

**Statement made on behalf of:
THE CROWN PROSECUTION SERVICE**

**Witness:
LORD MACDONALD OF RIVER GLAVEN QC, FORMER DIRECTOR OF
PUBLIC PROSECUTIONS**

Statement No: 1

Date Statement Made: 19 March 2012

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



Lord Macdonald of River Glaven QC

1. I am making this statement pursuant to a Notice, dated 15 February 2012, served on me pursuant to section 21(2) of the Inquiries Act 2005. At the outset, I wish to make it clear that I have little or no independent recollection of this case and have made this statement having had made available to me documentation from the original CPS case file, the vast majority of which I have never seen before. Prior to the preparation of this witness statement, I had no sight of the Metropolitan Police Service (MPS) decision logs relevant to this investigation. I have personally retained no documentation relevant to this case.
2. The section 21 Notice served upon me sets out 46 separate questions requiring answers from me. I will answer each question in turn, following the order of questions set out in the Notice.

Question 1: Who you are and a brief summary of your career history.

3. I was called to the Bar by the Inner Temple in 1978 and specialised for 25 years in criminal law. My practice ranged from fraud and terrorism to export control violations and corporate advisory work. I took silk in 1997 and became a Recorder of the Crown Court in 2001. I became a Deputy High Court Judge in 2010. In November 2003 I was appointed as Director of Public Prosecutions for a five-year term, ending in November 2008. As DPP, I established the Organised Crime Division, the Counter Terrorism Division, the Special Crime Division and the Fraud Prosecution Service. In July 2010 I became a Liberal Democrat Peer. I am a founding member of Matrix Chambers and continue to practice from there. I am a Visiting Professor of Law at the London School of Economics, a member of the Advisory Board of the Centre for Criminology at the University of Oxford, and Chair of Reprieve. I am Warden-elect of Wadham College, Oxford.

Question 2: Please outline the role and responsibilities of the Director of Public Prosecutions.

4. The CPS was created by the Prosecution of Offences Act 1985 and is headed by the Director of Public Prosecutions (DPP). As the principal prosecuting authority in England and Wales, it is responsible for:
 - advising the police and other law enforcement agencies on cases for possible prosecution;
 - reviewing cases submitted by the police;
 - determining any charges in all but minor cases;
 - preparing cases for court;
 - presenting cases at court.
5. The DPP is independent but operates under the superintendence of the Attorney General, who is accountable to Parliament for the prosecution service. The Director is supported by a Chief Executive, who is responsible for running the business on a day-to-day basis, allowing the Director to concentrate on prosecution, legal issues and criminal justice policy.

Question 3: Describe outline in brief the decision-making structure within the CPS.

6. The DPP is the Head of the CPS. In my time as DPP, the CPS had 42 separate areas each headed by a Chief Crown Prosecutor. In addition, there were 3 Central Casework Divisions – The Organised Crime Division (OCD), the Counter Terrorism Division (CTD) and the Special Crime Division (SCD). Each of these Central Casework Divisions was headed by a prosecutor, each of whom was a senior civil servant. All Chief Crown Prosecutors and Heads of Casework Divisions reported directly to me on matters of law.
7. The policy on the handling of sensitive cases in 2006-7 consisted of a referral process to the Special Crime Division. Areas were given 7 days to refer a case which fell within any of the categories described. The case types covered by this policy include:
 - breaches of the Official Secrets Act;
 - allegations against police officers of, or above, the rank of superintendent (except those relating to the use of motor vehicles other than where death was caused in the execution or purported execution of duty);
 - allegations against police officers of any rank (involving interference in the administration of justice; perverting the course of justice; corruption; misconduct in a public office; and offences under the Data Protection Act 1998 and Computer Misuse Act 1990);
 - cases attracting national publicity and widespread public concern where submission to the SCD is necessary to maintain public confidence in the 'impartiality of the reviewer'.
8. This policy was in place at the time of the arrest and charge of both Clive Goodman and Glenn Mulcaire.
9. The 2006/7 prosecution was handled by SCD.

Question 4: When, and at what stage of the investigation, did the MPS first refer the 2006 phone hacking investigation to the CPS? What was the purpose of this referral by the MPS to the CPS?

10. I understand that the first occasion when the Metropolitan Police Service (MPS) contacted the CPS about their investigation into phone hacking was in March 2006 when a telephone call was made to the Head of CTD. The Head of CTD informed the MPS that the case would not be handled by CTD but by SCD. Accordingly, she advised that the MPS should speak to the Head of SCD.
11. The first formal request for advice submitted by the MPS was dated 20 April 2006. I believe the purpose of this submission was to enable the CPS to advise the police on the following matters: the appropriate offences based on the conduct uncovered thus far; PII issues and whether there would be any difficulty in excluding certain victims who were unwilling to support a prosecution; the proportionality, lawfulness, accountability, necessity and legality of the methods being used by the MPS, particularly with regard to the Goodman household; and advice relating to the extent of searches and how to deal with journalistic material.

Question 5: Who within the CPS was given responsibility for decision-making and legal advice in relation to the 2006 investigation?

12. The person with responsibility for decision-making and the provision of legal advice in relation to the 2006-7 investigation was Carmen Dowd, the Head of SCD and a senior civil servant.

Question 6: Please set out a full and detailed account of your involvement in the case, including the giving of legal advice to the MPS and the charging decisions relating to Glenn Mulcaire and Clive Goodman. Without prejudice to the generality of this request please include:

- a. **When, by whom and in what circumstances you were first made aware of the 2006 investigation.**

I was first made aware of the 2006 investigation by means of a briefing to both myself and the Attorney-General, dated 30 May 2006. The briefing was prepared by the Head of SCD.

- b. What discussions or communications you had with CPS lawyers and self-employed Counsel about the investigation, and, in each case, as best you can remember, the approximate date(s) and the gist of the communication(s) you had with each such person.**

The only written communications that I can recall with CPS lawyers about this case 2006-7 are the briefing referred to in (a) above and a further briefing dated 14 July 2006. This later briefing was again sent to me and the Attorney-General. On 9 June 2006, I informed the Head of SCD that "I need to be kept closely informed please". I have no other independent recollection of any communications about this case (other than one e mail on the 9th August 2006 informing me of the interview and possible charging of Goodman & Mulcaire), although in the light of my request to her I am sure that Ms Dowd would have briefed me orally from time to time on its progress. I have no recollection of any of these oral briefings. I had no discussions with self employed counsel about this case.

- c. 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.**

I received two briefings about this matter – the first dated 30 May 2006 and the second dated 14 July 2006. I also received an e mail from the Head of SCD on 9 August 2006 informing me that Goodman & Mulcaire were being interviewed and were likely to be charged.

