

IN THE MATTER OF THE LEVESON INQUIRY

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WITNESS STATEMENT OF  
MARK THOMPSON  
DIRECTOR-GENERAL OF THE BBC

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1. I make this witness statement in reply to the Notice of request issued under section 21(2) of the Inquiries Act 2005 ("the Notice") on behalf of Lord Justice Leveson, by letter of 24 August 2011 from the Solicitor to Lord Justice Leveson's inquiry into the culture, practices and ethics of the Press ("the Inquiry").
2. I understand that Lord Justice Leveson has also served a Notice under section 21(2) on other individuals in the British Broadcasting Corporation ("the BBC"), namely Lord Patten (as Chairman of the BBC Trust), Nicholas Eldred (as General Counsel to the BBC), and the journalists Mr Robert Peston, Mr Nicholas Robinson and Mr Richard Watson.

**(Q1) Who you are and a brief summary of the work of the BBC**

3. I am Mark Thompson and I am the Director General of the BBC. I took up my appointment as Director General on 22 June 2004.
4. The BBC is a national public service broadcaster. It is established by a Royal Charter and Framework Agreement. The Charter was last renewed in July 2006 and came into force on 1 January 2007.
5. The Charter provides that the BBC exists to serve the public interest and that its main object is the promotion of its public purposes<sup>1</sup>. The public purposes of the BBC are as follows:
  - sustaining citizenship and civil society;
  - promoting education and learning;
  - stimulating creativity and cultural excellence;

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<sup>1</sup> Charter, Article 3.

- representing the UK, its nations, regions and communities;
- bringing the UK to the world and the world to the UK;
- in promoting its other purposes, helping to deliver to the public the benefit of emerging communications, technologies and services, and, in addition, taking a leading role in the switchover to digital television<sup>2</sup>.

The BBC achieves its public purposes through the provision of output which consists of information, education and entertainment, supplied by television, radio and online services and similar or related services<sup>3</sup>.

6. The BBC's UK public services comprise television and radio services as well as BBC Online. In addition, the BBC provides the World Service, involving the broadcast of programmes primarily for users outside the UK.

**(Q2) How the system of corporate governance is supposed to work at the BBC, with particular emphasis on systems to ensure lawful, professional and ethical conduct, and by reference to relevant documents.**

**(Q3) How you understand the system of corporate governance to work in practice at the BBC with particular emphasis on systems to ensure lawful, professional and ethical conduct?**

**(Q4) What your role is in ensuring that the Corporate Governance documents referred to above and all relevant policies are adhered to in practice. If you do not consider yourself to have been/be responsible for this, please tell us who you consider to hold that responsibility.**

7. The BBC Trust ("the Trust") is the governing body of the BBC, responsible for setting the overall strategic direction of the BBC and for exercising a general oversight of the Executive Board of the BBC ("the Executive")<sup>4</sup>. Thus operational decisions about delivering BBC services are made exclusively by the Executive. As such, I am designated by the Charter to be Editor in Chief

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<sup>2</sup> Charter, Article 4

<sup>3</sup> Charter, Article 5

<sup>4</sup> Charter, Article 7

and “accountable for the BBC’s editorial and creative output”<sup>5</sup>. Further detail as to the role of the Trust is set out in the witness statement of Lord Patten as Chairman of the BBC Trust.

8. The Trust regulates the whole of the BBC’s output. However, also under the terms of the Charter and Framework Agreement and the Communications Act 2003, some aspects of the content broadcast on the BBC’s UK public broadcasting services are regulated not only by the Trust but also by the Office of Communications (“Ofcom”). In respect of such content, both organisations have overlapping regulatory jurisdiction.
9. The Trust and the Executive must act separately<sup>6</sup>, and the Trust must maintain its independence from the Executive.<sup>7</sup> Two further stipulations are key to understanding this relationship: first, the Trust is the sovereign body of the BBC, meaning that the Executive must act in accordance with its decisions in areas where the Trust has functions, e.g. where the Trust sets policies or has a function of approval, supervision, review or enforcement; and second, the Trust must not exercise (or seek to exercise) the functions of the Executive.
10. The Executive is therefore responsible for the direction of the BBC’s editorial and creative output, and for ensuring that all relevant legal and regulatory requirements are complied with.<sup>8</sup> The Trust has a supervisory role – generally limited to broadcast content after it has been transmitted – and holds the Executive to account for compliance, including through its function as an appellate body,<sup>9</sup> in its regular reviews of impartiality, and in the regular reports on editorial issues that it receives from the Executive.

