyers to limit our ability to search during the actual searches and only cooperated as far as they had to thereafter."

163. Other than these observations I have no knowledge of the extent (or otherwise) to which the NOTW cooperated with the police.

[74] Copy at annex 28

164. The issue of "compulsion" is not straightforward, as the statutory powers for obtaining production orders or warrants for material from third parties (as the News of the World was) are complicated, particularly where special procedure or excluded material is concerned. My understanding is that in 2006 the police asked counsel for their views as to the viability of making what is known as a schedule 1 application, but I have limited knowledge of what the outcome of this was as I was not in post at the time.

Question 9: When, how and from whom did you first learn that the MPS had evidence in relation to phone hacking which had not been satisfactorily acted upon? What did you do about that when you did realise (please include in this answer any discussions, formal or informal, identifying the participants)?

165. I do not think that I can answer this question other than by reference to the chronological account set out above.

Question 10: What were your reasons for ordering a review of all the material held by the CPS and the police?

166. Please see the chronological account set out above.

Question 11: With the benefit of hindsight, do you consider that you and/or the CPS ought to have taken any further steps in 2009? If so, what steps ought to have been taken and why?

167. Events in late 2010 and 2011 have caused me to reflect on the steps I took at that early stage. Had I known then what I know now I would have ensured that what took place was a full review of the kind I was subsequently to order in January 2011. However, in July 2009 I was heavily dependent on what I was being told. I was influenced by the confidence expressed by the police and counsel, who had

been involved at the time, that the evidence produced by the *Guardian* would have made no difference to the prosecution. As set out in the chronological account above, the "for Neville" email caused me considerable concern. At one stage I thought that the best course was for me to invite Mr Yates to re-open the investigation, at least in relation to this email. Having discussed that with Mr Yates, I decided instead to ask Mr Perry QC to give advice on four very specific questions about the email. In light of his answers, I decided against asking Mr Yates to re-open the investigation. I do not consider that I or the CPS ought to have taken any further steps in 2009.

Question 12: With the benefit of hindsight, do you consider that you and/or the CPS ought to have taken any further steps in 2010? If so, what steps ought to have been taken and why?

168. In 2010 the CPS provided advice to the MPS in the circumstances set out in the chronological account. I do not consider that I or the CPS ought to have taken any further steps in 2010.

Question 13: As regards the applicable law and the application of the Code for Crown Prosecutors what approach do you intend that the CPS will take to on-going investigations and future investigations which involve allegations of phone hacking? What will be the legal advice in relation to the same?

169. As I said in my letter dated 29th October 2010 to the Home Affairs Committee (at annex 71)

> *"Since the provisions of RIPA in issue are untested and a court in any future case could take one of two interpretations, there are obvious difficulties for investigators and prosecutors. However, in my view a robust attitude needs to be taken to any unauthorised interceptions and investigations should not be inhibited by a narrow approach to the provisions in issue. The approach I*

intend to take is therefore to advise the police and CPS prosecutors to proceed on the assumption that a court might adopt a wide interpretation of sections 1 and 2 of RIPA. In other words, my advice to the police and to CPS prosecutors will be to assume that the provisions of RIPA mean that an offence may be committed if a communication is intercepted or looked into after it has been accessed by the intended recipient and for so long as the system in question is used to store the communication in a manner which enable the (intended) recipient to have subsequent, or even repeated, access to it."

Question 14: Describe the culture of relations between the CPS and the media.

170. I have aimed to build and expand on the culture I inherited from my predecessor. This is best summed up by the approach I set out in 2009 when I indicated how the CPS would operate under my tenure:

"...visibility and accountability are no longer optional extras for the public prosecution service: they are our duty. We will be open and transparent with the media. We will tell people what we do, explain our decisions clearly and, wherever possible, be willing to give people as much information as possible about our decisions."
(http://www.cps.gov.uk/news/articles/the_public_prosecution_service_-_setting_the_standard/)

171. The relationship is professional, with nearly all contact through the Press Office. Where appropriate, we hold media briefings before particularly complex or high profile trials. Our aim is to improve the media's understanding of the issues and evidence in a case, and therefore aid accurate reporting. These will always be held on an embargoed basis – that is the information being discussed is not for use until all relevant verdicts have been given, ensuring there is no risk of prejudicing a trial.

172. We also now regularly make public our decisions to charge, and explain, where appropriate, when the decision is not to charge.

173. Prosecutors up and down the country also make statements at the end of their cases on an almost daily basis now. Any developments in policy will also be made public and where we conduct public consultations on policy development we will aim to raise awareness of those consultations through the media.

174. Contact with the media on the above basis is increasing all the time.

Question 15: Describe the working relationship which you have with the media. The Inquiry would like an overall picture of the type, frequency, duration and content of your contact with the media.

175. My working relationship with the media has developed over time. Although I have known a number of journalists for some time, most of my engagement with journalists as DPP has been organised by the Press Office. That engagement has included press conferences, television and radio interviews, phone calls, lunches, informal meetings and in 2009 and 2010 an informal drinks event at CPS HQ to which a few dozen journalists would be invited to meet me and my senior staff.