- d. What discussions or communications you had with any MPS personnel including, but not limited to, (i) former Deputy Assistant Commissioner Peter Clarke; (ii) former Assistant Commissioner Andy Hayman (iii) former Assistant Commissioner John Yates and (iv) former**

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

I do not believe that I ever spoke to any police officer of any rank about this case and I would not have expected to have done so.. I understand that there are no records to indicate that I did.

e. Insofar as you did not personally communicate with MPS personnel, what contact you had with persons who had done so, and, as best you can remember, the gist of communications with those persons, including approximate dates.

The only CPS lawyer with whom I had contact about this case was the Head of SCD. I do not know whether she had contact with DAC Clarke, AC Hayman, AC Yates or Commissioner Blair. The documentation that I have seen includes internal police documentation that makes it clear that DAC Clarke was kept regularly updated about the progress of the investigation. This is not surprising as the investigation was carried out by SO13, for which DAC Clarke had responsibility.

f. What you understood the parameters of the investigation to be and whether you were satisfied with the same.

I understood that the criminal investigation had started because of concerns that messages left on mobile phones owned by members of the Royal Household had been accessed without consent. The briefing dated 30 May 2006 informed me that the focus of the investigation was into the interception of messages belonging to the Royal Household. It also referred to a 'vast number' of UVM's belonging to high profile individuals being accessed without authority, and that this may be the subject of a wider investigation in due course. I do not believe at the time that I understood this to refer to offending beyond Goodman and Mulcaire, although it clearly raised the prospect of their conduct having been directed towards victims beyond the Royal family. Further, the Royal

Household had apparently expressed some concern about members of the Royal Family being called as witnesses and was keen to avoid any discussion about the contents of the messages intercepted. The MPS therefore apparently focused on two of the available victims –Jamie Lowther-Pinkerton (the Private Secretary to Princes William and Harry) and Helen Asprey (the Personal Secretary to the Royal Princes) (this was subsequently expanded to include Paddy Harveson, the Communications Secretary to HRH The Prince of Wales and HRH The Duchess of Cornwall) –and sought to obtain sufficient evidence to allow the case to be proved by calling technical evidence only. The apparent purpose of this was to limit any embarrassment to the Royal Family and to ensure the continued co-operation of the Royal Household. As my response of 9 June indicates, I wanted to be kept closely informed about the case. It is likely that this was because of its connection to members of the Royal Household.

The briefing of 14 July 2006 again concentrated solely on the offences relating to the Royal Household. I received no further information about Goodman and Mulcaire's accessing of messages of other high profile individuals. The briefing concluded that the case could be proved without calling members of the Royal Family, by concentrating on the technical evidence and by not going into the content of the messages intercepted.

g. What documents you personally read in connection with the investigation.

The only documents that I recall reading in respect of the 2006-7 case were the two briefings submitted to me.

h. What thought you gave to the relevant law.

I gave no thought to the relevant law. This was the responsibility of the reviewing lawyer and counsel. I believe I would have been aware that Ms Dowd had instructed David Perry QC, an eminent criminal silk to advise her and I would have regarded this as an appropriate and entirely reassuring development. In the circumstances I was not asked to give an opinion on the law, and in the context of this case it would have been surprising if I had been.

i. What your own view was at the time as to the relevant law.

I gave no consideration at the time to the relevant law. I was not asked to give an opinion and saw no need to do so. I would have been perfectly content to leave consideration of the law in this case to the reviewing lawyer, assisted by eminent counsel.

j. What the basis was for your understanding of the relevant law at that time.

I did not consider the law at the time.

k. Details of the legal advice, if any, you gave the MPS.

I gave no legal advice to the MPS. This was the responsibility of the reviewing lawyer, assisted by independent counsel.

l. Your input, if any, into shaping the investigation and the parameters of the investigation.

I had no input into shaping the investigation or setting the parameters of the investigation.

m. Your input, if any, into the charging decisions in relation to Clive Goodman and Glenn Mulcaire.

I had no input into the charging decisions of Clive Goodman or Glen Mulcaire.

n. What written record/s you made in 2006/2007 relating to the case.

I have no written records relating to this investigation.

Question 7: Was the CPS aware of the parameters of the investigation? What did the CPS understand those parameters to be?

Question 8: Was the CPS satisfied with the parameters, structure and direction of the MPS's investigation?

13. It is apparent from the file I have been shown that the CPS was aware of the parameters of the investigation. I believe that the CPS understood those parameters to be:

- (i) The original investigation involved the interception of messages of members of the Royal Household;
- (ii) The original suspect for this interception was Clive Goodman, the Royal Correspondent of the News of the World;
- (iii) The investigation subsequently identified Glen Mulcaire as also being involved in the interception of the messages of members of the Royal Household;
- (iv) The Royal Household were very concerned about Members of the Royal Family (particularly the Royal Princes) being called to give evidence at court. The Royal Household was particularly concerned about any disclosure of the contents of the private messages in question.
- (v) Accordingly, it was concluded that the investigation would focus on two members of the Royal Household, namely Jamie Lowther-Pinkerton and Helen Asprey (subsequently expanded to include Paddy Harveson); that there would be no need to delve into the content of the messages; and that the case would be proved on the basis of the technical evidence available. This would limit the embarrassment to the Royal Family and it would also ensure the continued co-operation of the Royal Household.

14. These original parameters appear to have seemed appropriate to the CPS. As the investigation had developed it had become apparent that the conduct of the defendants was not directed solely to members of the Royal Household and, following the charging of Goodman and Mulcaire in August 2006, a conference was held with prosecution counsel, the CPS and the MPS. This took place on 21 August 2006. I understand that during this conference, and in answer to direct questions from

counsel, police indicated to counsel and the CPS that the MPS investigation had revealed no evidence to implicate any other individuals employed by News International. But in order to mark the wider offending indicated by the MPS to the CPS, it was apparently also decided to identify 4-6 additional non-Royal individuals as sample victims, to reflect the wider criminality of, primarily, Mulcaire. These additional victims constituted counts 16-20 on the indictment to which Goodman and Mulcaire pleaded guilty. For my part, I was unaware at any time during the 2006-2007 investigations that police were in possession of any information to indicate offending on the part of any other News International employees. Although I have no recollection, I may have been informed of the laying of the additional counts and the rationale for them.

Question 9: Did the CPS shape or help to shape the investigation? If so, in what way/s?

15. It is important to recognise the respective roles of the police and the CPS. The responsibility for the investigation of criminal offences lies with the police (in this particular case, the MPS). As set out in paragraph 4 of this statement, it is the role of the CPS to advise the police on cases for possible prosecution, to review the evidence submitted by the police to the CPS and to determine any charge in all but the most minor of cases. Once a case has been charged, it is the responsibility of the CPS to prepare cases, and sometimes to present them at court.
16. It is important to note that the CPS bases any advice it gives to the police on the information provided to it by the police. The CPS has no power to investigate offences or to compel the police to investigate an offence. This is solely a matter for the police. The CPS can, however, provide advice on the progress of an investigation, and appears to have done so in this case.
17. Taking all the above into account, the CPS helped shape the investigation as soon as advice was requested by the MPS. The CPS first advised on 25 April 2006 and provided advice on the appropriate offences to be considered; the quality of the technical evidence required in order that certain victims need not be called and the contents of particular messages not to be considered; and how to develop the

investigation further by the use of certain investigative techniques. Further advice was provided in writing on 18 July, 2 August and 4 August 2006. Advice was also provided at the charging stage and, crucially, in conference by prosecution counsel at the conference of 21 August 2006, at which the MPS indicated that their investigation had revealed no evidence to implicate against any other individual employed by News International. This appears to have limited the prosecution to Goodman and Mulcaire alone, and it also informed the decision to seek further 4-6 non-Royal victims to reflect the wider criminality of Glen Mulcaire.

