

IN THE MATTER OF

THE LEVESON INQUIRY

WITNESS STATEMENT OF JULIAN CHARLES PIKE

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I, JULIAN CHARLES PIKE, of Lincoln's Inn Fields, London WC2A 3 LH, WILL SAY as follows:

A. Biographical details and history

1. I am a Partner in the firm of Farrer & Co LLP ("the Firm"). I joined the Firm as an Articled Clerk in September 1990. I qualified two years later and became a Partner in 1999. I head the Firm's contentious media law practice, advising media companies in respect of claims, both potential and actual, as well as providing pre-publication/broadcast advice. I also regularly provide reputation management advice to those who find themselves the subject of media attention.
2. Throughout my career the Firm and I personally have advised News Group Newspapers Limited ("NGN"), the publisher of *The Sun* and, until recently, the *News of the World* ("the NoW"). The Firm began acting for NGN approximately 25 years ago. NGN has at all relevant times been a subsidiary company of NI Group Limited (formerly News International Limited) ("NI") (although for a period in the past NI has been a publicly listed company). NI is also the parent company of Times Newspapers Limited ("TNL"), publisher of *The Times* and *The Sunday Times*. Generally speaking, the Firm has not advised TNL on contentious media law issues (although it has done so on a few occasions, typically when claims have had sufficient commonality to warrant the Firm acting for both NGN and TNL, although this has not arisen for some time).
3. We have also occasionally advised NI when it has been sued in relation to contentious media law claims, albeit such claims are often brought against NI because the claimant and or his advisers have identified the wrong corporate defendant. The Firm has not acted for BSkyB, save for on the rarest of occasions in the past when the Firm represented a number of media companies in respect of applications to lift or vary reporting restrictions orders. The Firm is not retained by News Corporation.

B. Non-waiver of legal professional privilege

4. This statement has been prepared in response to a Notice under Section 21(2) of the Inquiries Act 2005 which the Firm received from The Leveson Inquiry ("The Inquiry") dated 8 August 2011, setting out a series of questions. I have sought to answer those questions generally, without providing, in the main, specific detail. Having taken instructions from NI and NGN, there is no intention (presently at least) to waive legal professional privilege and this statement does not waive privilege in relation to specific advice given by the Firm to NI, NGN or TNL. If asked to provide further information to The Inquiry, the Firm will of course provide that information and assist as much as it can, subject always to decisions taken by NI, NGN and TNL on the question of waiving legal profession privilege.

C. Scope of the Firm's retainer

5. Over the past 25 years, the Firm has been retained by NGN to advise on and represent NGN in litigation arising out of matters published in its papers, in hard copy or (in recent years) online. Typically, such advice includes defending claims made against the papers in respect of defamation, privacy, breach of copyright, breach of contract and trade mark infringement. The Firm has also advised and continues to advise NGN in respect of applications for injunctions to prevent publication, contempt and reporting restrictions.
6. Generally, the Firm does not and has not provided NGN with pre-publication advice, such advice being provided by its in-house lawyers and duty night lawyers. However, notably in relation to privacy during the last few years, and as privacy claims have risen in prominence and number, the Firm has also advised pre-publication in respect of some articles where there has been an injunction application which has failed in whole or in part or where there is a genuine risk of an application for an injunction being made. Often, this has involved both counsel and ourselves advising. Very occasionally, the Firm has also provided specific advice on an area of the law (e.g. matrimonial or property) which is then relied upon in an article.

7. NGN/NI are sophisticated clients, with in-house lawyers and non-lawyer executives well versed in dealing with litigation, and the legal areas in which the Firm advises them. We do not therefore have a retainer agreement or letter in the form one might typically expect in respect of the work we have done and do for NI and NGN. This also reflects the fact that handling complaints and defending claims issued against the companies is in a sense an accepted (albeit unwanted) "fact of life" for its business.
 8. Each year NGN and NI are advised of our hourly rates and are sent the Firm's standard terms of business. In respect of new instructions to act for NGN where proceedings have been issued, we typically receive a letter of instruction from one of the in-house lawyers at NGN and we will reply with an initial letter of advice, which usually concentrates on the merits and necessary evidential steps. The client may at this stage ask for an early costs estimate or ask the Firm to limit the legal spend. However, more typically, advice as to costs of each piece of litigation is provided at the time of preparing a costs schedule in the proceedings, as well as advice being given at various other points in time during the course of the action as the claim proceeds.
 9. Given the nature of the work, we are also fairly frequently asked to advise NGN at short or no notice. This typically includes advice on injunctive matters, but can also include having to advise urgently on post-publication matters. In respect of urgent matters, the instructions are provided orally. Sometimes NGN/NI asks for advice on the Firm's likely costs of giving the advice or sets a limit, but more often it does not.
 10. As a consequence we do not have a specific retainer letter or agreement to provide the Inquiry.
- D. Advising on the legality of phone hacking, computer hacking and "blagging" (or other methods of obtaining information)]**
11. Separate from advising on an ad hoc basis as a question may arise in a particular case (see paragraph 12 below), the Firm has never been instructed to advise NGN, NI or TNL on methods employed by journalists to obtain information.

