



**THE SCOTSMAN PUBLICATIONS LIMITED**

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26 October 2011

**RECORDED DELIVERY**

Mr Khaleel Desai,  
The Leveson Inquiry,  
Royal Courts of Justice,  
Strand,  
LONDON,  
WC2A 2LL

Dear Mr Desai,

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

I am responding to your letter of 29 September 2011.

I have spent my entire working life in journalism, stretching back 29 years to 1982 when I started writing a weekly column of university news. I became editor of a daily newspaper in 1997 and have been Editor-in-Chief, The Scotsman Publications Ltd, since May 2009. I am now the longest-serving editor of a major title in Scotland.

**Career background**

My university column appeared in the Stirling Observer, the bi-weekly paper for the Stirlingshire area, when I was in my final year of a BA course in English and media studies at Stirling University.

After graduation in 1983 I undertook the National Council for the Training of Journalists' one-year course at Preston Polytechnic and in the summer of 1984 started my first full-time job as a trainee reporter on the now defunct Chester Observer.

I spent the next two-and-a-half years there before leaving for a brief stint as a freelance journalist, in which time I was contracted to produce all the material for the staff magazine of the Littlewoods organisation in Liverpool.

In 1987 I moved to the North-West Evening Mail in Barrow-in Furness to become deputy chief reporter and in three years there I rose to become sports editor. I then joined The Journal in Newcastle-upon-Tyne as assistant news editor and just over a year later I was promoted to assistant editor.

In 1993 I was transferred by parent company Thomson Regional Newspapers to the Edinburgh Evening News as deputy editor, becoming editor four years later. I was

appointed editor of Scotland on Sunday at the beginning of 2002 and three years later switched back to the Evening News where I stayed until February 2009 when I took over the editorship of The Scotsman, a position I retained when I was confirmed as editor-in-chief three months later.

I am currently in the midst of a two-year stint as chair of the editor's committee of the Scottish Newspaper Society, having previously chaired the same committee of the old Scottish Daily Newspaper Society in 2001-2003.

My other industry roles include membership of the Defence, Press and Broadcasting Advisory Committee (D-Notice) since 2006 and I have been a Press Complaints Commissioner since the start of 2009.

In 2010 I was appointed honorary professor of journalism studies at Stirling University.

### **Statement**

Inevitably, I have had to deal with a wide range of ethical and standards issues both as a reporter and an editor, and of course latterly as a Press Complaints Commissioner, but in my experience wilfulness on our part has been a thankfully rare if not non-existent factor in all the publications with which I have been connected.

The revelations of recent months have been as much a shock to those of us working outside Fleet Street as for the wider public and I can honestly say that deliberate law-breaking or the bending of rules to the extent they have become grotesquely distorted have never been a feature of the news rooms in which I have worked.

Yes, there have been mistakes, some of them costly, but I have yet to encounter a mistake-free newspaper or indeed a mistake-free organisation of any kind. In fact, under the current system of self-regulation I believe the Press can be proud of the speed with which errors are recognised and rectified.

This is, of course, not to minimise the disgraceful practices which led to the establishment of this inquiry, but as Daily Mail editor Paul Dacre pointed out recently, there has to be some sense of proportion.

The newspapers I have worked for have all been very close to their communities, and it was in none of their interests, even if the resources were open to them, to behave in a manner which stretched standards of decency and taste. That is not to say there have not been challenges, but at the core of the publications there was no desire to go looking for opportunities to shock or stress-test readers' tolerance. A desire to inform, entertain, reveal and to challenge authority, yes, but always to remain honest, fair and balanced.

And throughout my time as an editor I have recognised when mistakes are made, as they always will be, the test should be how those errors are handled. I have never seen the point in avoiding responsibility for making amends quickly when things go wrong. (See **appendix 1**: corrections published in 2011)

With the well-worn definition of news being "something that someone, somewhere doesn't want you to know" disputes are unavoidable and we should not cave in for

expediency's sake when we feel we have real justification. But at the same time, if the complaint is justified, it should be resolved as quickly as possible.

### **Inquiry requests**

In response to the request for answers to specific questions, I have numbered my answers according to the order contained in the letter of September 29. I have tried to give examples from my own career wherever possible.

### **Questions 2-4: Corporate governance**

All editors in Johnston Press are issued with clear policy guidelines which emphasise the need at all times to operate within the law and to comply with the PCC code of conduct. (See **appendix 2**: JP editorial policy 4.4)

Scotsman Publications journalists signed a contract of employment which clearly states they are expected to adhere to the PCC Code of Conduct. (See **appendix 3**: TSPL contract of employment)

We are in daily contact with our legal advisors to ensure as far as possible that all we publish is lawful and those advisors have been called upon to run seminars to keep staff abreast of legal and regulatory developments.