18. I would have expected that if the MPS had indicated that police were in possession of evidence to implicate other individuals within News International, the CPS would have advised them to continue with their investigation. As there was confirmation to the contrary, the CPS was unable to provide this advice.

Question 10: Was the CPS aware of any decision to limit the investigation to the activities of Glenn Mulcaire and Clive Goodman? If so, who made this decision and why?

19. It seems the CPS was aware that the initial MPS investigation was into the interception of voicemail messages of members of the Royal Household. The initial suspect for that was Clive Goodman. Subsequently, Glen Mulcaire was also identified as a suspect. The CPS received evidence relating to the activities of Mulcaire and Goodman and reviewed that evidence in accordance with the Code for Crown Prosecutors. Internal police documentation does confirm the desire of the MPS to maintain the focus of the investigation to the interception of the voicemail messages of the two original victims of the Royal Household, Jamie Lowther-Pinkerton and Helen Asprey (subsequently expanded to include Paddy Harveson). At the conference on 21 August 2006, however, it was expressly stated to the CPS and prosecution counsel that there was no evidence to implicate any other individual employed by News International. Accordingly, it appears that the CPS was unaware that the investigation had been limited –only that the investigation had yielded no evidence against any other individual at News International.

20. Internal police documentation that I have now seen does indicate a concern on the part of the MPS about the drain on the resources of SO13 that this investigation was causing. On 9 May 2006, internal police documentation appears to show that the MPS considered a number of options to take the investigation forward. The first option considered was to carry out no further investigation with the intention of prosecution. The second option was to hand over the investigation to another police unit. The third option was to commence a formal investigation to prosecute whoever was intercepting the voicemails of the Royal Household and to establish whether there was any further criminality. A decision was taken to follow the third option, but only on a short-term basis, for approximately 2-3 weeks. It seems that the possibility of following option 1 was expressly kept open.
21. Further internal police documentation shows that the question of resources was considered again on 21 June 2006. It was noted that the workload of SO13 had increased between December 2005 and June 2006 from 50 or so to 72 active investigations. A large number of these posed significant life threatening risks. There is also reference to a lack of spare capacity. It seems clear that the extent of the resources involved in running this investigation were beginning to cause concern.

Question 11: Was the CPS aware of any decision to limit the analysis of the evidence to certain victims? If so, who were those victims, who made this decision and why?

22. The investigation in 2006 had commenced due to concerns that the members of the Royal Household had had their voicemail messages intercepted. It appears that the main focus of the investigation was always into the interception of voicemails of the Royal Household. That was the rationale for the involvement of SO13.
23. On 6 July 2006, internal police documentation states that the main line of enquiry would continue to centre on Jamie Lowther-Pinkerton and Helen Asprey (subsequently expanded to include Paddy Harveson). It was recognised that there were potentially numerous victims of illegal interception but it was apparently considered that to identify all of these persons would be time consuming and would have a significant impact on the length of the investigation. It was apparently felt that by concentrating on certain victims, it would be possible to move to executive action

(i.e. arrest) much more quickly. The MPS did leave open the possibility of re-visiting this decision should any executive action identify other victims. I am not clear what this means.

24. This decision appears to have been confirmed by further internal police documentation dated 20 July 2006, when it was apparently decided to keep the inquiry limited to the Royal Household victims. The rationale put forward was what was required was a clear simple case that would not lead to an extended trial, numerous victims and more suspects- with defence counsel actively seeking to derail the proceedings. It seems to have been thought that a short simple trial would act as a deterrent to others.
25. It was a month later that the 21 August conference took place and counsel and the CPS were informed by police that there was no evidence to implicate any other individual employed by News International with offences of illegally intercepting messages. In consequence, the prosecution concentrated on Mulcaire and Goodman as the only available suspects, and a decision was made to identify 4-6 additional victims to reflect the wider offending, by Mulcaire.

Question 12: Did the CPS ask the MPS whether there was evidence that journalists or editors other than Clive Goodman had been involved in phone hacking / were complicit with Glenn Mulcaire? If so, what answer was given, when and by whom?

26. As stated previously, the 21 August conference with prosecuting counsel was attended by the CPS and the MPS. At that conference, and in response to direct questioning by prosecution counsel, the MPS stated that their investigation had yielded no evidence to implicate any other individuals employed by News International. This conference was attended by Detective Superintendent Williams, the SIO.

Question 13: Given the existence of a number of different corner names in Glenn Mulcaire's notebook other than Clive Goodman's why was no other reporter from the News of the World prosecuted?

27. I understand that no prosecution of any other reporter from the News of the World took place because the MPS had confirmed to prosecuting counsel and the CPS that the investigation had yielded no evidence to implicate any other individual employed by News International.

Question 14: Was the CPS aware that the police had not analysed all the evidence in their possession for evidence of further criminality. If so, what advice did the CPS give in relation to whether they should analyse all the material? If not, why did the CPS not check with the police that all available evidence had been analysed for evidence of further criminality?

28. The initial MPS investigation had been into the interception of messages of members of the Royal Household. The MPS priority had been to deal with this offending and the strategy had been to concentrate on two particular victims (Jamie Lowther-Pinkerton and Helen Asprey and subsequently expanded to include Paddy Harveson) and to seek to prove the offences by using the technical evidence. This was to ensure that there was no discussion of the contents of any of the messages and to ensure that no Members of the Royal Family would be called to give evidence. Subsequently, the CPS became aware that the investigation had uncovered a further suspect (Mulcaire) and that there were potentially many more victims than at first thought. The CPS was also aware that the police had seized further evidence on the arrest of Mulcaire and Goodman. That was why, at the conference of 21 August 2006, the MPS was asked whether any other individuals employed by News International had been implicated. When that question was categorically answered in the negative, it appears that neither the CPS nor counsel further pressed the MPS. I understand that it was the common understanding that police had analysed the available evidence before giving this confirmation.

Question 15: Did the CPS advise the police to obtain further evidence from any source? If yes, please give full details. If not, please explain why not.

29. The CPS advice of 25 April 2006 advised the MPS to seek further evidence to link Goodman to the calls made from his premises. It appeared that the premises were occupied by more than one person. General advice was given about obtaining cell site

analysis and about carrying out further surveillance. The importance of obtaining admissible technical evidence was also stressed.

