

<p>1 2 (2.00 pm) 3 MR JAY: Mr Mosley, I believe I was about to take you to 4 paragraph 53 of your witness statement, please. You 5 suggest there that Mr Dacre and Ms Brooks agreed to 6 launch a campaign against Mr Justice Eady. 7 A. Yes, that's correct. 8 Q. Was that a joint campaign or a several campaign? 9 A. As my understanding is that it was several in effect, 10 but joint in agreement. My understanding is that they 11 got together, but then decided that Mr Justice Eady was 12 to be attacked. 13 Q. I am asked to put to you this, and it probably is no 14 surprise, that Associated's position is that whatever 15 stance Mr Dacre took, and he was quite entitled to take 16 it, it certainly wasn't in any collusion with Ms Brooks, 17 he did it entirely off his own bat. Do you have any 18 comment? 19 A. I would not find that surprising, but I must say in 20 general about these people, and by that I mean 21 Rebekah Brooks as well as Mr Dacre, that certainly in 22 Rebekah Brooks' case she could deny for England because 23 they denied the "for Neville" email, they denied that 24 they'd ever had more than one journalist involved in 25 hacking, they denied it again until it became absolutely</p> <p style="text-align: center;">Page 1</p>	<p>1 down his views shorn of moral balance." 2 Another example though of comment, rightly or 3 wrongly, on a decision, isn't it? 4 A. One could say that. I would say this is calculated to 5 intimidate a judge. If I put myself in the position of 6 Mr Justice Eady, somebody who is a distinguished judge 7 and jurist, who is not used to being attacked in the 8 public domain, like for example I have been to do with 9 motor racing, I would find that offensive, I would find 10 it worrying. 11 If you think those sort of articles are going to 12 appear, it must influence you to some degree. You must 13 realise just the way that the so-called celebrities 14 realise that they're going to be attacked. It's highly 15 unpleasant. And I cannot believe this is done for any 16 purpose other than to intimidate. 17 LORD JUSTICE LEVESON: Let me assure you, Mr Mosley, that 18 although we don't hit the headlines quite so frequently, 19 we're well used to being criticised and to saying 20 nothing about it. And that may require biting one's 21 tongue occasionally, but we recognise that goes with the 22 territory and it doesn't alter anything we do. 23 A. I'm sure it has no effect, sir, no. 24 MR JAY: I must deal with the issue of impact, Mr Mosley. 25 A. Of?</p> <p style="text-align: center;">Page 3</p>
<p>1 obvious and Mr Edmondson then was fired. They kept 2 denying it. Then in April of I think this year, they 3 admitted that it could have happened between (inaudible) 4 and us. I could go on and on and on. 5 Q. Fair enough, we get the picture. You are providing us 6 the commentary. 7 LORD JUSTICE LEVESON: I get the picture of your view, or 8 you're entitled to your view as other people are 9 entitled to their view, but the question is: does the 10 basis of your understanding have an evidential 11 foundation? 12 A. It does. I was told this by a senior -- former senior 13 employee of News International. It would be wrong for 14 me to announce his name, because obviously this was 15 confidential, but I'd be very happy to write it down for 16 you, sir, if that would be helpful. 17 LORD JUSTICE LEVESON: All right. So you've got it from 18 a source and you can't go beyond it? 19 A. Correct. But I'm very confident that I was told the 20 truth. 21 LORD JUSTICE LEVESON: Fair enough. 22 MR JAY: Before I deal with a very serious issue, Mr Mosley, 23 paragraph 54, you refer to another piece in the 24 Daily Mail, which has a bit of a shivering title: 25 "As cold as a frozen haddock, Mr Justice Eady hands</p> <p style="text-align: center;">Page 2</p>	<p>1 Q. Impact. 2 A. Yes. 3 Q. And this is the serious issue I was touching on. 4 Paragraph 57. I appreciate a personal matter, but could 5 you tell us in your own words about that, please? 6 A. Yes. My son was a drug addict, and he was one of these 7 people, extremely intelligent, had a mathematics PhD, 8 he'd co-authored a paper on economics with Lord Desai, 9 he'd written open source software with Linux and got 10 prizes, intelligent. But like a lot of intelligent 11 people, he suffered from depression and his way of 12 dealing with this, the only effective way he found, 13 despite endless doctors, was drugs. 14 He was getting to the age where he knew that if he 15 didn't get off -- he made several attempts to get off -- 16 if he didn't get off his drugs, probably this would end 17 badly. He was struggling with it. He had overcome his 18 problem and the News of the World story had the most 19 devastating effect on him. He really couldn't bear it. 20 It was just so awful. And one can imagine that. I mean 21 it's bad for me, but for my sons to see pictures of your 22 father in that sort of situation all over the 23 newspapers, all over the web, all your friends seeing 24 it, also for my wife, and he really couldn't bear it. 25 He went back on the drugs and he didn't -- it would be</p> <p style="text-align: center;">Page 4</p>