### **Corporate Structure**

11. I attach a copy of an organisation chart for the BBC<sup>10</sup>. As Director General I have the overall responsibility together with the Executive Board of the BBC

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<sup>5</sup> Charter, Article 40(3)

<sup>6</sup> Charter, Article 8

<sup>7</sup> Charter, Article 9(1)

<sup>8</sup> Article 38(1)

<sup>9</sup> Charter, Article 24(2)(g); BBC Framework Agreement, clauses 89 and 90

<sup>10</sup> Organisation Chart for BBC

for ensuring that the BBC adheres to its corporate governance regime. The Executive Board has the responsibility for delivering the BBC's services in accordance with the priorities set by the BBC Trust and for all aspects of operational management. This includes compliance with legal and regulatory requirements and the requirements placed on the Executive Board by the BBC Trust. Members of the Executive Board include myself, the BBC's non-executive directors and the directors of News Group, Audio and Music, Vision, Future Media, the Group Finance Director and the Chief Operating Officer.

12. Individual Boards in the output areas also report into the Executive Board and have responsibility for complying with their legal, regulatory and editorial responsibilities. Editorial responsibility lies with the editorial chain of management from programme or content producer, through to the relevant divisional director and ultimately to me as Editor in Chief.
13. In addition, the Editorial Standards Board reports directly into the Executive Board. The Editorial Standards Board is the key senior editorial forum discussing editorial standards issues facing the BBC overall and implementing appropriate responses to those issues. It is a forum for sharing and debating the most important editorial policy issues coming out of output areas. It has responsibility for monitoring and reviewing the BBC's editorial compliance systems and to act on the key themes and issues arising out of the BBC complaints procedures via the work of the Complaints Management Board. It has responsibility for liaising closely with the Trust's Editorial Standards Committee.

#### **Ofcom Code and BBC Editorial Guidelines**

14. The BBC must comply with parts of Ofcom's statutory Broadcasting Code including Ofcom's code on fairness and privacy<sup>11</sup>. These provisions ensure that broadcasters avoid unjust or unfair treatment of individuals or organisations in programmes and that they avoid any unwarranted

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<sup>11</sup> <http://stakeholders.ofcom.org.uk/binaries/broadcast/831190/broadcastingcode2011.pdf>

infringement of privacy in programmes as broadcast or in connection with obtaining material for programmes.

15. The Charter also imposes on the Trust a specific obligation to approve guidelines ("Guidelines") designed to secure appropriate standards in the content of BBC services.<sup>12</sup> The Trust commissions these Guidelines from the Executive.
16. The Guidelines apply to all of the BBC's content<sup>13</sup>. As well as representing the editorial values and standards of the BBC, the Guidelines reflect the relevant provisions of the Ofcom Broadcasting Code. They set out the standards expected of everyone making or presenting BBC output. They are available to the public and used as a basis for the consideration of complaints about the BBC output. Any proposal to step outside the Guidelines must be editorially justified, discussed and agreed in advance with a senior editorial figure or commissioning editor and referred to the Director, Editorial Policy and Standards.
17. These Guidelines include extensive guidance in relation to:
  - Accuracy (section 3)
  - Fairness, Contributors and Consent (section 6);
  - Privacy (section 7)
  - Reporting Crime and Antisocial behaviour (section 8)
  - The law (section 18)
18. The Guidelines identify overarching principles setting standards that all BBC output must meet as well as practices based on the experience of generations of programme-makers. These provide a framework for the considered editorial judgements needed when making output. Some of the practices are obligatory to ensure the BBC meets its legal and regulatory requirements. Others are advisory rather than obligatory. Anyone intending not to follow an advisory practice is required to seek advice in advance from

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<sup>12</sup> Charter, Article 24(2)(d); BBC Framework Agreement, Clause 43(1). N 2009-2010, the Trust reviewed the 2005 Editorial Guidelines and approved new Editorial Guidelines in July 2010, and these come into force in October 2011

<sup>13</sup> [www.bbc.co.uk/editorialguidelines](http://www.bbc.co.uk/editorialguidelines)

the Editorial Policy team who provide advice on how to work within the Guidelines at each stage of the production process and on all types of content. In addition, the Guidelines set out circumstances giving rise to mandatory referrals to senior editorial figures such as Director of Editorial Policy and Standards or to legal advice. Advice is available 24 hours a day. In addition to the referral specified in each section, Editorial Policy is available to be consulted on queries on how to interpret or apply the Guidelines. Additionally the Guidelines are supplemented by Editorial Policy Guidance containing further explanation of the terms and policies in the Editorial Guidelines and offering practical advice on their application, for example in relation to investigations<sup>14</sup> and secret recording<sup>15</sup>. The Guidelines are relatively detailed and I summarise some of them below.