30. On 14 July 2006 an email was sent from the reviewing lawyer stressing again the need to have proper technical evidence and indicating that it was impossible properly to advise until that technical evidence was available.
31. There was further CPS advice dated 18 July 2006 in very general terms. Further CPS advice was given on 2 August and 4 August 2006. Following charge, there was at least one conference with counsel.
32. When the MPS confirmed on 21 August 2006 that there was no evidence to implicate any other individual employed by News International with any criminality, a decision was made to proceed against the defendants who had already been arrested, for the offences for which they had been arrested, and to identify 4-6 other victims to seek to reflect the wider criminality of Mulcaire. The evidence to support prosecutions against those defendants was essentially complete (as evidenced by their guilty pleas) and there was no need to direct the MPS to obtain further evidence.

Question 16: What did the CPS know about the level of co-operation provided by the News of the World with the investigation? 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 International 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?

33. The only reference to the level of co-operation provided by the News of the World to the investigation in the papers that I have seen relates to an apparent schedule 1 PACE application that was due to be heard at court in August 2006. This matter was handled by the MPS (as is usual in these types of cases) and the CPS would only become involved if requested to do so by the MPS. On 15 August 2006, the Head of SCD received a telephone call from a solicitor acting for News International relating to the schedule 1 PACE application. The solicitor accepted that certain information relating to the financial relationship between News International and Goodman and Mulcaire

would have to be disclosed. News International was prepared to do that by consent. The Head of SCD confirmed that fact to the MPS and informed the solicitor for News International where any such material should be delivered.

34. The Head of SCD also provided advice to the MPS on the 2 August and 4 August 2006 about search powers (and this matter was also discussed subsequently in conference with leading counsel). Following the provision of that advice, there is nothing in the paperwork that I have seen to suggest that News International was being uncooperative. Certainly, I had no knowledge at the time that this was the case.

Question 17: What was the CPS' view of the law applicable to the offences under investigation? What consequence did the CPS' view of the law have when applied to the evidence gathered during the course of the investigation?

Question 18: What was self-employed counsel's view of the law applicable to the offences under investigation? How did it differ, if at all, from the CPS' view of the law? What consequence did self-employed counsel's view of the law have when applied to the evidence gathered during the course of the investigation?

40. The first occasion when the Metropolitan Police Service (MPS) contacted the CPS about their investigation into phone hacking was in March 2006 when a telephone call was made to the Head of CTD. The Head of CTD informed the MPS that the case would not be handled by CTD but by SCD. Accordingly, she advised that the MPS should speak to the Head of SCD.
36. I understand that the Principal Legal Advisor to the DPP, Alison Levitt QC, has spoken to the Head of CTD about this call. The Head of CTD does not recall giving any specific advice and believes that she would not have given any without knowledge of the facts. She accepts that had the MPS had asked her which offences might be appropriate to consider on the brief facts relayed to her; she would probably have given an indication. But any views that she may have expressed would necessarily have been provisional, not least because she was indicating that she would not be dealing with the matter herself and that the MPS should be seeking the advice of SCD.

37. It appears from internal MPS documents that on 4 April 2006 the SIO reviewed the case. It seems that, at that early stage, the MPS understood the CPS to have advised that potential offences, both under RIPA and under the Computer Misuse Act 1990, might be available. It also appears that the MPS were proceeding on the basis that the Computer Misuse Act offences might potentially have been the easier offences to prove.
38. I understand that the Head of CTD does not recollect giving a prescriptive view of the RIPA offences in the course of the telephone call described above, but even if she had been understood to suggest a narrow view, the significance of the reference to the Computer Misuse Act is that, from the outset, the MPS were apparently advised that alternative offences might also be available, which did not require proof that a message had been listened to before it was accessed by the intended recipient.
39. It appears that on 25 April 2006, the MPS asked the Head of SCD for advice on possible offences. On 25 April 2006, the Head of SCD gave advice by email.

"It is my view that the scenario gives rise to the consideration of (a) offences under s 1 of RIPA and (b) s1 of the Computer Misuse Act 1990"

40. There followed an analysis of each offence, making it plain that the Computer Misuse Act offences could apply whether or not the messages had already been listened to. The Head of SCD suggested that expert evidence should be obtained in relation to proving the offences under both RIPA and the Computer Misuse Act, to deal with different and separate expert issues.
41. Since the advice given by the CPS to the MPS on RIPA has apparently become an issue, it may assist if I quote in full the advice given on that question:

"....the offences under section 1 of RIPA would, as far as I can see, only relate to such messages that had not been previously accessed by the recipient. However, this area is very much untested and further consideration will need to be given to this".

42. It may be relevant that in the MPS decision log entry of the following day (26 April 2006), the SIO refers to the reviewing lawyer's email as containing "initial" advice and notes that the conduct in question gave rise to offences under RIPA *and* the Computer Misuse Act. He concluded that he would get further technical data before deciding how the investigation should progress. It seems clear that the investigation was progressing on the basis that both offences remained available for investigation.
43. This is confirmed when, on 30 June 2006, the MPS sent a file to the CPS seeking further advice. That file indicated that the investigation was indeed proceeding into offences under RIPA and the Computer Misuse Act.
44. Advice was further given by the CPS to the MPS in a letter from the Head of SCD dated 18 July 2006:

"...whilst there are many aspects of the evidence I would require to be clarified, it is my initial assessment that offences under the CMA and RIPA 2000 may be provable. However in addition I would also be looking at considering an offence of conspiracy to commit those offences on the basis of the other evidence being available....."

45. The significance of the reference to conspiracy is that, as with the Computer Misuse Act offences, a charge of conspiracy would not necessarily require proof that every interception had taken place before it had been accessed by the intended recipient.
46. On 28 July 2006, instructions were prepared by the CPS and sent to leading and junior counsel. On 2 August 2006, a conference took place between the Head of SCD and counsel. After that conference, and on the same day, an email was sent by the Head of SCD to the MPS:

"...we concluded that in essence the alleged criminal activity against the suspects does give rise to the offences I have outlined in my previous correspondence. We have briefly discussed before the possibility of arguing that what we have termed our Computer Misuse Act offences might fall to be considered as RIPA offences – that the issue had not definitively been argued. I was reticent about arguing the point in this case. However, having considered the matter with counsel we have concluded that we

could properly argue the point – and in any event nothing would be lost as we already have the 4 main clear RIPA offences...We would therefore propose sample substantive offences to reflect the period of offending plus the 4 main offences under RIPA.

We have concluded that the Computer Misuse Act offences might in actual fact detract from what is the main thrust of our case. We would therefore not propose to pursue them. Let's face it, if offered pleas to those offences, we would not accept them. We still consider the conspiracy to commit RIPA offences would be applicable.....Counsel does agree with me that the data provided does present a strong case thus far”.