<p>1 wrong to say he committed suicide. He didn't. That was                  2 fairly clear from all the circumstances. But like many                  3 people on hard drugs, it's extremely dangerous and you                  4 make a small mistake and you die, and that's what                  5 happened.                  6 Q. That was in May of 2009?                  7 A. It was.                  8 Q. You deal with some of the other effects of that in                  9 paragraph 58. You went to your late son's house to sort                  10 out his personal effects. There was one journalist on                  11 the doorstep and then frankly a whole mob arrived within                  12 a short space of time?                  13 A. This is correct. What was to me -- I don't want to                  14 overdo it, but what to me was so horrifying was there                  15 was no sense of this matters, these are human beings,                  16 these people actually mind, that is a terrible situation                  17 for somebody to be in. It's oh, maybe we can write                  18 a story, so let's be there, and they had these                  19 photographers there, and I called my solicitor, he                  20 arrived on the scene and gave them all a letter, and                  21 they left, because I think they knew very -- they all                  22 called their -- obviously they're all on their mobile                  23 phones, I suspect to headquarters, and I think they were                  24 probably told that we'd have a rerun of I think it was                  25 called Hanover versus Germany in the court, we would</p> <p style="text-align: center;">Page 5</p>	<p>1 A. Yes.                  2 Q. This is something any civil lawyer will understand                  3 immediately, but the public at large would be forgiven                  4 for not understanding why, if you win a case, you're, as                  5 it were, not left out of pocket, but you are left out of                  6 pocket because you get your £60,000 damages awarded by                  7 Mr Justice Eady, your legal costs are your obligation to                  8 pay your lawyers whatever they reasonably charge you,                  9 and that's a matter of contract between you and them.                  10 You then get an order for assessment of your costs from                  11 the judge, which you got in your case, and then another                  12 judge, the costs judge, assesses the costs and at the                  13 end of that exercise, all by agreement, you ended up                  14 with in fact a very good result. 82 per cent of all                  15 your costs were then paid by the losing party,                  16 News International. Is that a fair summary of what                  17 happened?                  18 A. That's an exact summary. Because I think the difficulty                  19 is this, that you never, except in the most exceptional                  20 circumstances, get all your costs. This is trivial for                  21 the lawyers, but you don't. And that means there is                  22 a difference between the costs the court gives you and                  23 the costs that you actually have to pay. They come out                  24 of your damages. In this case, they exceeded the                  25 damages, and in virtually any privacy case they would</p> <p style="text-align: center;">Page 7</p>
<p>1 have had a rerun of that. I would have sued them                  2 because I thought it was absolutely outrageous to come                  3 and try and take pictures of somebody in that sort of                  4 situation. We were in a desperate situation. They have                  5 no human feeling at all.                  6 Q. Thank you. We've already touched on some of the other                  7 consequences of Internet publication, and the next                  8 section of your witness statement deals with that in                  9 some detail, Internet use in the United Kingdom through                  10 the News of the World until you win your case, and then                  11 there were all the knock-on effects throughout the                  12 world, really, with the World Wide Web. You've already                  13 told us that you have instructed, as you've had to have                  14 done, firms of lawyers in 20 different jurisdictions in                  15 order to try and close this down.                  16 A. That is correct. We haven't succeeded. All we can                  17 really do is mitigate, but we have reduced it, that must                  18 be said.                  19 Q. Yes. You've told us how much that has cost you.                  20 A. I've never really added it up, I dread doing it, but                  21 it's well over £500,000, well over, and it's ongoing.                  