19. In relation to accuracy, the Guidelines require the BBC to check and verify information and to say if we have not been able to verify information sufficiently and attribute the information. They say that the BBC should be reluctant to rely on a single source and that a named on the record source is always preferable. Material from third parties is to be treated with appropriate caution taking account of the reputation of the source providing it. In the case of confidential sources, the relevant editor has the right to be told their identity. Any proposal to rely on a single unnamed source making a serious allegation must be referred to the Director of Editorial Policy and Programme Legal Advice. In deciding to go ahead, consideration must be given to whether the story is of significant public interest, the credibility of the source and whether s/he is in a position to have knowledge of the events featured and legal issues.
  
20. In relation to fairness, the principle that the BBC adopts is that it should be open, honest, straightforward and fair in its dealing with contributors and audiences unless there is a clear public interest in doing otherwise or because of other good reasons such as safety or confidentiality. This means that individuals should normally be appropriately informed about the planned nature and context of their contributions unless there is an editorial

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<sup>14</sup> <http://www.bbc.co.uk/guidelines/editorialguidelines/page/guidance-investigations-summary>

<sup>15</sup> <http://www.bbc.co.uk/guidelines/editorialguidelines/page/guidance-secret-recording-summary>

justification for proceeding without their consent. There may be occasions when people are discussed, referred to or appear in material without their knowledge or consent. The Guidelines require that the BBC should be fair and accurate in our portrayal of these people and, where appropriate, respect their legitimate expectations of privacy.

21. In relation to privacy, the principle that the BBC adopts is that it respects privacy and does not infringe it without good reason. An infringement is considered in two stages, requiring justifications for both the gathering and the broadcasting of the material, where there is a legitimate expectation of privacy. The Guidelines go on to explain that private behaviour, information, correspondence and conversations should not be brought into the public domain unless there is a public interest that outweighs the expectation of privacy.

“Public interest” include, but is not limited to:

- exposing or detecting crime;
- exposing significantly antisocial behaviour;
- exposing corruption or injustice;
- disclosing significant incompetence or negligence;
- protecting people’s health and safety;
- preventing people from being misled by some statement or action of an individual or organisation;
- disclosing information that assists people to better comprehend or make decisions on matters of public importance.

22. The Guidelines also make it plain that proportionality is a relevant factor; the greater the intrusion the greater the public interest required to justify it. The Guidelines in relation to privacy also cover the circumstances in which it may be acceptable to record material secretly. They provide (amongst other things) that secret recording must be justified by a clear public interest, can be used as an investigative tool only where there is clear, existing prima facie evidence of inappropriate behaviour and that it is a method of last resort. There are also express provisions relating to secret recordings made by outside sources. All such third party recordings must be referred to Editorial Policy. The Guidelines provide that if it would not have been considered

justifiable by the BBC to have gathered the material it should not normally be broadcast.

23. The BBC also addresses in the Guidelines the reporting of crime and antisocial behaviour. In the Guidelines, it is made plain that investigations into crime or antisocial behaviour involving deception and/or intrusion must be editorially justified and proportionate to the wrongdoing they seek to expose.
24. Finally, there is a chapter in the Guidelines on the law. The Guidelines recognise that there may be occasions where providing accurate, impartial and fair coverage in the public interest involves possible conflict with the law. Such decisions are not taken lightly. If there is any proposal to act in a way which conflicts with the law, the Guidelines provide that this must be referred to a senior editorial figure, who may consult Programme Legal Advice and/or Director, Editorial Policy and Standards. Further, any proposal to proceed with a programme despite legal advice must be referred to the most senior editorial level in the relevant division and the Director, Editorial Policy and Standards.

#### **Compliance with the Guidelines**

25. As I have mentioned above, the Guidelines set out the standards expected of everyone making or presenting BBC output. Compliance with the Guidelines will also secure compliance with the Ofcom Broadcasting Code.
26. Knowledge of and compliance with the Guidelines is secured in a number of ways. First, anyone who makes BBC content is contractually required to familiarise themselves with the Guidelines and to work within them. The commitment is renewed periodically. This contractual requirement also applies to independent production companies who make BBC content, though most content relating to investigative programmes is produced in-house by BBC staff. Programme makers for independent productions are also required to undertake relevant training (see paragraph 45 below).
27. Secondly, the BBC is required by the Framework Agreement to make arrangements for the training of BBC staff engaged in connection with providing any of the UK public services or making programmes for them. It is



expressly provided that the training and retraining provided under the arrangements must make an effective contribution to the promotion of the BBC's public purposes. I take these to include the obligations to comply with the Guidelines. The BBC does this through the BBC Academy. This is the BBC's centre for training where there are colleges of Journalism, Production, Leadership and Centre of Technology. Training is also shared across the wider UK broadcasting industry for free, including through online modules. In addition the Director, Editorial Policy and Standards chairs the monthly Editorial Policy session for programme makers across the BBC and sends out newsletters.