47. It is apparent that the decision at that stage not to pursue the Computer Misuse Act offence any further was tactical and not based on any particular interpretation of the law.
48. Mr Goodman and Mr Mulcaire were arrested on 8 August 2006 and charged the next day.
49. I understand that leading and junior counsel have indicated that:
 - (a) they regarded the question of whether or not the unauthorised accessing of a voicemail message after the recipient collected the message is a RIPA offence was a difficult legal issue which had not been tested or authoritatively determined;
 - (b) there were tenable arguments both way, but the observations of Lord Woolf in *NTL v Ipswich Crown Court* (2002) pointed to a narrow view;
 - (c) they approached the prosecution on the basis that, if the issue of interpretation arose, it may be preferable to proceed on a narrow interpretation thereby avoiding the necessity of having a contested trial.
50. Leading counsel has confirmed that at no stage did he give a definitive view that the narrow interpretation was the only possible interpretation and that, if he had been expected or required to give such a definitive view, he would have produced a written

advice. Leading counsel has confirmed that the prosecution's pragmatic approach to the interpretation of the RIPA offence did not affect the course of the proceedings or the charges against the defendants.

51. It appears, therefore, that it was never felt necessary to resolve whether section 1(1) of RIPA required proof that the interceptions had taken place before the intended recipients had listened to the messages. This was because:

- (1) The prosecution did not in its charges or in its presentation of the facts attach any legal significance to the distinction between messages which had been listened to and messages which had not; and
- (2) The prosecution, having not made the distinction, the defence did not raise any legal arguments in respect of the issue, and pleaded guilty.

52. It seems clear, therefore, that the prosecution's approach to section 1(1) of RIPA had no bearing on the charges brought against the defendants or the legal proceedings generally. In the event, the prosecution was not required to articulate any approach to this question because the issue simply did not come up for determination in the case.

53. Finally, an analysis of the counts preferred reveals no reliance one way or another upon evidence that interceptions had taken place prior to any recipient listening to the message in question. For the avoidance of doubt, however, I was not a party to, and indeed was quite unaware of, any discussions relating to this legal or factual issue.

Question 19: There appears to have been a decision to prosecute selectively in relation to specific victims:

- a. **Is this correct? If so, who made this decision and why was this approach adopted? If not, please explain the decision making process and the rationale behind the ambit of the prosecution of Clive Goodman and Glenn Mulcaire.**

The original investigation carried out by the MPS was into the interception of messages of members of the Royal Household. That remained the focus of the

MPS investigation throughout. As the investigation continued, and after Mulcaire was identified as a suspect, it became clear that the interception of voicemail messages by Goodman and Mulcaire went further than the Royal Household. Nevertheless, internal police documentation of 6 July 2006 and 20 July 2006 indicates a determination on the part of the MPS to maintain the focus of the investigation upon offences committed against the Royal Household.

After the charging of Goodman and Mulcaire, the question of the further victims was considered again. At the conference of 21 August 2006, following MPS confirmation that there was no evidence to implicate any other individual employed by News International, 4-6 further victims were to be identified in order to reflect the wider criminality of, in particular, Mulcaire.

b. Was there a desire to avoid publicising certain victims? If so, which victims and why?

There does appear to have been a desire to avoid publicising certain victims. The investigation was originally into the Royal Household and originally two members of the Royal Household (subsequently expanded to three) who had close relations with the Royal Princes. The Royal Household was very concerned about the prospect of the Royal Princes (or indeed any other Member of the Royal Family) being called to give evidence. There was also understandable concern about the content of private messages entering the public domain. The Royal Household was, for very understandable reasons, keen to avoid any embarrassment.

Question 20: To what extent (if any), and in what way, and for what reasons, were any of the following important factors in the decision to prosecute Glenn Mulcaire and Clive Goodman in 2006/7 and to go no further at that time:

a. Lack of co-operation from News International.

From the documentation that I have seen, the CPS was apparently unaware of the lack of co-operation from News International in the 2006-7 investigation. As

far as I am aware, such a lack of cooperation played no part in the decision to prosecute Glen Mulcaire and Clive Goodman alone. The request for charging advice appears to be silent about the difficulties encountered by MPS officers with News International. I, personally, was unaware of it.

b. The CPS' view of the law.

From the material I have seen, I do not believe that the CPS' view of the law played any part in the decision to prosecute Glen Mulcaire and Clive Goodman alone in 2006/7.

c. The MPS' view of the law.

From the material I have seen, I do not believe that the MPS' view of the law played any part in the decision to prosecute Glen Mulcaire and Clive Goodman alone in 2006/7.

d. Self-employed counsel's view of the law.

I do not believe that counsel's view of the law played any part in the decision to prosecute Glen Mulcaire and Clive Goodman alone in 2006/7.

e. The depth and extent to which phone hacking at the News of the World was investigated (please explain insofar as you are able any failure fully to investigate at the time).

The initial focus of the police investigation had been into the interception of messages of members of the Royal Household. It is clear now that when the MPS indicated to counsel and the CPS on 21 August 2006 that there was no evidence to implicate any other individual employed by News International in phone hacking, this was contradicted by material in the possession of police at that time. I understand that junior prosecution counsel indicated that he had 'read or otherwise considered' the unused police material specifically to determine whether any of it was disclosable in the case against Goodman and

Mulcaire. He indicated that none of the material that he had considered was so disclosable, in that none of it was capable of undermining that prosecution or of assisting the defendants. Whether he examined Muclaires' notebooks is not clear- but in any case there appears to be no documentation to indicate that he brought their contents to the attention of the CPS, and he was apparently present at the 21 August conference when police indicated to the CPS that no other News International employee was implicated. If this material had been brought to the attention of the CPS by the police or anyone else, I would have expected the Head of SCD to provide advice about its importance. Accordingly, it is possible that the fact that this material was apparently not brought to the attention of the CPS may have influenced the CPS decision to prosecute Goodman and Mulcaire alone in 2006/7.

f. Sufficiency of evidence.

The CPS applies the Code for Crown Prosecutors. The MPS forwarded evidence in support of the charges against Goodman and Mulcaire and this was the evidence that was reviewed in accordance with the Code. The CPS made an enquiry about the extent to which the police had material implicating other employees of News International, and the MPS confirmed that there was no evidence to implicate anyone else. The CPS did not review evidence against any other individual because it was informed that no such evidence existed. To that extent, sufficiency of evidence did affect the decision to prosecute Glen Mulcaire and Clive Goodman alone in 2006/7.

g. Media lobbying (if applicable, please describe the same and identify the source of the lobbying).

I do not believe that media lobbying played any part in the decision to prosecute Glen Mulcaire and Clive Goodman alone in 2006/7. Indeed I am not aware that any media lobbying took place.

h. Political lobbying (if applicable, please describe the same and identify the source of the lobbying).

I do not believe that political lobbying played any part in the decision to prosecute Glen Mulcaire and Clive Goodman alone in 2006/7. Again, I am not aware that any political lobbying took place.

i. Police resources.