22 Q. I'd like to deal with a related issue, namely the                  23 economics of litigation, the particular case which                  24 you've won in front of Mr Justice Eady. Slightly out of                  25 sequence, it's paragraph 76 of your witness statement.</p> <p style="text-align: center;">Page 6</p>	<p>1 exceed the damages.                  2 LORD JUSTICE LEVESON: We actually learnt about this                  3 yesterday because Mr Lewis was making the point in                  4 connection with the settlement of one of his actions                  5 that he received every single penny piece of his costs.                  6 That I think was the Taylor litigation. Yes.                  7 MR JAY: That may or may not have one or two unusual                  8 features, but in your case where you had a good result,                  9 there was a shortfall of 18 per cent, and in pounds,                  10 shillings and pence, that's £30,000 out of pocket, isn't                  11 it?                  12 A. Exactly, exactly. I think that Mr Lewis in the Taylor                  13 case was absolutely astonished at the level --                  14 LORD JUSTICE LEVESON: He made that point.                  15 A. He made the point.                  16 MR JAY: I'd like to come back to a point which I know you                  17 regard as extremely important, the argument for prior                  18 notification. In your own words, as succinctly as you                  19 can, give us the nutshell of the point which you wish to                  20 impress on this Inquiry, please, Mr Mosley.                  21 A. In a nutshell, the point is that in a privacy matter,                  22 once the information has been made public, it can never                  23 ever be made private again. Therefore, the only                  24 effective remedy is to stop it becoming public. What is                  25 needed is a mechanism to get an order to stop it</p> <p style="text-align: center;">Page 8</p>

<p>1 becoming public. That is completely doable if you know                  2 that the information is about to be published. The only                  3 gap in the law, and it is a gap in the law, is if the                  4 newspaper manages to keep secret their intention to                  5 publish the information, then out it comes and it's too                  6 late, and there's nothing more to be done. What follows                  7 from that is there should be prior notification.                  8 One quick point on that is that Mr Dacre, in                  9 evidence to the Select Committee, said that in 99 cases                  10 out of 100, the individual has notice, because the                  11 newspaper would normally approach somebody and ask them                  12 for a comment. He may have been slightly exaggerating,                  13 but I can't believe he would not tell the truth to                  14 a Select Committee, so it's a minority of cases, but of                  15 course they're the very cases where the newspaper knows                  16 that if you did find out, you'd get an injunction. So                  17 they keep it secret, knowing that they can -- once                  18 they've published it, no one in their right mind, I say                  19 that of myself, no one in their right mind would sue,                  20 because it will cost you money, you'll get the                  21 information published all over again and you don't solve                  22 the problem because the information can't be made                  23 private.                  24 So it's those 1 per cent that are really dangerous,                  25 but without notification, a newspaper at the moment, if</p> <p style="text-align: center;">Page 9</p>	<p>1 rightly, because they know they're in the right, so it's                  2 all self-contained in a more rapid and cheaper process.                  3 Do you agree or disagree with that?                  4 A. I agree completely. My information is that to seek an                  5 injunction, the costs are something less than 5 per cent                  6 of the costs of a full trial. Of course, that also                  7 applies to the newspaper.                  8 If I may, as you say, under I think it's section                  9 12(3) of the Act, you have to show that you're more                  10 likely than not to win the case and you have to satisfy                  11 the judge you're more likely than not. Well, what can                  12 be wrong with that? Because if an independent judge                  13 thinks you're more likely than not to win, then you                  14 should have injunction, because if you don't have -- if                  15 it's out, although you win the case, you win nothing                  16 because the information is in the public domain.                  