

NI Group Limited
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First Statement
"JMW1-2"
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**IN THE MATTER OF THE LEVESON INQUIRY INTO THE CULTURE, PRACTICES AND
ETHICS OF THE PRESS**

**WITNESS STATEMENT OF
JOHN MOORE WITHEROW**

(1) State who you are and provide a brief summary of your career history in the media.

1 I am Editor of The Sunday Times and have held that position since 1995. Before that, I was Managing Editor (News), Foreign Editor, Diplomatic Correspondent and Defence Correspondent. I joined The Sunday Times in 1983 from The Times, where I had been a Home and Foreign reporter, covering such stories as the Falklands War and Iran-Iraq war. I started in journalism as a Reuters trainee in 1977, posted to Madrid, and joined The Times in 1980.

(2) Explain how you understand the system of corporate governance to work in practice at The Sunday Times with particular emphasis on systems to ensure lawful, professional and ethical conduct.

2 As Editor, I take overall responsibility for the content and integrity of the newspaper. I, together with senior editors, ensure that the paper maintains high standards of professionalism and ethical conduct. We believe newspapers play an important part in a free society and we take our responsibility seriously to report accurately and to pursue vigorous investigative journalism. I believe this form of journalism is vital for a flourishing democracy and that newspapers play a valuable role in exposing wrongdoing and holding people in positions of power to account.

3 Journalists working on the paper understand this ethos through the terms of their contract, but more explicitly through experience and debate. This can take place informally when discussing the coverage or stories, and more formally when we hold seminars on new legislation or journalistic standards.

4 All Sunday Times journalists are bound to abide by the Press Complaints Commission (the

"PCC") Editors' Code of Practice and the News Corporation Standards of Business Conduct (the "SBC"). The PCC Code has been part of the newspaper's contract of employment since 1997 and the News Corp SBC since 2009. The contract of employment explicitly states that failure to comply with these conditions can lead to disciplinary proceedings or dismissal. Both documents are permanently available on News International's intranet, where they are kept up to date. We now include hard copies of the documents with the contract of employment and the latest edition of the News Corp SBC has recently been issued to all staff in hard copy.

- 5 The system operates on trust but with stringent control by the news desk and the Managing Editor (News) and by other department heads. The Managing Editor (News) is in overall charge of news coverage and the News Editor and Foreign Editor report to him. If there are areas that raise difficult ethical or legal questions, he will discuss it with the newspaper's lawyers and me. Some practical examples are included below.
 - 6 As part of this self-policing, we have a robust system to deal with complaints, which in itself helps maintain and raise standards. If there is a complaint, it is investigated by our Associate Editor, whom I have appointed as Ombudsman to take an independent view. His role is to interview the writer or writers and sub editors, and come to a dispassionate conclusion on whether the complaint is justified or not. His recommendation will be to publish a correction and apology in our designated slot on the letters page if it is warranted, or to defend the newspaper if he feels the complaint unjustified.
 - 7 He deals with the PCC on complaints that have been made direct to the PCC rather than to the newspaper. If a journalist has made unprofessional mistakes, he or she will be written to and receive a warning. If we discover that something we published was wrong, and there has been no complaint, we will correct it. I believe there is merit in correcting mistakes promptly. Readers understand that mistakes can occur in reporting and it gives them greater confidence in a newspaper if it owns up to them honestly and corrects them.
 - 8 Separately, we have a corporate structure that helps oversee standards. The Sunday Times and The Times are published by Times Newspapers Ltd ("TNL"), which is a subsidiary of Times Newspapers Holdings Ltd ("THNL"). This has a board with six independent national directors, who have the role of approving the appointment or dismissal of the Editors and are there to preserve editorial independence and assist in upholding the standards of the two newspapers. The two Editors attend board meetings four times a year and are expected to account for editorial coverage to the board. They also, from time to time, meet separately with the independent directors.
- (3) **What is your role in ensuring that the corporate governance documents referred to above and all the relevant policies are adhered to in practice? if you do not consider**

yourself to be responsible for this, please tell us who you consider to hold that responsibility.