I cannot say what role, if any, police resources played in the decision to prosecute Glen Mulcaire and Clive Goodman alone in 2006/7. This question must be addressed to the MPS. Plainly, internal police documentation dated 9 May and 21 June 2006 indicates that resources were becoming a problem for the police at that time. It is certainly true that we were all under enormous pressure as a result of terrorist investigations, trials and grave threat levels during the relevant period.

j. CPS resources.

I am confident that CPS resources played no part in the decision to prosecute Glen Mulcaire and Clive Goodman alone in 2006/7. The CPS prosecutes numerous large, complex cases and resources to prosecute these cases are always available. If the MPS had answered the question at the conference of 21 August differently, CPS resources would have been available to prosecute further offenders as appropriate.

k. Any other material factor (please identify any such factors).

I am not aware of any other material factor other than those already stated.

Question 21: With the benefit of hindsight, were the correct charging decisions made?

54. In terms of what was known by the CPS in 2006/7, it appears that the right charging decisions were made at that time. The evidence forwarded by the MPS provided sufficient evidence to satisfy the Full Code Test in relation to Goodman and Mulcaire, who both pleaded guilty to the indictment that they faced. I am not aware that material forwarded to the CPS by the MPS implicated any other individuals in similar or

related criminal wrongdoing. With the benefit of our present knowledge, it is plain that investigations into other suspects may have led to further charges against additional individuals.

Question 22: With the benefit of hindsight, what is your view now of the lack of further investigation in 2006/2007?

55. It is now arguable that the police had in their possession in 2006/7 material which could have justified investigation of individuals other than Goodman and Mulcaire. It is obviously regrettable such an investigation was never mounted, apparently for reasons explained by Peter Clark. At the same time, I worked on many grave terrorist cases with Mr Clark and I always regarded him as an officer of the highest calibre and integrity. That remains my view. I also have great sympathy with the predicament in which he found himself, given the appalling threats to national security and public safety that we faced in 2006/2007. He had extremely difficult judgments to make about operational priorities.

Question 23: The Inquiry notes the allegations made in *The Guardian* on 4 April 2010 in an article by Nick Davies entitled "*Police ignored News of the World phone hacking evidence*" which, amongst other things, alleges:

- a. That there was a police briefing paper, referred to by the CPS in a file note dated 30 May 2006, informing you and the then Attorney General that "*a vast number of unique voicemail numbers belonging to high-profile individuals (politicians, celebrities) have been identified as being accessed without authority. These may be the subject of wider investigation.*"

- i. Is it true that there was such a document?

I was sent a Briefing Paper by the Head of SCD on 30 May 2006.

- ii. What action, if any, did you take in response to this information?

Having read the Briefing Paper, I replied on the 9 June 2006 to the Head of SCD, indicating that I wished to be kept closely informed about the case. I left the progress of the criminal prosecution to the Head of SCD in the normal way and was doubtless kept informed by her periodically about its progress.

iii. Why was there no wider investigation at the time?

The original police investigation was into the interception of messages of the Royal Household. Internal police documentation of 9 May, 21 June, 6 July and 20 July indicate that that strategy remained the primary focus of the MPS investigation. The Briefing Paper sent to me on 30 May indicated a vast number of potential victims of Goodman and Mulcaire and indicated the possibility of a wider investigation in due course. I believe it was for this reason that counsel and the CPS asked the MPS on 21 August 2006 whether there was evidence that other News International employees were implicated. I would expect that the CPS assumed that the MPS had carried out a proper investigation before stating that there was no such evidence. Once the CPS received that assurance from the MPS, it appears that the natural course was to proceed to trial on the evidence that the CPS had against Goodman and Mulcaire.

b. Police persuaded prosecutors to: *“ringfence the case to minimise the risk of extraneous matters being included”*.

i. Is it true that the police did so seek to persuade the CPS and were they successful?

This is an assertion made by a journalist. For avoidance of doubt, any advice given as to ring fencing by the CPS and counsel was intended to refer to the intention that Members of the Royal Family should not give evidence. At the time the Briefing was written, the focus of the investigation was on the Royal Household. The Royal Household was concerned that members of the Royal Family would be called to give evidence and that the content of the messages that had been intercepted would be the subject of evidence. It was the wish of the Royal Household to avoid any embarrassment. Accordingly, a decision was

made to concentrate efforts on a limited number of victims and to seek to prove the case by means of the technical evidence. The CPS was content with this approach but appreciated that the allegations of wider criminality needed to be investigated and considered at some stage. I assume that is why, following the charging of Goodman and Mulcaire, and at the conference of 21 August 2006, the question about other individuals employed by News International was posed. Once that query had been answered in the negative, it appears that the proper course was to proceed on the case as charged.

ii. If so, what are the extraneous matters referred to and why was there a desire to avoid their inclusion?

I understand the extraneous matters referred to concern the content of the messages intercepted and the possible calling of senior Members of the Royal Family as witnesses.

c. The CPS agreed with police that: *“the case should be “deliberately limited” to “less sensitive” witnesses”.*

i. Is it true that the CPS so agreed?

The CPS never agreed that the case should be deliberately limited to less sensitive witnesses, save as already stated Members of the Royal Family. It is unclear whether this question refers to the Briefing of the 30 May 2006. There is no reference to this matter or that raised in (d) below in that Briefing. As already stated the original MPS investigation was focused on the Royal Household. The Royal Household was very concerned about Members of the Royal Family being called to give evidence. It was also concerned about there being any discussion about the content of the messages intercepted. Due to these sensitivities and to ensure the continued co-operation of the Royal Household, it was decided to concentrate on the particular victims previously identified, and to seek to prove the case by means of the technical evidence, without the need to call any victims. The CPS was initially content with this strategy but did enquire whether any other individuals employed by News International had been

implicated. I understand that it was when this question was answered in the negative that the CPS proceeded against Goodman and Mulcaire alone.

ii. If so, who in the CPS made this decision?

This decision was made by the Head of SCD.

iii. Who were the sensitive witnesses to be avoided?

Members of the Royal Family – particularly the Royal Princes.

iv. Why were the sensitive witnesses to be avoided?

The reasons for this are obvious. In particular, the Royal Household did not want any discussion about the content of the private messages, again for obvious reasons.

d. Police agreed (with prosecutors) that they would approach and warn all potential victims but that this was not done at the time.

i. Was there any such agreement or decision to approach and warn all potential victims?

I do have some recollection of such an agreement, although I cannot remember how I came to know of it. I am not aware of the steps that the MPS took following the arrest and charge of Goodman and Mulcaire.

ii. If so, please give full particulars.

See above

iii. If not, was there any consideration given to notifying victims / potential victims and what was the upshot of any such consideration.

This would not be a matter for the CPS.

iv. How, and by reference to what criteria, were potential victims identified?