I have always been keenly aware of my responsibility to act lawfully and ethically and while inadvertent mistakes can be made, I have always ensured that, through our daily conferences and briefings, staff working for me understand I expect them to operate according to the highest professional standards. When a problem arises, those involved are always spoken to so that the circumstances can be understood, policies reinforced and further action taken if necessary. One of our reporters is currently on a written warning for inaccuracies which led to the publication of apologies.

Papers such as those I have edited have an essential role to play in relatively tight communities and ethical behaviour is essential to maintain reputation and therefore continued commercial wellbeing. I have never had any reason to doubt my staff understood this. Not infrequently we have taken decisions not to publish pictures or information which while lawful would run the risk of causing needless upset.

**Example:** In recent weeks a picture was widely circulated showing a dead Michael Jackson lying on a hospital stretcher. It was a staggering picture which I knew would be widely used by many morning newspapers. I took the decision not to publish because I believed it was intrusive and that many of my readers would find it upsetting.

### **Question 5: Editorial practices**

The phone hacking revelations have made absolutely no difference to the way we operate. At Scotsman Publications, I am not aware of anyone trying to access private voice mails in order to obtain information for a story.

Johnston Press policy clearly prohibits the use of eavesdropping techniques and devices (See **appendix 4**: JP policy 4.10, phone-hacking and listening devices).

If there is one ethical area which has altered dramatically over the years as a result of changes in the regulatory framework it is the reporting of suicide and the PCC Code of Conduct is ahead of the law in preventing publication of detail which could result in copy-cat incidents.

**Example:** In 1997, the day before the General Election an apparently homeless young man spent over three hours sitting on a parapet in central Edinburgh with his dog threatening to jump. Hundreds of people witnessed the incident; it took place above Waverley railway station and closed a major bus route. The incident also took place outside our former offices and we had a photographer in position to capture whatever happened.

Despite the efforts of police mediators, the man first threw his dog to its death and moments later jumped and was killed instantly.

As the Evening News' duty editor (I was deputy editor at the time) we ran what were undoubtedly graphic pictures. We received many complaints about the coverage on the grounds of taste, but several other letters expressing anger about what had happened to the dog. As a result of the story we managed to have Samaritans hotline telephones installed on the bridge so something positive did come out of it. That being said, I doubt we would escape PCC censure if we published the same pictures now.

#### **Questions 6-7: Checking procedures**

The primary responsibility lies with the news editor and his desk staff as they are the contact point between the reporting team and the editor. While I cannot remember any recent instance where there was doubt about the legality of a source, there is an absolute requirement on the part of a reporter to divulge full details of how a story came to light if asked by the editor. The senior team are aware of this policy and it is understood the editor will need to know exactly how stories have been obtained.

**Example 1:** At the Evening News, I refused to publish a story and then threatened a reporter with disciplinary action for refusing to divulge the identity of a source. While there was no illegality involved and the source turned out not to be as contentious as the reporter feared, it is still an example of how far I was prepared to go to establish the reliability of the information I was about to publish.

**Example 2:** A senior Scotsman journalist recently received a tip-off from a civil service contact about the future of some important government properties. After discussion at the editorial conference, the story was put to a senior government source and the story ran only after the information was officially verified. The story would not have run without it.

**Example 3:** In 2002, a Scottish government minister spoke in disparaging terms about striking fire-fighters in front of a Scotland on Sunday reporter. In discussing the story I asked if other people had heard the remarks and I was told they had and so we used the remarks in a story that weekend but did not attribute them. The minister gave a radio interview the following Tuesday in which he admitted to being the person in

question but that we had fabricated the quotes. When we promised to produce the witnesses, the minister was forced to resign.

### **Question 8: Ethics**

I have always believed that editors and journalists have a responsibility to consider the effects of their actions and those of their staffs in both the way information is obtained and the way it is published. Individual considerations should not necessarily come before the need to publish, but they should be taken into consideration before the decision to publish.

On a daily basis newspapers face ethical dilemmas and balancing the public interest with what is interesting to the public is not easy. Does an individual deserve to be criticised for his or her actions? Should an individual's feelings play any part in a decision to publish or not? Is a picture too shocking to publish or does newsworthiness take priority over taste? The list of ethical questions is almost endless.

**Example:** As a young reporter at Chester magistrates court I covered the case of a bank clerk who admitted stealing fog lights from a DIY store. He looked at me from the dock and told the court that if I kept the story out of the paper his manager had said he could keep his job. My reaction was that I wasn't responsible for the consequences of his actions and it was unfair for the manager to put the onus on me and the paper to decide this man's future. My story was duly published but that weekend he was found dead in his car with our paper by his side and my story ringed. It was 25 years ago and I can still see his face, but I can't honestly say I wouldn't do the same thing again.