- 9** I have overall responsibility for compliance with policies. In practice, day to day functions are carried out by the Managing Editor, the Ombudsman and senior editors from each section.
- (4)** **Are the documents and policies referred to above adhered to in practice, to the best of your knowledge?**
- 10** To the best of my knowledge, they are adhered to. In the rare cases where they are not, as I noted in paragraph 7 above, appropriate action is taken.
- (5)** **Have these practices changed, either recently as a result of the phone hacking media interest or prior to that point, and if so, what were the reasons for the change?**
- 11** We keep these practices under constant review, but in the light of the phone hacking scandal we have naturally checked to make sure we operate within the PCC Code and the law. As one precaution we are drawing up formal understandings with freelancers to make sure they abide by the law and the PCC Code, although most are already accredited to reputable organisations which require such behaviour. We have also introduced a more formal approach when considering subterfuge. This involves the reporter making his case in writing and this being discussed by the heads of news, the newspaper's lawyers and the Editor and Managing Editor, with a formal minute made of the decision.
- (6)** **Where does the responsibility for checking sources of information (including the method by which the information was obtained) lie: from reporter to news editor/showbiz editor/royal editor to editor; and how is this done in practice (with some representative examples to add clarity)?**
- 12** The responsibility for supervising the gathering of news falls on the senior editors in the newsroom. The Managing Editor of News, the News Editor and the Foreign Editor all ensure stories are true, accurate and well sourced. They rely on their experience and years of dealing with individual journalists to know the strength of their contacts and how they gather news. If there is any doubt, the writer will be questioned on sourcing. If the editor is not happy with the sourcing, the story will be held out until he or she is satisfied.
- 13** Reporters are expected to tell the News Editor the nature of their sources, without identifying confidential sources, so that their validity and strength can be assessed by the news desk. Reporters are encouraged wherever possible to get sources on the record so that it is clear to the reader who is making the statement or claim. The Managing Editor

(News) and News Editor test the strength of the sourcing if it is off the record in order to establish its credibility. This means the editorial management team can be confident of the source of the information and that all proper means and methods have been used in obtaining it. We always protect the confidentiality of sources both inside and outside the newspaper, and only in exceptional cases will I be told, confidentially, the source for an important or controversial story.

- 14 All reporters are expected to retain records and transcripts of interviews with sources and use them when writing their stories to ensure accuracy. Where necessary, reporters are expected to produce transcripts for the news desk. Where there is any potential issue regarding libel or privacy, reporters are also expected to provide transcripts to the newspaper's lawyers.
- 15 When conducting interviews or reporting on events, all reporters are expected to state that they are working for The Sunday Times. The only exception is when the newspaper is conducting an undercover investigation. This is only used where there is a public interest as defined by the PCC Code, and where there is no other means of obtaining the information.
- 16 As requested, here are some examples of stories that illustrate discussions over sourcing. Sometimes, because of the nature and position of the source, it does not need corroboration. At other times it does:
- 17 *Gordon Brown wants Ed Balls as chancellor, May 31, 2009:*

Our Political Editor was told by a reliable source that Gordon Brown wanted to replace Alistair Darling as Chancellor with Ed Balls, then schools secretary. She discussed the story with our Managing Editor (News), explaining who the source was and how that source had come by the information. The source – someone close to Brown – was identified confidentially to me. Inquiries were then made to corroborate the information. As a Sunday paper, we have to be careful that the information we have is not leaked to a rival by putting in too many inquiries to Whitehall, especially when we are confident of the source. Number 10 gave a non committal response, saying that it did not comment in advance on reshuffles. We published it nonetheless. The story was widely followed by other media and was an important strand in Alistair Darling's memoirs in which he revealed in detail how Brown had planned to remove him, only to be thwarted by the resignation of James Purnell.

- 18 *SAS seized by rebel Libyans, March 6, 2011:*

One of our foreign correspondents in Benghazi picked up a tip from her sources in Libya

that an SAS unit had been captured by the rebel forces after landing there. No-one, however, was willing to confirm the information. The rebels wanted to hush it up because of concerns that Gaddafi could exploit the fact that foreign forces were on the ground. The Ministry of Defence (the "MoD") would have had no interest in confirming an embarrassing debacle. We could not run the story without confirmation. So, after discussion at the Saturday morning editorial conference, a senior editor with impeccable MoD contacts checked out the story with his contacts, stood it up with a senior source at the MoD and we splashed on it.