28. The Editorial Guidelines contain not only principles but also points where mandatory referral is required. Such referrals are to senior editorial figures, the Director, Editorial Policy and Standards and the Editorial Policy team and sometimes also to the Programme Legal Advice team. Anyone intending not to follow one of the advisory practices is also required to seek advice in advance from the Director, Editorial Policy and Standards.
29. Within the output areas, heads of Editorial Standards and/or compliance managers are available in each output division to assist programme makers. The referral process is aimed at ensuring that difficult issues are raised at a senior level within the BBC and that information about how to address them can be disseminated across the organization.

#### **Complaints about BBC output**

30. A person who is dissatisfied with any content contained in any of the BBC's UK Public Services<sup>16</sup> may complain either to the BBC or to Ofcom (except in relation to impartiality or accuracy).<sup>17</sup> In fairness and privacy complaints, the BBC Executive will ask the complainant to choose whether the BBC or Ofcom should consider the complaint first. At Trust level, the Trust Unit and Ofcom liaise and normally the Trust's Editorial Standards Committee will not consider

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<sup>16</sup> Any commercial service which is provided by a BBC subsidiary and licensed by Ofcom is required to observe all of the standards set by Ofcom under section 319 of the Act

<sup>17</sup> Except in relation to accuracy and impartiality and commercial references in programmes, other than product placement.

a fairness and privacy or standards matter which overlaps with a fairness and privacy complaint in progress with Ofcom until Ofcom has completed its processes.

31. The Charter and the BBC Framework Agreement<sup>18</sup> require the Trust to act as final arbiter in appropriate appeals, and to set and publish one or more frameworks within which the BBC and its commercial arm<sup>19</sup> will handle complaints. The framework must ensure that all appeals that raise a matter of substance are subject to a right of appeal to the Trust, and the Trust is the final arbiter as to whether an appeal is for the Trust to determine or not. The framework must also comply with certain principles,<sup>20</sup> in particular that there should be a clear division of responsibilities between the Trust and the Executive, and that the Trust should not have a role in handling or determining individual complaints in the first instance (unless they concern any act or omission of the Trust itself).
32. In practice, the Trust has established in a Trust Protocol<sup>21</sup> an overarching Complaints Framework, beneath which sit specific procedures for particular types of complaint, including editorial complaints. Further details about the Trust's role in dealing with complaints are set out in the Chairman's statement.
33. As well as identifying compliance issues through training and referral, the complaints process also serves to identify such issues within the editorial process. As previously mentioned, both the BBC Trust and Ofcom have ultimate responsibility for acting as final arbiter in appropriate editorial appeals. The Trust sets a framework within which the BBC will handle complaints. This framework ensures that all appeals that raise a matter of substance are subject to a right of appeal to the Trust and the Trust is the final arbiter as to whether an appeal is for the Trust to determine or not. The Trust delegates this responsibility to the Editorial Standards Committee.

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<sup>18</sup> Charter, Article 24(2)(G); BBC Framework Agreement, clause 89.

<sup>19</sup> Principally, BBC Worldwide and its subsidiaries

<sup>20</sup> Those set out in clause 90.

<sup>21</sup> Made under Article 25 of the Charter. See Protocol E3, at

[http://www.bbc.co.uk/bbctrust/about/how\\_we\\_govern/protocols\\_policy/compliance\\_oversight.shtml](http://www.bbc.co.uk/bbctrust/about/how_we_govern/protocols_policy/compliance_oversight.shtml)

34. On the part of the BBC, the complaints function is handled through the Complaints Management Board which reports directly into the BBC Direction Group. This comprises members of the Executive Board as well as the Directors of the Nations, the Director of Editorial Policy and Standards and other key members of the BBC. The Complaints Management Board has a primary responsibility for complaints handling on programming and output, responsibility for ensuring that lessons learned from complaints are fed into the editorial and management processes and remedial action is taken. It also has a responsibility for responding to Ofcom's developments and initiatives.