12. From memory, there have been some limited occasions when the Firm has been asked to advise on a claim or an application for an injunction and the question of how the information has been obtained has become a relevant consideration, in which case the Firm has given ad hoc advice. Without carrying out a review of each and every matter the Firm has advised upon during the last 25 years, I cannot identify with certainty each of those matters, nor how many there may have been. Equally, I should reiterate that it is the case that NI and NGN have not waived privilege in respect of specific matters upon which the Firm has advised. However, I can say it is relatively rare that the Firm has been instructed on a matter where the method employed by a journalist to obtain information is or becomes a relevant factor. One such example I can refer to is the case of *Nottinghamshire Health Trust v NGN* [2002] EMLR 33, [2002] EWHC 409, where the fact of the photograph being surreptitiously obtained by the journalist was a relevant factor the Court took into consideration when assessing whether to award exemplary damages and the precise quantum. (Please see a copy of the case report at JCP1.)

13. The Firm has represented and continues to represent NGN in respect of the civil claims brought against NGN concerning allegations of telephone or email interception levelled against the *NoW*, and in that context has advised NGN on legal issues arising from the admitted or alleged interceptions. The first of these civil cases was the claim brought by Gordon Taylor ("Mr Taylor"). As part of advising on the civil claims, we have obtained general advice from Leading Counsel on potential corporate criminal liability as a result of the conduct of individuals within NGN having regard to their respective positions.

E. Advising on and knowledge of the role of private investigators and paying public servants for information

14. To the best of my knowledge, the Firm has not advised NGN or NI on retaining private investigators in order to source information for articles, nor has it advised either company generally on the legality of paying police officers, public servants, mobile telephone companies (or their employees) or others with access to the same. I can recall one instance from about 1999 (there may have also been one or more earlier similar occasion(s)), when the Firm was instructed

to advise NGN in respect of the disclosure of documents and information relating to the prosecution of a *News of the World* journalist, Neville Thurlbeck, who the Firm did not represent, for allegedly paying a police officer for information said to have been obtained from the Police National Computer. Mr Thurlbeck was acquitted.

15. Save for that which I set out below, I do not have knowledge as a matter of fact that private investigators have been paid by NGN or NI or of either company having connections with private investigators. However, I would be surprised if they did not use private investigators to assist in the carrying out of their investigations into certain potential stories. I would expect the same to be true of other media organisations which carry out investigative journalism, particularly “undercover” investigations where surveillance and background information can play an important part in an investigation.
16. I am aware as the result of my conduct of the civil claims that Glenn Mulcaire was contracted to provide investigation services to the *NoW* from at least 2001. However, before his arrest on 8 August 2006, I did not know of him and I had not had any dealings with him.
17. I am also aware of information in the public domain in respect of the Information Commissioner’s two reports: “*What Price Privacy?*” and “*What Price Privacy Now?*”. Specifically, these relate to the use by various media companies of the services of a Stephen Whittamore in or around 2002-03. Mr Whittamore was a private investigator who was convicted of illegally obtaining private information. I am also aware of the allegations made this year, notably by the BBC’s *Panorama* programme, of the *NoW* using the services of a private investigator, Jonathan Rees. The Firm has never been asked to advise NI, NGN or the *NoW* on the engagement of Mr Rees or in relation to any other investigator.
18. On a few occasions the Firm has instructed private investigators on the instructions of NGN in respect of matters arising in individual cases in which we have represented NGN.

F. Role played by or advice given by the Firm in respect of internal investigations at NI

19. In order to make clear the Firm's involvement in relation to the allegations of voicemail interception, I can confirm that on the morning of the arrests of Clive Goodman and Mr Mulcaire, 8 August 2006, I was asked to attend urgently the offices of the *NoW* where there were a number of police officers (four from recollection) wishing to carry out the execution of a warrant to seize certain items on, in and around Mr Goodman's desk. I advised, along with others present, on the execution of the warrant. However, towards the end of the morning I learnt of information in relation to the arrest of Mr Goodman that caused me to immediately conclude that the Firm had a potential conflict of interest. I made clear that the Firm would no longer be able to advise NGN (and in effect NI) in respect of the then police investigation. The Firm and I had no further involvement in the criminal proceedings.
20. The Firm was instructed in December 2006 by NGN in relation to the claim brought by Mr Taylor (where we did not have a conflict of interest) and have continued to represent NGN in the civil claims against the *NoW* save and unless where we have had an actual or potential conflict.
21. In addition to advising in the civil claims, the Firm advised NI/NGN in relation to the appearances of certain executives before the Parliamentary Select Committee for Culture, Media and Sport in July 2009 and on the establishment, drawing up and drafting of a compensation scheme for victims of voicemail interception carried out by or at the behest of individuals at the *NoW*.
22. Neither the Firm nor I have had any part in any internal investigation (save as mentioned below) carried out at NI (or NGN) into voicemail interception, email interception, "blagging", bribery and/or corruption. We have no knowledge of such investigations as have taken place save for what is in the public domain. The one exception is in relation to the suspension and subsequent dismissal of Ian Edmondson in December 2010 and January 2011, when we gave advice on the electronic searches that should be conducted following the allegations being made against him in the Sienna Miller claim.

23. *A* The contents of this statement are true.

JULIAN CHARLES PIKE

23 September 2011
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DATED