19 *Peer in flat scam fined £125,000, October 17, 2010:*

The news desk received a tip from an outside source that a report was to be published into three peers accused of abusing their expenses. We were told they were to be suspended but, because the information had come from an outside source, we needed it corroborated by our own reporter. Our Whitehall Editor, who has good Lords contacts, was told to establish the facts. She double sourced the story and got the full details of the report, which recommended fines of nearly £200,000 and the suspension of the three from the Lords. Because of the sensitivity of the story and the fact that it originally came about because of a Sunday Times investigation we needed exceptionally strong sourcing.

20 *Revealed: how David Kelly died, August 22, 2010:*

With renewed and feverish speculation about the death of David Kelly, the weapons' inspector, the news desk tasked one of our senior reporters with the job of sifting truth from fantasy. We recognised that one key source was the home office pathologist who conducted the post mortem examination. His conclusions had never been published in full before and he had not spoken about the case for seven years. The reporter managed to persuade him not only to detail his findings but also to go on the record. The fact that he had come out on the record and stated his views so strongly rebutting any suggestion of foul play was a significant development in the story.

21 *Cash for honours, 2006:*

The news desk had been tipped off by at least two sources that a number of businessmen may have made loans to the Labour party in order to hide their financial support for the party. Their evidence was unspecific and no one was prepared to go on the record. We dispatched our chief reporter to interview one of the key people suspected of having given a loan. The reporter convinced the businessman that it was in his interests to tell the truth, on the record, which he did. A second very senior Labour source, whose name was revealed in confidence to the Managing Editor (News) and me by another reporter working on the story, confirmed that there were others who had entered into similar loan

arrangements with the Labour party.

- (7) **To what extent are and should editors be aware of the sources of information which make up the central stories featured in The Sunday Times (including the method by which the information was obtained)?**
- 22 In controversial cases I would know the general position of a source, or sources, the kind of access to information they may have, and the methods used to obtain that information. I would only in exceptional cases know their identity as journalists are encouraged to keep their sources confidential. This is to reassure contacts that in imparting information they will not be unwittingly identified, which would in the long term deter sources from coming forward. However, there may have been occasions when the pressure of news events on a busy Saturday meant I delegated the responsibility to the Head of News.
- (8) **To what extent do you consider that ethics can and should play a role in the print media? What do you consider "ethics" to mean in this context?**
- 23 I believe ethics and integrity should play a central role in our reporting. It is important that we are trusted by our readers and behave in a responsible manner when gathering information. With this in mind, we aim to be as open as possible with our readers in revealing our methods of gathering news, especially when we have used subterfuge.
- 24 The following are some of the general ethical rules we abide by: journalists should seek to keep a professional relationship with sources even if they become close; they should seek to pay their own way as much as possible; if they receive gifts from informants and sources, they should not exceed £100 in value, including meals; if a journalist receives travel or accommodation (this normally applies to travel articles) we declare it at the end of the article; no one can have any investments in companies in which he or she can influence the share price and business journalists have to declare to the Business Editor their investments; we maintain a strict impartiality with advertisers; 'Advertorials' or sponsored editorial copy has to be clearly marked so that readers know it is done in collaboration with advertisers; reporters should be politically neutral; journalists should avoid conflicts of interest and when in doubt declare any possible conflict to a senior editor or Managing Editor. All members of staff are being written to remind them of these rules.
- 25 However, investigative journalism can sometimes stretch rules when the newspaper is seeking to expose wrongdoing, criminality and unethical behaviour. In order to do that, we may, paradoxically, employ methods that on the face of it appear unethical. For example, the use of subterfuge can involve a journalist posing as someone else, lying to an informant in order to get to the truth and secretly taping them. I believe it is vital that we maintain this form of journalism, as long as it is in the public interest, because it produces some of our most significant reporting which can affect the way the country is governed.

Without it, the public would be less well informed about matters that should be in the public domain. Journalism and its practice in Britain is already tightly governed by the libel laws, the Official Secrets Act, the Human Rights Act, the Fraud Act and the Bribery Act. In many cases this legislation does not allow for a public interest defence, and I believe that over time elements of this legislation pose a corrosive danger to a free press. This is particularly acute when the press is under threat from an unregulated and often irresponsible media on the internet.