**(Q5) Whether the documents and policies referred to above are adhered to in practice, to the best of your knowledge;**

**(Q6) Whether these practices have changed, either recently as a result of the phone hacking media interest or prior to that point, and if so what the reasons for the change were.**

35. The Trust requires the BBC Executive to review the Guidelines not less than once every five years. The Trust will review and, when it is satisfied, approve draft Guidelines presented by the Executive Board. The Guidelines were accordingly reviewed and re-issued in 2010, in accordance with this requirement, replacing the previous 2005 Editorial Guidelines<sup>22</sup>. The 2005 Guidelines already included broadly similar obligations in relation to fairness, contributors and consent, privacy, crime and antisocial behaviour and the law. When the editorial guidelines are updated, they take into account not only legal and editorial developments but also the editorial challenges the BBC has faced in the previous years.

36. I consider the systems set up above provide proper systems to ensure effective compliance across the BBC and that the policies are generally adhered to in practice.

37. However, this is not to say that there are not occasions when the BBC content output falls short of the standards set by the BBC. Where this occurs,

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<sup>22</sup> [http://downloads.bbc.co.uk/guidelines/editorialguidelines/Legacy\\_Guidelines/2005-editorial-guidelines-full.pdf](http://downloads.bbc.co.uk/guidelines/editorialguidelines/Legacy_Guidelines/2005-editorial-guidelines-full.pdf)

the BBC takes steps to investigate and to address these shortcomings. For example, the Guidelines were amended in 2004 following the Neil Report, the BBC's response to the findings of the Hutton Inquiry. New paragraphs broadened the requirement to consider the public interest in any story we broadcast, and put greater emphasis on validating information from sources. Another example where the BBC changed its editorial practices was following a current affairs investigation in 2002/3 into a counterfeiting criminal gang which the judge acknowledged was critical in securing convictions. The programme had a clear public interest but highlighted a number of ethical issues in relation to how undercover investigations should be conducted. In particular, during the trial there was an allegation that a licence plate number from one of the defendant's cars had been checked by a police officer at the request of a BBC journalist. The officer concerned admitted making the check but denied passing the information on to the BBC.

38. Following the case, the BBC reviewed the editorial decision-making that had taken place. This review and the experience gained during the making of a number of other investigatory programmes informed the revisions made to the BBC's 2005 Editorial Guidelines. New provisions were added including:
- Any proposal to undertake an investigation into crime or serious anti-social behaviour must be referred to a senior editorial figure or, for independents, to the commissioning editor.
  - In the course of a BBC investigation the use of secret recording must be kept under constant review. Specific approval must be obtained for each proposed case of secret recording. No blanket approval can be obtained for it. Editorial Policy will only give retrospective permission for the use of secretly recorded material that was not approved in accordance with these guidelines in the most exceptional circumstances.
  - Editorial Policy must approve any proposal to employ someone known to have a criminal record or background of illegal activity to work on a BBC investigation. This includes editorial members of the production team and undercover operatives. Editorial Policy must also approve a job application by an undercover operative working on a BBC investigation.

39. More recently the 2010 Guidelines have incorporated the lessons learned from the serious editorial breaches that occurred in programmes using interactivity and payments from calls to programmes, "Queengate" (the BBC promotional video which wrongly suggested the Queen stormed out of a photo session with Annie Leibovitz) and the Jonathan Ross / Russell Brand editorial breaches in 2008. In 2010 the Guidelines on investigations were also updated and guidance issued as part of the five yearly review.
- (Q7) Where the responsibility for checking sources of information (including the method by which the information was obtained) lies: from reporter to news editor/showbiz editor/royal editor to editor, and how this is done in practice (with some representative examples to add clarity).**
- (Q8) To what extent Board members are aware, and should be aware, of the sources of the information which make up the central stories featured each day (including the method by which the information was obtained).**
40. The Guidelines expressly provide that journalists should try to witness events and gather information first hand. Where this is not possible they should talk to first hand sources and corroborate the information— and they should be reluctant to rely on a single source. They also expressly provide that material supplied by third parties should be treated with appropriate caution, taking into account the reputation of the source. In the case of investigative programming, the method of gathering material is often scrutinised by the editor as it may well form part of the narrative of the programme in a way which is less common in print media.
41. Primary responsibility in relation to the provenance of programme material rests with the editorial chain of management: so from the programme or content producer; through to Divisional Director and to me as the BBC's Director General and Editor-in-Chief. This is set out in the Guidelines which has a chapter called Using the Guidelines which explains how they work and the respective editorial roles and responsibilities. Individual content producers are expected to make the necessary judgments but to refer to more senior editorial figures, Editorial Policy or Programme Legal Advice for

advice. There are also mandatory referrals provided for in the Guidelines. Referrals will therefore be passed up the editorial chain, with the most serious or difficult legal and ethical issues being considered at the most senior level of the BBC. I would therefore expect relevant divisional directors to be across output to the extent that it raises serious ethical or legal issues, with the most serious being referred to me.