17 Q. That answer is not wholly going to satisfy the Inquiry                  18 to this extent, that although privacy proceedings,                  19 £500,000 each side is really only for the very wealthy,                  20 even these proceedings, injunction proceedings, are for                  21 the wealthy and the bold. Pre-notification doesn't deal                  22 with, if I may say so, the ordinary person with limited                  23 means. Would you agree with that?                  24 A. Completely. I very much believe that there should be an                  25 alternative mechanism. There should be some form of</p> <p style="text-align: center;">Page 11</p>
<p>1 they have outrageous information or pictures, if they                  2 can only publish them before the person finds out,                  3 there's no remedy, unless one says, well, £30,000,                  4 repetition and so on is a remedy, but really repetition                  5 in court is rather like suing because you have a broken                  6 leg, going to court and then they break the other leg,                  7 with absolute privilege, as well, because it just makes                  8 it worse.                  9 Sorry, that wasn't much of a nutshell, but in                  10 a nutshell, it is the very cases where there's an                  11 egregious breach of privacy that are the ones where they                  12 don't tell you and where prior notification is                  13 essential.                  14 Q. There's another argument which one might throw into the                  15 melting pot and it's this, that the prior notification,                  16 if it's a legal requirement, will then lead to a fairly                  17 rapid hearing before a judge, and so the legal costs                  18 will be kept within reasonable bounds. The second point                  19 is that you'll only get the injunction as a claimant                  20 unless you show on balance that your privacy has been                  21 violated and there's no public interest justification.                  22 So in practical terms, if you win the prior                  23 notification injunction, you in effect will win the                  24 case, but it works the other way around. If you lose                  25 it, the newspaper will publish with impunity, perhaps</p> <p style="text-align: center;">Page 10</p>	<p>1 tribunal, some form of enhanced regulatory body, but                  2 it's a very big question, but to which you could go.                  3 I think it's absolutely essential that such a body                  4 should be free of charge, because otherwise, however                  5 cheap it is, even if you went to the county courts, as                  6 some of the academics have suggested, that is beyond the                  7 means of a great many people, and there is no reason why                  8 it shouldn't be free.                  9 If I may say this, invasion of privacy is worse than                  10 burglary because if somebody burgles your house, unless                  11 it's heirlooms, you can replace the things that have                  12 been taken, repair the damage. But if someone breaches                  13 your privacy, you can never repair the damage, never put                  14 it right again. So it matters. But with burglary, if                  15 you find a burglar in your house and call the police,                  16 they don't say, "Are you rich? Because if you're not                  17 rich, we're not going to come". They come and arrest                  18 him. There should be a similar mechanism to stop people                  19 breaching the privacy of an ordinary person who is not                  20 in a position to find the money to ask for an                  21 injunction.                  22 LORD JUSTICE LEVESON: Of course, to say it should be free                  23 of charge begs the question as to who is going to pay                  24 for it.                  25 A. Indeed, sir. But if you had a body that was similar to</p> <p style="text-align: center;">Page 12</p>