26 Journalists are frequently challenged by moral, ethical and legal dilemmas. The Daily Telegraph must clearly have been faced with a dilemma when it bought stolen data about MPs' expenses. This was allegedly illegal (several papers had turned down the information for that reason) yet because it quickly became evident that the story was overwhelmingly in the public interest, the paper escaped censure or prosecution.

27 The Sunday Times has used subterfuge in trying to get to the truth and we too have faced difficult dilemmas. Our defence would be that we use subterfuge in the public interest and that we should be transparent when telling the story. It is my judgement whether a story is in the public interest, and this decision comes from debate among the News editors and the newspaper's lawyers. I am conscious that we are bound by the law and constrained by public opinion. In making this decision, we rely on experience and the definition of public interest in the PCC Code.

28 Certainly many of the paper's most important investigations over a period of many years could be said to have used means that have raised ethical questions. In the case of The Sunday Times' exposure of the Thalidomide drug, the paper bought for £100,000 (in today's money) documents protected by legal confidentiality. With the exposure in the 1980s of financial links between the striking National Union of Mineworkers (NUM) and Colonel Gaddafi, our reporter 'blagged' confidential data from a hotel and BT. In the 'cash for questions' story, which revealed that MPs were prepared to take money for asking parliamentary questions, a reporter posed as a businessman in order to deceive the MPs. The result of our report was an investigation by the Parliamentary Privileges Committee and the suspension of two MPs. Indeed, our reporting and that of The Guardian contributed to the formation of the Nolan Committee on Standards in Public Life. When we exposed 'cash for honours', our reporter posed as a potential donor. Our subsequent investigation into loans to the Labour party being offered in exchange for peerages led to Tony Blair, then Prime Minister, being questioned by the police. I went into this in some detail in a News Review article on July 17, 2011 ("JMW1").

(9) As an editor, to what extent do you feel or have you felt any financial and/or commercial pressure from the proprietors of your newspaper or anyone else? Has any such pressure affected any of the decisions you made as editor?

- 29 As Editor I have to operate in the real world of financial constraints, thus I have to be conscious of almost all financial consequences of any action we take. I operate within an agreed editorial budget and have to be aware of the financial impact of matters such as the size of the paper, the quality of the newsprint, the number of issues we print, the number of foreign correspondents we employ and even the cost of a Christmas party. I also take an active role in the marketing of the paper and its costs. I have not come under any financial pressure from the proprietor or management to include or exclude editorial content.
- (10) **As an editor, to what extent have you had a financial incentive for The Sunday Times to print exclusive stories?**
- 30 There is no financial incentive for me to print exclusives, merely a journalistic desire. My pay is entirely unrelated to exclusives and is based on my overall performance and that of the newspaper. Most reporters believe they are in journalism to be the best in their field, and that will mean getting exclusives and beating their rivals. I believe it is vital for the well-being of a newspaper, especially a Sunday newspaper that has less 'live news' and a week to gather information, that it seeks to print as many exclusives as possible. Exclusives create an energy in a newspaper that prevents it becoming lazy and a mouthpiece for lobbyists, special interest groups and public relations firms, which are increasingly becoming more influential and well rewarded by clients who wish to manipulate the news agenda.
- (11) **To the best of your knowledge has The Sunday Times used, paid or had any connection with private investigators in order to source stories or information and/or paid or received payments in kind for such information from the police, public officials, mobile phone companies or others with access to the same? If so, please provide details of the numbers of occasions on which such investigators or other external providers of information were used and of the amounts paid to them.**
- 31 We have used private investigators and external providers of information to assist with investigations or to obtain information, such as addresses. The newspaper has never paid police, public officials, mobile phone companies or others with access to the same information, and, to the best of our knowledge, no agent operating for the paper has made or received such a payment. Private investigators and external researchers are becoming less frequently used as more data becomes publicly available on the internet and as a result we have decided not to use investigators in the future unless in really exceptional circumstances. To the best of my knowledge, investigators have not been paid to source or bring in stories.
- (12) **What was your role in instructing, paying or having any other contact with such private investigators and/or other external providers of information?**