**(Q9) The extent to which you considered that ethics can and should play a role in the broadcast media, and what you consider “ethics” to mean in this context.**

42. I consider that ethics are at the heart of the BBC's core purposes and editorial values, as you would expect from a publicly funded broadcaster. As I have said previously, the Editorial Guidelines play an important role within the BBC but, as the Editorial Guidelines themselves recognise, no set of rules or guidelines replace the need for producers, editors and managers to work from a clear set of editorial and ethical values when confronting difficult editorial challenges. The values are at the heart of what the BBC does and are set out at Section 1 of the Editorial Guidelines. Relevant extracts provide:

“1.2.1 Trust

Trust is the foundation of the BBC: we are independent, impartial and honest. We are committed to achieving the highest standards of due accuracy and impartiality and strive to avoid knowingly and materially misleading our audiences

1.2.2. Truth and Accuracy

We seek to establish the truth of what has happened....our output ...will be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language....

1.2.6 Serving the Public Interest

We seek to report stories of significance to our audiences. We will be rigorous in establishing the truth of the story and well informed when explaining it. Our specialist expertise will bring authority and analysis to the complex world in which we live. We will ask searching questions of those who hold public office and others who are accountable, and provide a comprehensive forum for public debate.

1.2.7 Fairness

Our output will be based on fairness, openness, honesty and straight dealing. Contributors and audiences will be treated with respect.

#### 1.2.8 Privacy

We will respect privacy and will not infringe it without good reason, wherever in the world we are operating. Private behaviour, information, correspondence and conversation will not be brought into the public domain unless there is a public interest that outweighs the expectation of privacy.”

The Guidelines set out how the BBC achieves these values in practice.

43. The importance of the values is emphasised to BBC programme makers from the outset not only through the Guidelines but through a comprehensive training programme run by the BBC's College of Journalism. The College was formed in 2005 (established after the Hutton report and the subsequent Neil report commissioned by the BBC) to teach all BBC journalists in the UK and round the world and to provide a forum for lively debate and exchange of views between experienced practitioners on matters of editorial decision-making. Much of the debate is topical, focusing on those issues that are current at the time. The College also offers information and instruction on every aspect of journalism including ethics, values and the law. This is delivered through a wide variety of face to face sessions, one-to-one coaching, a programme of events and online. The thinking was that it would help journalists understand the reality of the values on which the BBC's journalism was to be solidly based.
44. On joining the BBC, a new journalist is required to attend a week long course aimed, amongst other things, at ensuring BBC journalists are familiar with the values and can put them into practice when they make editorial judgements. In addition, the journalists will undertake mandatory online training and reading. Similarly, newly appointed editorial managers attend sessions including on the BBC values.
45. These values were further reinforced in 2007 through a programme of seminars and online modules entitled Safeguarding Trust which required all production personnel to undertake training to reinforce the importance and nature of the BBC values. The BBC also requires programme makers commissioned by the BBC to produce journalistic or relevant factual content for the BBC to undertake Safeguarding Trust training.

**(Q10) The extent to which you, as Director General, feel or have felt any financial and/or commercial pressure from others and if so from whom, and whether any such pressure affected any of the decisions you made as Director General (such evidence to be limited to matters covered by the Terms of Reference).**

46. I can confirm that I have never felt any financial or commercial pressure from others.

**(Q11) Whether to the best of your knowledge, the BBC 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 (NB. You are not required to identify individuals, either within the BBC or otherwise);**

**(Q12) If such investigators or other external providers of information were used, what policy/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);**

**(Q13) It there was such a policy/protocol, whether it was followed, and if not, what practice was followed in respect of all these matters**

**(Q14) Whether there are any situations in which neither the existing protocol/policy nor the practice were followed and what precisely happened/failed to happen in those situations. What factors were in play in deciding to depart from the protocol or practice?**



47. There is no separate stand-alone protocol dealing with private investigators – however the BBC's guidelines and guidance on investigations (since 2005: see paragraph 38 above) are applicable and require there to be a proper public interest in the output being made for these activities to be justifiable.
48. Following the disclosure in July of the extent of the practices at News of the World, the Audit Committee of the BBC asked for a review of purchase orders, expenses claims and other financial information to identify payments that may have been made to police, private investigators, public officials or mobile phone companies and any other individuals or organisations that may have been implicated or have an association with the recent journalism scandal. The review looked at the records of those areas of the BBC associated with investigative journalism. Where data was available, the testing covered a period from 1st January 2005. The following records were subject to review:
- Purchase Orders for suppliers, artists and contributors;
  - Expenses;
  - Freelancers engaged by the BBC;
  - Corporate cars;
  - Journals and other ledgers in SAP (the BBC's financial system);
  - Other relevant financial records as held centrally by the finance centre in Cardiff.