176. The frequency of engagement varies. Press conferences are rare; television and radio interviews are periodic, about two a month; phone calls probably once every other month; lunches probably one every other month and informal meetings probably once every six months.

177. In addition I sometimes meet journalists informally at functions where they have been invited; for example the Bar Council annual summer reception.

Question 16: Do you consider that your working relationship with the media is a successful one? Please explain your answer.

178. My aim is to increase confidence in the CPS by being as open and transparent as possible. My impression is that where I have had an opportunity to explain CPS decisions to journalists, providing reasons for those decisions, they are better understood and appreciated. That does not prevent criticism, nor should it. But I hope it increases confidence and reduces inaccuracy.

Question 17: Do you ever have "off-the-record" conversations with the media? If so, please explain why and give examples. What does "off-the-record" mean to you in this context? What records do you/the CPS generally keep of information shared on an "off-the-record" basis?

179. My interpretation of "off the record" is not for publication or broadcast. This is different to Chatham House rules where information can be used but not attributed, and which I do not tend to use as a basis for discussions with journalists.

180. Most conversations or briefings I have with journalists are on the record. But I will speak off the record if I consider that it will help to provide greater context and understanding or prevent an inaccurate story from appearing. Talking on these terms also fosters greater understanding about an issue when the timing does not allow for public comment such as when a trial is coming up.

181. Most lunches I have with journalists are off the record. No formal records are kept but I am always accompanied by a member of Press Office. Not infrequently I tell journalists that if they want to follow up on an off the record discussion, they should contact the Press Office in the usual way.

Question 18: Please also describe the personal contact which you have with the media. The Inquiry would like an overall picture of the type, frequency, duration and content of your personal contact with members of the media.

182. See response to question 15.

Question 19: Without prejudice to the generality of question (18) above, please set out the personal contact (including approximate dates, the nature of the contact and topics of conversations) which you had, during your tenure as the DPP, with:

n. Rebekah Brooks.

183. I had lunch with Rebekah Brooks and Trevor Kavanagh at the Sun's offices in Wapping on 25 August 2009. I was accompanied by the former Head of Communications and a broad range of topics were discussed such as the role of the DPP, the work of the CPS and the advantages and disadvantages of the Human Rights Act. Phone hacking was never discussed.

o. Andy Coulson.

184. None

p. Rupert Murdoch.

185. None

q. James Murdoch.

186. None

r. Other News International editors or journalists.

187. Between October 2008 and January 2012:

- I had lunch with Simon Hughes and John Kay from The Sun on 22 October 2008 and 19 November 2009

- I had lunch with Frances Gibb, Legal Editor of the Times, on 30 July 2009. I also had drinks with Frances Gibb on 20 October 2009 and on 1 September 2011.
- I had lunch with Dominic Mohan, editor of The Sun at News International offices in Wapping on 12 January 2010. This was an introductory meeting.
- I had lunch with Sean O'Neill, Crime Editor of the Times on 14 April 2011.
- I had lunch with David Leppard of the Sunday Times on 2 June 2011.

188. At all these lunches I was accompanied by a member of my communications team, but no records were taken. Discussions covered a broad range of topics, including the role of the DPP, the work of the CPS and (usually) recent decisions. Phone hacking was never discussed.

Question 20: Describe in general terms and using illustrative examples what you seek to gain for the CPS through your personal contact with the media.

189. My aim is to increase confidence in the CPS by being as open and transparent as possible. As the public face of the CPS, it often falls to me to explain and account for actions and decisions of the CPS. By way of example, there was a good deal of interest in the decision not to prosecute Damian Green in 2009, the initial decision not to prosecute PC Harwood and the various decisions in cases of assisted suicide. By discussing these cases with journalists, I hope I have enhanced their understanding of how the CPS arrived at its decisions.

Question 21: Describe in general terms and using illustrative examples what you consider the media are seeking from you in your personal dealings with them.

190. The media are usually seeking information and an insight into the workings of the CPS.

Question 22: To what extent do you accept or have you accepted hospitality from the media during your tenure as the DPP?

191. On some occasions I have accepted a modest lunch, the value of which I do not estimate would have exceeded £30 on any occasion. This is no more than a handful of times each year.

Question 23: Insofar as you have accepted hospitality from the media, what has been the nature of the hospitality that you have accepted? What records have you kept of the same?

192. See Question 22.

193. Formal records of hospitality accepted by all members of the CPS Board, including me, are published on the CPS website, in line with Cabinet Office guidance. My office also maintains a record of all external meetings where hospitality, of any value, might have been accepted and I include this as an annex 84.

Question 24: To what extent do you provide or have you provided hospitality for the media on behalf of the CPS?

194. I have held two informal drinks events in the early evening, with around 40 journalists invited to meet with me and some of the senior lawyers in HQ.