- 32** I have had no role in dealing with investigators. The contacts are with the reporters and approved by the News management team, and this practice was overseen by the Managing Editor (News).
- (13)** If such investigators or other external providers of information were used, what policy or protocol if any, was used to facilitate the use of such investigators or other external providers of information (for example, in relation to how they were identified, how they were chosen, how they were paid, their remit, how they were told to check sources, what methods they were told to or permitted to employ in order to obtain the information and so on)?
- 33** To my knowledge, The Sunday Times has only used two individual investigators/researchers in recent years and has built up a system of trust with these two individuals. There was a clear understanding that they had to operate within the law and the PCC Code and there was an expectation that they would behave properly. They were chosen by the News team and were paid by the Managing Editor's office through the normal payments system. All reporters are instructed to consult with the news desk or the Managing Editor (News) before using any outside investigator, news agency or freelance journalist. They are expected to tell their managers the nature of the job or story. The CEO now has to authorise use of a private investigator.
- (14)** If there was such a policy or protocol, was it followed, and if not, what practice was followed in respect of all these matters?
- 34** The practice described in paragraph 33 above was followed to the best of my knowledge.
- (15)** Are there any situations in which neither the existing protocol/policy nor the practice were followed and if so, what precisely happened or failed to happen in those situations? What factors were at play in deciding to depart from the protocol or practice?
- 35** No, though I am aware that Gordon Brown has made allegations against The Sunday Times in the House of Commons. We responded to these in the paper (see "JMW2"). He has reported these allegations to the Metropolitan police, and we understand given the police an email we had sent to him asking questions about the allegations. Separately, a freelance journalist/researcher who has done occasional work for the paper was arrested on suspicion of breaching the Fraud Act. The police investigation is still continuing.
- (16)** To what extent are you aware of protocols or policies operating at The Sunday Times in relation to expenses or remuneration paid to other external sources of information (whether actually commissioned by that newspapers or not)?
- 36** The News desk will pay fees to external sources of information, including local news

agencies and freelance journalists. These payments are controlled by the Managing Editor (News) and the Managing Editor. We very rarely make cash payments and will only do so if we believe the information is of sufficient importance and can only be obtained by this method. A formal News Corporation policy has been issued in relation to bribery and corruption.

(17) What is the practice of The Sunday Times in relation to payment of expenses and/or remuneration paid to other external sources of information (whether actually commissioned by that newspapers or not)?

37 We may on occasion pay the expenses of someone we have interviewed if they have to travel any distance or need accommodation for the interview. We will in exceptional circumstances pay for an exclusive interview. This happens rarely, and whenever possible we try to make the payment to charity.

(18) In respect of editorial decisions you have made to publish stories, explain the factors you have taken into account in balancing the private interests of individuals (including the fact that information may have been obtained from paid sources in the circumstances outlined under question 11 above) against the public interest in a free press. You should provide a number of examples of these, and explain how you have interpreted and applied the foregoing public interest.

38 With all stories I weigh the public interest against an individual's rights to privacy and take into account the PCC Code which notes that there is public interest in freedom of expression itself and that editors must demonstrate reasonable belief in the public interest in publication. As a rule we are not interested in the private lives of individuals unless it has a bearing on their public role or exposes them to the charge of hypocrisy. We will actively respect an individual's privacy if we have information about their private life and feel it is not relevant to their public role.

39 In recent years we have sought to explore areas in which MPs, members of the House of Lords and officials have abused their positions. For instance, MPs who have taken cash for putting down parliamentary questions; MPs and Members of the House of Lords who have been improperly used by lobbyists; party fund raisers who have offered honours in exchange for political donations; political donors who have sought to disguise their donations by making them as 'loans'; peers who have abused the expenses system.

40 I believe the press has a valuable role in enhancing public life by acting as an unofficial watchdog on the behaviour of people in positions of authority. If we do our jobs well, the country benefits and the integrity of public life is enhanced. If the public feels the press is exposing corruption or unethical practices, they will over time come to have a greater confidence in our institutions. A toothless press will have the opposite effect.