6.8 million lines of financial data were obtained from these records against which 1,560 search terms<sup>23</sup> were applied. The hits were reviewed for false positives and once those were eliminated, the remaining hits were referred to Editorial Policy and Legal for investigation.

49. The review was not commissioned because there were grounds to believe that such practices were being undertaken at the BBC but in order to provide assurance that they were not. For that reason and also to consider whether there were any lessons that could be learnt from the controversies that had affected others, I also asked that a review be undertaken by the Director of

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<sup>23</sup> The search terms consisted of names of private investigators, names associated with the News of the World incidents, names from recent publications by the Information Commissioner's Office regarding the trade in personal information, terms which may denote public officials such as MP, other keywords such as blagging, tapping.

Editorial Policy and the BBC's General Counsel (the terms of which were subsequently revised to encompass some of the points raised by the Inquiry):

- I. to report on how the system of corporate governance works at the BBC with particular emphasis on systems to ensure lawful, professional and ethical conduct and how the system works in practice.
- II. to conduct a review of areas of the BBC engaged in investigative journalism and
  - to consider whether any incidence of phone hacking, computer hacking, blagging, bribery of police officers or other public officials or payments to phone companies in the period from January 2005 can be identified and if so under what circumstances such conduct took place;
  - to recommend changes to the BBC Editorial Guidelines based on the outcome of the review;
  - to advise of any changes, if needed, to the BBC's current training modules based on the outcome of the review.

Output divisions of the BBC which generate journalism in the areas of news, current affairs, consumer affairs and investigations for the BBC were consulted. The investigative areas consulted span across the Divisions of News (including Current Affairs and the English Regions), Audio & Music, Vision (including the Consumer Programmes Unit), North (including Five Live), Northern Ireland, Scotland and Wales.

The information set out below is based on the results of those extensive reviews.

#### Phone Hacking, Computer Hacking and Blagging

50. Though I appreciate that the above questions do not ask me to disclose instances of phone hacking, computer hacking or blagging at the BBC, I wish to confirm as follows:

51. Based on the reviews and to the best of my knowledge, the BBC has not engaged in phone hacking nor has it commissioned anyone to do so.
52. Based on the reviews and to the best of my knowledge, the BBC has not engaged in computer hacking nor has it commissioned anyone to do so, save for where a programme has been about the subject of computer hacking (for example the programme Click's botnet experiment in 2009 where no damage was inflicted). Additionally, computer hackers may have been used as contributors or sources of information about how hacking is used by others and to help test the security of computer systems. I consider this type of journalism to be in the public interest.
53. The BBC believes that there are exceptional circumstances in which the public interest involved in a given journalistic investigation can justify the use of so-called 'blagging' – in other words, pretending to be someone you are not in order to obtain personal or confidential information. The reviews have not discovered, nor am I aware of, any instances in which the BBC has engaged in blagging without a clear public interest justification.
54. I should also mention that there were two references in Operation Motorman to the BBC. One appears to relate to the BBC, not as a commissioner of information from the relevant private investigator, but as the subject of a request for information by a journalist working for another media organisation. The other appears to be an occasion in 2001 where a BBC journalist making a current affairs programme asked an investigator to check whether a target of the investigation was on an inward flight to Heathrow. I consider this request to have had a strong public interest justification.

#### Payments to Police and Public Officials

55. Based on the reviews and to the best of my knowledge, the BBC has not made any improper payments to police officers.
56. In some circumstances, contributors are paid by the BBC for their appearances. If a police officer or public official makes an appearance he or she may be paid for their contribution. By way of example, Crimewatch on occasion pays small contributor or disturbance fees to former detectives and

security experts as compensation for their time given for interviews (usually on Crimewatch specials). These are not payments to perform any kind of research or investigation. The Guidelines set out the circumstances in which MPs can be paid – namely that they should normally only be paid a limited and realistic disturbance fee and/or any reimbursement for expenses.

#### Payments to Mobile Phone Companies

57. Based on the reviews and to the best of my knowledge, the BBC has not made any improper payments to mobile phone companies.