I have no information about this. I have been able to find no evidence on the papers that I have seen to answer this question and I have no other recollection.

Question 24: When, how and from whom did you first learn that the Metropolitan Police Service 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)?

56. I believe I first learned about this from Nick Davies' articles in the Guardian in 2009. I recall that, following publication, Mr Davies came to see me in Matrix Chambers. He was interested in any information I could give him about the 2006/7 inquiry. Because of my very limited involvement, I was unable to assist him to any significant degree.

Question 25: Were you in post when the charging decisions were made following Operation Motorman in 2003? If so, please set out, as best you can remember:

- a. what involvement, if any, you had in those decisions;**
- b. the rationale behind the scope of the prosecution; and**
- c. the reasons why no journalists were prosecuted.**

57. Operation Motorman was not a CPS prosecution. It was an investigation launched by the Information Commissioner's Office (ICO). I have been informed that there was a CPS prosecution of Steve Whittamore, the main defendant in Operation Motorman. I do not have any recollection of this operation and do not recall receiving any briefings about it. I understand that the CPS has not uncovered any such briefings and I would not expect there to have been any.

Question 26: Describe the culture of relations between the CPS and the media during your tenure as the DPP.

Question 27: Describe the working relationship which you had with the media during your tenure as the DPP. The Inquiry would like an overall picture of the type, frequency, duration and content of your contact with the media.

Question 28: Do you consider that your working relationship with the media was a successful one? Please explain your answer.

Question 29: Did 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 did you/the CPS generally keep of information shared on an "off-the-record" basis?

58. When I became DPP, relations between the CPS and the media were generally poor. Although the CPS had become significantly more open under my predecessor, Sir David Calvert-Smith, there had been a long legacy of mutual distrust. I believe the CPS was seen by the media (and by the public) as opaque, remote and unaccountable. In my view, this state of affairs was extremely damaging to the Service and to public confidence in criminal justice generally. Traditionally, prosecutors had declined to talk about their work and, until comparatively recently, they had even declined to explain their decisions, including to complainants. Public confidence in the work of the CPS was extremely low and I felt this was, in part, due to a conscious and deliberate failure on the part of prosecutors to communicate with the public.
59. I therefore continued a programme of public engagement that had commenced under my predecessor. This included meetings with community groups, a scheme under which prosecutors explained their decisions to victims of crime in writing, and public consultations around, and the subsequent publication of, a series of prosecution policy documents in key areas such as domestic violence, racist crime, sex crimes and so on.
60. It was in these circumstances, and with the support of the Attorney General, that I also initiated a policy of closer engagement between the CPS and the media. This took a

number of forms. At a basic level, I encouraged Chief Crown Prosecutors to engage with local media. I felt they should give interviews and that it was part of their job to explain the work of the CPS to local communities. I felt that they should become public figures locally, just as Chief Constables were. I made it plain, as I appointed new Chief Crown Prosecutors, that this was an intrinsic part of their role.

61. Similarly, I instituted a system under which it became commonplace for prosecutors to give interviews to the media on the steps of the court following a court case. I felt that the visibility that this provided was important to public confidence.
62. In particularly important cases, we also began to announce charging decisions in press conferences, sometimes carried live on television. An example was the press conference given by Peter Clark and the Head of CTD at New Scotland Yard in connection with the terrorist airline plot in August 2006. Again, I felt this visibility was likely to contribute to public understanding and confidence in our work.
63. During my period of office I also instituted a system of embargoed briefings for the media ahead of significant criminal trials, which would often include off-the-record material. These were very well attended by representatives of the press and broadcasters and there was no occasion on which the terms of the briefings were breached. These briefings were designed to assist the media by placing in context the allegations and by explaining the background to the proceedings.
64. As a part of this process of engagement, I also negotiated a Media Protocol, to which the CPS, the Attorney General's Office, ACPO and media organisations signed up. I attach this document as Annex 1. This Protocol was specifically designed to result in the release of more prosecution material to the media. Essentially, the presumption was that, subject to any countervailing interests of defendants, victims and witnesses, if material had been disclosed in court we would proceed to release it to the media. Thus it became commonplace for so-called martyrdom videos, filmed police suspect interviews and the like to be shown on television news broadcasts during trials of particular public interest. Again, I strongly believed that this process contributed to public confidence in the work of the prosecuting authorities and therefore in the criminal justice system more widely.

65. I also met with media representatives. Again, this was pursuant to a deliberate policy of openness. On a number of occasions I would ask to see an editor or a senior journalist because an apparently unfair report had appeared in a newspaper. I tended to favour a policy of rebuttal in these circumstances. On others, I would meet an editor or a journalist for lunch, or much less commonly dinner, to discuss various matters of interest. These could include the performance of the CPS or the government on criminal justice issues, policy developments and, sometimes, simple gossip. On other occasions, with a specialist legal journalist, I might discuss an individual case. Except in the case of formal interviews, these discussions would remain off the record.
66. I believe that the media policy I followed was the right one. There is no doubt that it impacted positively upon the way that the CPS was portrayed in the media and, in those circumstances, probably contributed to public confidence. This was not because the media were somehow lulled into reporting us more favourably. It was because we were able to speak to journalists about the positives: a very high conviction rate generally, strong success in the fields of terrorism and serious crime, increasing public engagement and so on. More importantly, our openness with the media emphasised the accountability of the CPS as a public service: not in the sense that prosecution decision-making should be crudely influenced by public feeling, but in the sense that prosecutors have a duty to explain themselves. One of the best ways for us to do this was through the channel of the media.
67. In essence, I agree with the evidence given to the Inquiry by Nick Davies. It is not contact with journalists that is the problem, it is whether you allow that contact to corrupt your decision-making. I do not believe that happened within the CPS and I very much hope that this Inquiry will not result in the lessening of appropriate communication between public organisations and the press. I believe that such communication, properly handled, is strongly in the public interest.
68. There is a further point I wish to make and it concerns whistleblowers. I disagree that there is necessarily an unshakeable duty upon whistleblowers to exhaust their internal 'remedies' before going on to leak. In too many organisations this would be a recipe

for suppression. The route from whistle blower direct to journalist can serve a very strong public interest. Investigative journalism, in particular, depends strongly upon the confidence that an informant has that he may pass on information to a journalist without necessarily revealing his identity publicly, subject of course to any liability he may incur in law. Again, I believe it would be a matter of great regret if the Inquiry were to result in strong discouragement or further legal impediment to this process.

69. Broadly, I think my relationship with the press was reasonably successful. Of course the CPS is bound, in the nature of its work, to attract criticism- and sometimes I attracted it personally. But I think that over the five years, the portrayal of the CPS became more positive and that there was less unfairness in the coverage. There was more public understanding of our work and some evidence of an increase in public confidence in the CPS as an institution.
70. See above. Almost all of my conversations with journalists were off the record. I can think of only one occasion when these terms were breached and I never spoke to the journalist in question again. I did not keep records of these conversations and I would not have expected the journalists to do so either. Off the record means that the conversation cannot be reported, attributed or used in any published form.