<p>1 the Press Complaints Commission, which is free, but was                  2 independent both of the press and the government and                  3 everybody else, and made the central division, which is                  4 often not talked about, the division between making the                  5 rules and enforcing the rules, and the only thing -- at                  6 the moment, the rules themselves are not that bad.                  7 What's missing with the PCC is the ability to enforce                  8 them. If you had a body that could enforce the rules,                  9 it almost -- you don't necessarily have to have                  10 superqualified people. I'd prefer to have anyone                  11 deciding whether my privacy should be breached or not                  12 more than an editor.                  13 LORD JUSTICE LEVESON: The other argument is that it would                  14 smack of censorship, wouldn't it?                  15 A. No more than the existing procedure. The only                  16 difference between that, sir, and the existing procedure                  17 would be that it would be available free of charge.                  18 I mean, people don't say that if I go -- if I had been                  19 to Mr Justice Eady with the knowledge and asked for an                  20 injunction, I suppose the News of the World might have                  21 said it was censorship, but I don't think any reasonable                  22 person would have.                  23 LORD JUSTICE LEVESON: Let me now put another situation to                  24 you. Forgive me if I take your example because it                  25 actually allows the point to be made. Mr Justice Eady</p> <p style="text-align: center;">Page 13</p>	<p>1 made the standard higher in privacy.                  2 But I think those very difficult questions are                  3 exactly what judges are for and what they do, and what's                  4 dangerous is to allow the editor of a tabloid to weigh                  5 this up, when really all he wants to do is sell                  6 newspapers.                  7 In the particular case you've mentioned, I think                  8 probably what Mr Justice Eady would have done is said                  9 that he could see no public interest in this. He did                  10 actually say that in his judgment --                  11 LORD JUSTICE LEVESON: Yes, maybe I have to change your                  12 facts a little bit, but I want to get to a situation                  13 where there is a real argument about public interest,                  14 which requires a proper investigation.                  15 A. My submission there would be that then the judge should                  16 lean slightly against, if I may put it like that,                  17 article 12(3) -- section 12(3), because it's a little                  18 bit like the situation where I have a tree at the bottom                  19 of my garden and Mr Jay says he's entitled to cut it                  20 down. The court will normally say, "You may well be                  21 right, Mr Jay, but once you've cut it down, you can't                  22 put it up again so we'll leave it there pending trial".                  23 I think what the judge could do in a difficult case is                  24 say, "This is a difficult case, it needs a trial, I'm                  25 going to grant the injunction, but I'm going to give an</p> <p style="text-align: center;">Page 15</p>
<p>1 was unsure whether, if he'd been satisfied about the                  2 underlying allegation, whether that would have been in                  3 the public interest or not. Now, what concerns me, just                  4 thinking through the points as I was reading your                  5 statement and Mr Justice Eady's judgment, was how you                  6 are going to resolve that issue. You will go along to                  7 the judge -- and for those who don't understand, these                  8 are comparatively short hearings -- and say, "My                  9 privacy's being infringed. This is what they want to                  10 say about me and it's outrageously untrue". They will                  11 come along and say, "Oh no, it isn't, it's absolutely                  12 true." Then suddenly you have to have a trial because                  13 the balance of whether you grant an injunction may                  14 depend upon whether you think the allegation of truth of                  15 falsity is the more accurate, which is the more                  16 accurate.                  17 A. Indeed. Of course, that situation already exists, and                  18 as far as number one, prior notification, and number                  19 two, a very inexpensive if not free of charge tribunal,                  20 is perhaps a separate issue, but on the fundamental                  21 issue that you've just raised, it will always be                  22 difficult. Of course, in ordinary injunctions, again,                  23 forgive me, in ordinary injunctions is the American                  24 Cyanamid test, which is a balance of convenience, but                  25 they deliberately -- from lobbying from the press --</p> <p style="text-align: center;">Page 14</p>	<p>1 expedited trial."                  