#### Payments to Private Investigators

58. The BBC does, at times, use private investigation firms or companies. The most common reason for the use of investigators is because they provide a surveillance or security service as part of their business - so for example when the BBC plans to confront the subjects of investigations they are there to ensure the safety of the journalists or to check the safety or to help carry out a "recce" of a location where filming is to take place. Private investigators may also on occasion be asked to make enquiries to ascertain information needed by the programme team. This is often to obtain the whereabouts or identity of individuals, for example to send them a right of reply letter or to find out whether an individual suspected of abuse when in public service remained in public service. On one occasion, there was also a need to check whether an individual had been recalled into custody or whether he was at large. Private investigators are also sometimes (though infrequently) asked to take on an undercover role in relation to BBC investigations. This happened in the counterfeiting programme referred to above. In addition there is a category of freelance journalists who may be contracted for specific investigations - see by way of example paragraph 11.3 of Richard Watson's statement.
59. The reviews show that private investigators have occasionally been used in the context of investigative journalism to seek to identify the target of an investigation or personal details about them – for instance, on one occasion to discover the details of the owner of a vehicle from a number plate (no personal information was broadcast). In each of the small number of

instances which the review identified, there was a significant public interest justification for the programme in question and in the information the journalist was seeking to establish.

60. The reviews found that in the six and a half year period from 1 January 2005 to 31 July 2011 private investigators were used on 232 occasions and found recorded payments of about £310,000. That is an average of around 35 occasions per year of use of private investigators across the whole of the BBC. Of the 232 occasions, News (including the Nations and Regions) used private investigators on 43 occasions totalling approximately £174,500. These exclude the occasions where the private investigation company was providing a security service. The remaining 189 occasions totalling approximately £133,000 represent the use of private investigators by Vision (mainly consumer programmes) including security services. The way Vision's records are maintained does not allow the use for the provision of security services to be split out. The majority of these instances do in fact relate to security services because of the needs of programmes such as Watchdog and Rogue Traders. To put this estimated spend on private investigators in the context of the total spend on output by News and Vision in the six and a half year period, for News it represents 0.011% and for Vision 0.002%.

**(Q15) The extent to which you are aware of protocols or policies operating at the BBC in relation to expenses or remuneration paid to other external sources of information (whether actually commissioned by the BBC or not). There is no need for you to cover 'official' sources, such as the Press Association;**

**(Q16) The practice of the BBC in relation to payment of expenses and/or remuneration paid to other external sources of information (whether actually commissioned by the BBC or not). There is no need to cover 'official' sources such as the Press Association;**

61. The BBC have general guidelines in relation to the payment of business hospitality, entertainment and gifts which provide that the cost of hospitality should be met by the most senior person in attendance and their expense claims authorised by someone who did not attend the event. Where external business contacts are entertained the expenses policy provides that the level

of expenditure should not exceed £50.00 per head inclusive of VAT and service and that claims above this level will require authorisation from the Director General or the Chief Financial Officer. In relation to gifts, BBC promotional merchandise items are ordinarily the only gifts that should be made by the BBC to contacts in the course of business. Occasionally, facility fees, for example on location, may be payable through expenses: £200.00 is the maximum fee that would usually be considered to be appropriate. Such payments might for example be for the use of private property for filming

62. Payments can of course be made outside of the expenses system, as part of programme budgets. Any remuneration agreed as part of a contractual payment is required to be processed through the normal finance procedures at the BBC<sup>24</sup>

**(Q17) In respect of editorial decisions the editor has made to broadcast stories, what system of oversight, if any, there is and examples of how that has worked in practice;**

63. Please see paragraph 41 above. I also refer you to the answers given to Questions 2 and 6 in the witness statements of Robert Peston, Nicholas Robinson and Richard Watson.

**(Q18) Whether the BBC (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;**

64. Please see my answer in paragraph 52 above.

**(Q19) Whether the BBC has conducted any inquiry into phone hacking or computer hacking or "blagging" or bribery or corruption and, if so, your role in the inquiry and the outcome;**

65. See reference to two reviews referred to at paragraphs 48 to 49 above.

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[http://explore.gateway.bbc.co.uk/expensespolicy/the\\_expenses\\_policy/hospitality\\_entertainment.aspx](http://explore.gateway.bbc.co.uk/expensespolicy/the_expenses_policy/hospitality_entertainment.aspx)

**(Q20) If you cannot answer these questions, or take the view that they could be more fully answered by someone else, you must nonetheless provide answers to the extent that you can, and to the extent that you cannot you must provide the Inquiry as soon as possible with names of those who would be able to assist us further.**

I confirm that the contents of this statement are true

Signed

Date

Mark Thompson