195. The first was held on 10 June 2009 at our old office in Ludgate Hill and the second on 16 September 2010 at our present premises of Rose Court on Southwark Bridge.

Question 25: Insofar as you have provided hospitality to the media, what has been the nature of the hospitality that you have provided? What records have you kept of the same?

196. Wine/beer and soft drinks and basic snacks would be provided. Records of all expenditure are kept.

Question 26: In relation to any hospitality that you have accepted (during your tenure as the DPP) from any company owned by the Murdoch family, or from any member thereof, or from any employee or director of such a company, please specify:

s. The hospitality which you accepted;
t. The person who provided the hospitality;
u. When the hospitality was offered and how;
v. Your reason for accepting the hospitality;
w. How you accepted the hospitality;
x. When you first formally declared the hospitality.

197. Modest hospitality, i.e. food and soft drinks valued at less than £30, which is below that formally recorded, was accepted for the meetings set out in answer to question 19, except the last two entries, when I did not accept hospitality.

198. As stated above, this has now all been formally recorded.

Question 27: Do you consider that the level of hospitality accepted by the CPS is appropriate and has been appropriate during your tenure as the DPP? In addressing this issue please give your reasons and set out what you consider to be an appropriate level of hospitality, if any, for CPS personnel to accept from the media.

199. Yes. I have never accepted gifts and have only ever accepted modest refreshments/lunch.

200. I would consider this to be appropriate for all CPS staff as well.

Question 28: Have you ever accepted gifts from the media during your tenure as the DPP? If so, please give full details (including who gave you the gift, when, what the gift was, and why you believe the member of the media gave you the gift).

201. No

Question 29: What records, if any, are kept of meetings (whether formal or informal) between CPS personnel and the media?

202. The CPS Press Office will have recorded all media events which I attended, be they interviews, briefings, announcements etc, and my Private Office will have recorded informal meetings.

203. Other than that, members of staff are required in the CPS Code of Conduct to refer any approach by the media to their Area Communications Manager or the HQ Press Office. Staff are reminded of this from time to time.

Question 30: Are records of hospitality and other contact with the media audited and/or policed and, if so, how and by whom?

204. Records of hospitality are kept centrally by my office (annex 84). They are also published on the website, in line with Cabinet Office guidance. http://www.cps.gov.uk/your_cps/our_organisation/the_cps_board.html

Question 31: To what extent have leaks from the CPS to the media and/or private detectives been a problem for the CPS during your tenure as the DPP? Have there been any investigations into suspected leaks? If so, how many investigations have there been and what has been the outcome of those investigations?

205. Leaks to the media and / or private detectives have not been a problem during my tenure as Director of Public Prosecutions. Isolated disclosures caused minimal disruption and breaches of confidence. However no evidence of organised 'leaking' has ever been identified. None of the leaks involved the loss or compromise of case information. There have been four investigations during my tenure. The relevant investigations did not result in the definite identification of a 'suspect' and as such, there were no admissions. There was therefore no identifiable outcome of these investigations.

Question 32: As DPP have you ever discussed the media or media coverage with politicians? If so, how important is such communication and why?

206. I discuss all aspects of my role as DPP with the Attorney General which, on occasion, includes media or media coverage.

207. I have not discussed media or media coverage with other politicians, save possibly in passing conversation. The CPS manages media matters independently.

Question 33: As DPP, have you ever known, or sensed, that a politician has put pressure on you to take a particular course of action as a result of lobbying or influence exerted on that politician by the media? If so, please explain (although you need not identify the politician at this stage if you do not wish to do so).

208. No never.

Please provide to the Inquiry Panel copies of the documents set out below, insofar as they are in the possession of you or the CPS:

(a) The report from the Head of Special Crime Division prepared in July 2009, including the six-page chronology (to which you referred in your evidence to the Home Affairs Committee on 19 July 2011) and 33 annexes in support.

209. See Annex 10.

(b) The note from David Perry QC dated 14 July 2009 (to which you referred in your evidence to the Home Affairs Committee on 19 July 2011).

210. See Annex 7.

(c) Letters you sent to the Home Affairs Committee (including the 10-page letter setting out, chronologically, each piece of advice that was given in 2006-2007).

211. My staff provided a copy of this letter to the Chairman some weeks ago. A further copy is attached at annex 83.

(d) The following documents relating to phone hacking at the News of the World which were generated during your tenure as the DPP:

i. Documents recording requests for advice from the MPS.

ii. Documents recording advice given to the MPS by the CPS.

iii. Minutes of meetings between the MPS and the CPS.

iv. Documents recording any briefings you received.

v. Any reports produced by you or the CPS.

vi. Correspondence between the MPS/CPS and the News of the World relating to the allegations/investigation and their cooperation with the same.

(e) Any hospitality registers or similar documents relating to you during the period of your office as the DPP.

212. See Annex 84.

(f) Records of any contact/communications between the CPS (including you) and the media, which related to the phone hacking allegations/investigation/prosecutions.

213. See Annexes 85 - 86.