2 LORD JUSTICE LEVESON: Mr Jay might pursue this.                  3 MR JAY: There will be submissions of law on it but I think                  4 it's fair to say Mr Mosley, in your case, the combined                  5 effect of paragraphs 22 and 36 of Mr Justice Eady's                  6 judgment of 9 April 2008 is that if it weren't for the                  7 dam bursting point, you would have got your injunction.                  8 That's certainly my reading of it, you don't have to                  9 comment whether you agree or not.                  10 A. But I do.                  11 Q. I'm giving you that assurance. The wider point, what                  12 happens in a case where the public interest is more                  13 debatable, that can be dealt with by legal submission in                  14 due course.                  15 I would like, however, to dwell just very briefly on                  16 the reasons that the European Court of Human Rights, the                  17 Fourth Chamber, gave for rejecting your prior                  18 notification argument. In this very fat bundle I'm                  19 going to go straight to the discussion or conclusion of                  20 the European Court. It's page 410 on the small                  21 numbering. This document, of course, is in the public                  22 domain. I'm not going to ask for it to be put up.                  23 LORD JUSTICE LEVESON: For those who don't understand, in                  24 relation to prior notification, you took a case to the                  25 European Court of Human Rights and it went to the</p> <p style="text-align: center;">Page 16</p>

<p>1 Grand Chamber, all the way along the line.  2 A. It went, sir, to one of the small chambers and then we  3 tried to go to the Grand Chamber --  4 LORD JUSTICE LEVESON: And they refused.  5 A. Yes.  6 MR JAY: It was the fourth division.  7 LORD JUSTICE LEVESON: Yes.  8 MR JAY: I am going to summarise this as succinctly as I can  9 without, I hope, losing the nuance. At paragraph 120,  10 they said that the general rule is that damages after  11 the event will satisfy Article 8. Do you follow me?  12 And then they considered at paragraph 121 whether,  13 notwithstanding that, there were good reasons for  14 requiring pre-notification as an adjunct to Article 8.  15 They addressed that on two levels, Mr Mosley. First  16 of all, paragraph 122, the traditional margin of  17 appreciation arguments, which mean in essence, well, the  18 European Court leaves it to the domestic court, a wide  19 margin of discretion as to how to organise its  20 procedures.  21 But then there is an interesting section of the  22 judgment which I do draw to your attention, because it  23 arguably contains a solecism which has been perpetrated  24 by others. Page 412 at the bottom, paragraph 126:  25 "However, the court is persuaded that concerns  Page 17</p>	<p>1 Is that a fair summary of your position?  2 A. That's a precise summary. I think that the issue that  3 matters is: is there a prior notification argument in  4 relation to the notification itself?  5 Q. Yes.  6 A. When it gets to the subject matter, the judge will look  7 at that.  8 Q. The other point which they make strikes me, with great  9 respect, again as a thunderingly bad or surprising  10 point. They say if there were an injunction, the  11 newspaper might break it because they would be happy to  12 pay the punitive fine, which seems to me to involve  13 a bit of a misunderstanding about what the rule of law  14 entails. If you got your injunction, you would be in  15 contempt of court to break it and it would be  16 unthinkable that a newspaper would ever take that risk.  17 So that may be the complete answer to the European  18 Court's second point, or it may not.  19 A. I think that's a very strange reasoning. Apart from  20 anything else, if the fine is big enough, they won't  21 ignore it. It might be an argument for upping the fine  22 but it will never be an argument for saying it was okay  23 to breach somebody's privacy.  24 Q. Well, whatever, one respects the judgment, it is the law  25 coming out of Europe. The Grand Chamber were invited by  Page 19</p>
<p>1 regarding the effectiveness of a pre-notification duty  2 and practice are not unjustified. Two considerations  3 arise. First, it's generally accepted that any  4 pre-notification obligation would require some form of  5 public interest exception, thus a newspaper could opt  6 not to notify a subject if it believed that it could  7 subsequently defend its decision on the basis of the  8 public interest. The court considers that in order to  9 prevent a serious chilling effect on freedom of  10 expression, a reasonable belief that there was a public  11 interest at stake would have to be sufficient to justify  12 non-notification, even if it was subsequently held that  13 no such public interest arose."  