41 As requested, here are examples of investigations in which I believe the public interest was served:

42 *The investigation in October 2010 into the sale of World Cup votes, in which England was bidding to host the World Cup finals:*

The Sunday Times Insight team had received tip-offs suggesting that senior Fifa figures were prepared to accept payments in return for their votes. Lord Triesman, the former chairman of the Football Association, had also made public general allegations about corruption. The Editor, Managing Editor (News) and the Insight team decided the best strategy for tackling the story was to go undercover, after consultation with our lawyers. It was judged that within the PCC code there was a public interest defence in exposing corruption, and that there were no other means to substantiate the persistent allegations. There are tens of millions of pounds at stake for the country that wins the World Cup, yet the Fifa voting process is opaque and secretive. The investigation revealed that this secrecy allowed for senior figures to arrange cosy financial deals. Six senior Fifa officials, both past and present, who offered to work as fixers for our undercover team, all suggested paying bribes to Fifa executive committee members. One top Fifa official guaranteed his vote to an undercover reporter after requesting £500,000 for a personal project. A second was recorded asking for £1.5m for a sports academy from a reporter seeking his vote. All six officials were subsequently fined and suspended. As holders of public office, the paper felt it was justified to target these individuals in the pursuit of cleaning up Fifa. The story, supported by transcripts, undercover film and audio, prompted international demands for Fifa to open up its voting.

43 *Baroness claimed £100,000 expenses on empty flat she said was her home, Insight, May 3, 2009:*

Amid the general furore over MPs' expenses, The Sunday Times had been told that there was a potential scandal in the way peers claimed their expenses. One source, from the Lords, noted that some peers clocked in and off in minutes without doing the full day's work that would normally be expected in order to claim expenses. A team of reporters spent a week observing the movements of peers, in which time it became apparent that Baroness Uddin was one of those spending hardly any time in the chamber. In order to claim overnight expenses, Lords are expected to have a "main home" outside London. These are not declared in any register and Baroness Uddin had never revealed the location of her main home outside London. The Insight team checked sources and in the space of week, found her "main home" in Kent. Over the period of a week, they interviewed all the neighbours, a postman and a plumber, who all confirmed that the Kent flat had been unoccupied for years. The Insight investigation led to one Lord being convicted of fraud, and three others, including Uddin, being fined and suspended from the House. Exposing

such unethical behaviour by individuals who receive substantial sums from the taxpayer was, in our view, in the public interest and has led to an overhaul of the expenses system.

44 *Revealed: Labour lords change laws for cash, January 25, 2009:*

The genesis of this story came from an earlier investigation into a £3,000 donation to Jack Straw by an international energy company that was not disclosed to the Electoral Commission or to Parliament. It emerged that one of the key figures involved in it was a Labour peer, Lord Taylor. We were told by sources that he was prepared to accept money without subsequently declaring his interest. It was decided in consultation with the Managing Editor (News), Editor and lawyers that it would be in the public interest to investigate the allegation by going undercover, on the basis that it was unethical, in breach of Parliament's rules and could not be proved by any other means. In the investigation, four peers offered to help the undercover reporters posing as lobbyists obtain an amendment in return for cash. Two peers were subsequently suspended – the first time such a punishment had been meted out in the lords since the time of Cromwell - and two told to apologise to the House.

45 *Benefit crooks net £1,500 a week on luxury flats, August 28, 2011:*

In 2009-10 The Sunday Times carried a series of reports exposing high housing benefit payments being made by councils to cover the rent of families in expensive properties. We obtained anonymised details of the highest payments in each council through Freedom of Information requests. Reporters then sought to find the properties by talking to landlords, estate agents and home owners in the council areas. Although this involved identifying families, we believed there was a public interest in giving our readers a rounded insight into the reasons for a family being put up for £1,600 a week in a £1.8m central London home at taxpayers' expense. The details were only spelled out if the families gave their consent. The investigation called into question whether the scheme was giving value for money with such excessive payments and contributed to the Coalition proposing reforms to cap the benefits.

(19) Have you or The Sunday Times (to the best of your knowledge) ever used or commissioned anyone who used "computer hacking" in order to source stories, or for any other reason?

46 To the best of my knowledge, we have never used or commissioned anyone who used computer hacking.

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

Signed



Dated

13/10/2011