### **Question 9: Financial pressure**

I have never come under any commercial pressure which led me to alter any decisions about editorial content. Johnston Press has a clear policy which states that managers must leave editors free to edit their papers as they see fit. (See appendix 5: JP policy 4.7, editors and Press freedom)

In a paper like The Scotsman with a strong reputation for business coverage, we regularly cover stories about organisations with commercial or financial links to us, in particular the banks. At no point have our decisions been influenced by any business relationships the company or parent company might have. Indeed we are able to run stories about our own company's performance without reference to senior commercial management.

**Examples:** Within our stable of newspapers, the different publications have been able to take contrary positions on issues affecting major Scottish companies. In 2000, The Scotsman ran a campaign to support the demutualisation of Standard Life, while under my editorship the sister title the Evening News supported the status quo.

In 2008, The Scotsman led the charge against the acquisition of HBoS by Lloyds while Scotland on Sunday and the Evening News supported the merger.

**Question 10: Editors' financial incentives**

Such incentives as I have are linked to overall profitability and extremely tough circulation and audience targets, to the extent I have not benefitted by more than a three figure sum in recent years. There has never been any link in my mind with printing exclusives and securing personal payments.

**Questions 11-14: Payments to investigators and public servants**

At no point in my editorships have private investigators been used or paid to access information. Similarly, to my knowledge no payments have been made to serving police officers or any other public servants as an inducement to divulge confidential information.

**Questions 15-16: Payment protocols**

All expenses must be accompanied by receipts and cash payments to unidentified individuals are not permitted. This applies equally to freelance journalists working on our behalf as well as members of staff. We do not pay tip-off fees to members of the public but have very occasionally paid a fee to freelance journalists for information they were unable to turn into a story themselves. The amounts paid out in recent years are negligible. (See **appendix 6**: complete record of all "tip-off" fees paid since 2005).

**Question 17: Privacy v public interest balance**

It is very rare indeed for us to encounter privacy issues as a result of our investigations, to the extent that I cannot recall cases in which where we have had to balance a public right to know with an individual right of privacy.

We do occasionally encounter issues whereby members of the public feel they are entitled to privacy when involved in public incidents, such as road crashes or crimes. There are also occasions where individuals are surprised that information they believed to be private is in fact in the public domain, such as details of bequests. We do treat reasonable requests sympathetically and if I deem such a story not to be of vital importance I will err on the side of avoiding needless upset.

That being said, the integrity and independence of any newspaper must be fiercely protected if credibility is to be maintained.

**Example 1:** As editor of the Evening News, we received a health ombudsman's report about an unidentified Edinburgh dental practice which had banned a patient for being 15 minutes late. A reporter called up a dentist contact to see if he knew which practice was responsible and the dentist blurted out that it fact he was the one in question.

It so happened that the dentist was a close friend of mine and he immediately called me to ask for the story to be withheld. I refused, on the grounds that I could not

possibly be seen to be helping friends avoid embarrassment when facing censure from a public body.

**Example 2:** The recent decision by the Sunday Herald to reveal that footballer Ryan Giggs was the individual at the heart of the super-injunction controversy in England, was taken because the injunction had not been obtained in a Scottish court and did not apply in Scotland. We did debate whether or not to identify the other celebrities in similar situations but took the view that while we were protected from contempt of court action, we could still be in breach of ECHR privacy law and decided not to proceed.

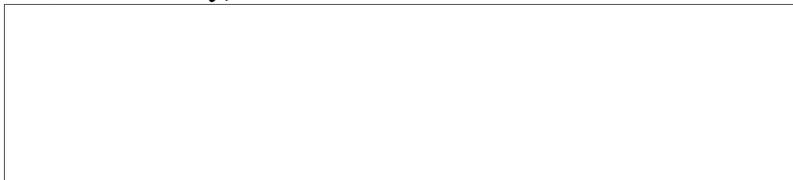
**Conclusion:**

The newspapers I have worked for have made mistakes, I have made mistakes, but when we have transgressed we have done so honestly, without malice and have always sought to bring about a resolution expediently.

To the best of my knowledge, we do not engage in the use of illegal means to obtain information, use third party investigators or pay inducements to members of the public to pass on confidential information. Through clear policies, thorough staff understanding and tight financial controls I believe we have effective systems to prevent such practices arising in the future.

The Press serving smaller communities, while not perfect, has a very good reputation for behaving responsibly and ethically and should not be tarnished by recent scandals involving newspapers with an entirely different agenda.

Yours sincerely,

A rectangular box with a thin black border, used to redact the signature of John McLellan.

**JOHN McLELLAN**  
**EDITOR-IN-CHIEF**