Question 30: Please also describe the personal contact which you had with the media during your tenure as the DPP. The Inquiry would like an overall picture of the type, frequency, duration and content of your personal contact with members of the media.

71. Please see above and *Annex b*. Most commonly I would have lunch with journalists. Most often, this would be at one of two or three inexpensive restaurants close to my office- the Ambassador or Medcalf in Exmouth Market,, or Refettorio, close to Ludgate Hill. Sometimes, a journalist would invite me elsewhere. The conversations would be as set out above. I very rarely had dinner with journalists.

Question 31: Without prejudice to the generality of question (30) 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:

- a. **Rebekah Brooks.**
- b. **Rupert Murdoch.**
- c. **James Murdoch.**
- d. **Other News International editors or journalists.**

72. See above and *Annex b*. The conversations were as set out above and the venues as set out in the Annexe.

73. I did not meet either Rupert Murdoch or James Murdoch during my tenure as DPP. Please see *Annex b* for details of the News International employees I did meet during my term of office.

Question 32: Describe in general terms and using illustrative examples what you were seeking to gain for the CPS through your personal contact with the media.

74. See above. I wanted the public to receive a more balanced view of our work. I wanted the CPS to demonstrate its commitment to an appropriate accountability by showing a willingness to explain itself. I wanted to end its invisibility. As one example, I responded to a particularly unfair and demonstrably inaccurate front page story in the Evening Standard, relating to the extradition of one of the 21 July 2005 bombers from Italy in 2005, by seeking a meeting with the deputy editor and the chief leader writer. We discussed the case and established a good relationship. It was clear they had got it wrong and they became interested in our reform programme. A long line of knocking stories in the Standard came to an end.

Question 33: Describe in general terms and using illustrative examples what you consider the media were seeking from you in your personal dealings with them.

75. Obviously journalists wish to be well informed. The gathering of information and of authoritative views off the record seems to me to be an intrinsic part of responsible journalism. Sometimes they would want to check facts with me; sometimes they would want my private view on a government crime initiative or, indeed, a quote for publication. My impression was that our conversations could influence the way they

wrote about things, probably to their advantage if it meant they reported events and policies more accurately and with more apparent authority.

Question 34: To what extent did you accept hospitality from the media?

76. See Annex b

Question 35: Insofar as you accepted hospitality from the media, what was the nature of the hospitality that you accepted? What records did you keep of the same?

77. When we met for lunch, more often than not (though not invariably) the journalist would pay the bill on his/her expenses. If I paid, I would do so out of my own pocket. If, rarely, I met a journalist for drinks, we would tend to share the bill. I occasionally attended a newspaper office for lunch. The CPS kept a hospitality register and a gifts register.

Question 36: To what extent did you provide hospitality for the media on behalf of the CPS?

78. The CPS held an annual media reception for representatives of the media, which I hosted. Occasionally, when I met a journalist I would pay for lunch or drinks out of my own pocket.

Question 37: Insofar as you provided hospitality to the media, what was the nature of the hospitality that you provided? What records did you keep of the same?

79. Please see *Annex b*. As was the norm, on most occasions when I lunched with a journalist, the journalist paid. As I understand it, all of these occasions were entered in my diary and therefore on the hospitality register. I think it would be contemplated that the journalist would pay on these occasions and this is what usually, but not invariably, occurred.

Question 38: In relation to any hospitality that you accepted 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:

- a. The hospitality which you accepted;
- b. The person who provided the hospitality;
- c. When the hospitality was offered and how;
- d. Your reason for accepting the hospitality;
- e. How you accepted the hospitality;
- f. When you first formally declared the hospitality.

80. See annex 1 and above. All hospitality was recorded in the hospitality register.

Question 39: To your knowledge, did the CPS lawyer responsible for the 2006/2007 phone hacking case accept such hospitality? If so, please give details to the best of your recollection.

81. I think it extremely unlikely that the Head of SCD accepted any hospitality from any News International employee. I understand there are no records to suggest that she did.

Question 40: Do you consider that the level of hospitality accepted by the CPS during your tenure as the DPP was appropriate? 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.

82. I think the level of hospitality accepted by the CPS was appropriate during my tenure as DPP. I accepted no gifts and only modest refreshments during conversations about our work and other matters. This seems to me to have been an appropriate level of hospitality and I have no reason to suspect that it was exceeded by any other CPS employee.

Question 41: Did you ever accept gifts from the media? If so, please give full details (including who gave you the gift, when, what the gift was, and why you believe they gave you the gift).

83. I never accepted any gifts from the media.

Question 42: What records, if any, were kept of meetings (whether formal or informal) between CPS personnel and the media?

84. My private office diary recorded all events and occasions which I attended. In addition the press office kept its own records of media events attended by the DPP or other CPS figures.

Question 43: Were records of hospitality and other contact with the media audited and/or policed and, if so, how and by whom?

85. The records were kept in a central register by my private office. This register was supervised by my Principal Private Secretary.

Question 44: To what extent were leaks from the CPS to the media and/or private detectives a problem for the CPS during your tenure as the DPP? Were there any investigations into suspected leaks? If so, how many investigations were there and what was the outcome of those investigations?

86. Leaks to the media were not a significant 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. None of these disclosures involved private detectives, as far as we know. There were 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 45: Whilst you were the DPP did you ever discuss the media or media coverage with politicians? If so, how important was such communication and why?

87. It is likely that I discussed media coverage of the CPS with the Attorney General from time to time. Other than that, I recall no conversations with politicians on this topic.

Question 46: Whilst you were the DPP, did you ever know, or sense, that a politician 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).

88. I never had pressure placed on me by a politician to take a particular course of action as a result of media pressure.

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 following documents relating to the 2006/2007 phone hacking investigation/prosecution:

- i. Documents recording requests for advice from the MPS.**
- ii. Documents recording advice given to the MPS by the CPS.**
- iii. Documents recording the parameters of the investigation/prosecution, and any decisions relating to the same.**
- iv. Minutes of meetings between the MPS and the CPS.**
- v. Documents recording any briefings you received.**
- vi. Any other documents relating to or recording the rationale behind the scope of the investigation.**
- vii. Any other documents relating to or recording the rationale behind the scope of the prosecution.**
- viii. The file note referred to in question (22)a. above.**
- ix. Correspondence between the MPS/CPS and the News of the World relating to the investigation and their cooperation with the same.**

- (b) Any hospitality registers or similar documents relating to you and the lawyer responsible for the 2006/2007 phone hacking case, during the period of your office as the DPP.**
- (c) Records of any contact/communications between the CPS (including you) and the media, which related to the 2006/2007 phone hacking investigation/prosecution.**
- (d) Records of any personal contact you had with members of the media during the time that the CPS was seized of the 2006/2007 phone hacking investigation/prosecution.**