14 May I respectfully suggest, not to you but to those  15 who wrote it, that it's arguable, at least, that two  16 matters have been conflated. First, there is the public  17 interest in not notifying you, because you might be  18 a criminal, you might destroy evidence or whatever, and  19 then there is the public interest in justifying the  20 publication in due course. What arguably the court have  21 done here is to use arguments which pertain to the  22 second consideration to the first, and they therefore  23 have entered into error, the same error which you would  24 say, perhaps, infiltrates the reasoning of the Select  25 Committee when they come to address the self-same issue.  Page 18</p>	<p>1 you to reconsider this and they have not granted you the  2 privilege to do so. The matter rests now with this  3 decision.  4 A. That's correct.  5 Q. That doesn't mean, of course, you would say, that  6 domestic law could not move further than European law  7 and provide you the protections which you say should  8 apply, namely prior notification, because it's certainly  9 within the gift of Parliament to provide for that if so  10 advised?  11 A. Indeed. The only reason that I went to Strasbourg was  12 that I thought there was no chance of convincing a UK  13 government to bring in the necessary legislation,  14 because, to put it bluntly, they were completely in the  15 thrall of Mr Murdoch and other big newspaper people who  16 would have objected. That spell has now been broken,  17 I think fairly conclusively, and I don't see any reason  18 why such a law should not be brought in.  19 The case for prior notification, to my way of  20 thinking, is unanswerable. I think it's just so  21 absolutely clear that you need it and it's the right way  22 to do it. The only outstanding issue is how you would  23 arrange your tribunal that could do this without it  24 being ruinously costly, but that's the only issue. That  25 you need prior notification, that you need an  Page 20</p>

5 (Pages 17 to 20)

<p>1 independent person to decide in a difficult case whether 2 it be published or not seems to me unanswerable. 3 Q. Thank you. Towards the end of your statement, you deal 4 with the wider picture and your views about press 5 regulation, and we're going to come to that, but there 6 are some specific points I would like to raise with you. 7 The first point in relation to Mr Dacre, you are 8 well aware that he has stated publicly that 9 Mr Justice Eady's decision is incorrect. I think he 10 referred in a lecture in 2008 to the subjective and 11 relativistic view of Mr Justice Eady, and then in 12 evidence to the Select Committee, which we have 13 available, he expressed a similar view. 14 I don't interpret your evidence as saying other than 15 that he's quite entitled to express that opinion? 16 A. Yes, I think that's fair. 17 Q. In a nutshell what he may be saying -- of course he will 18 say it much better than me and I should not be 19 understood as paraphrasing him -- is to say, "Look, this 20 is immoral conduct, many people would judge it thus; 21 surely, therefore, there is a right as part of the 22 newspaper's right of fair comment under Article 10 or 23 whatever for these matters to come to light because of 24 the nature of the subject matter". I have expressed in 25 a way I'm sure Mr Dacre would not, but the general Page 21</p>	<p>1 I think I said this before, I'm sorry to repeat 2 myself, it's a completely old-fashioned idea. It dates 3 from the days when, for example, I was young, where it 4 was illegal to be gay, and all sorts of sexual 5 activities which some people find quite normal, I might 6 not, but some do, were actually criminal offences, even 7 between a man and a woman, and all that's been changed. 8 The world has moved on. The only person who hasn't 9 moved on is Mr Dacre. 10 Q. What he said to the Select Committee, and this is on 11 23 April 2009, he said this: 12 "With the greatest respect to you [by which he means 13 the committee], I think a lot of us were very surprised 14 at the soft time you gave him [the 'him' in that 15 sentence is you, Mr Mosley]. For Max Mosley to present 16 him as a knight in shining armour proclaiming 17 sanctimoniousness and aggrieved self-righteousness in 18 his crusade to clean up the press is an almost surreal 19 conversion of the moral values of normal civilised 20 society. Indeed for Mr Mosley to crusade against the 21 media is a bit like being the Yorkshire Ripper 22 campaigning against men who batter women." 23 A. It's really quite sad, actually, that he should say 24 things like that to the committee, because what he's 25 really saying is he doesn't like or didn't like Page 23</p>
<p>1 sentiment I've sought to get across. May I have your 2 comment on it, please? 3 A. The thing is that what Dacre said I think in his speech 4 to the Society of Editors and in an editorial, he said 5 that I was guilty of unimaginable depravity. Well, 6 first of all, it reflects badly on his imagination, but 7 apart from that, it's not a sensible comment because 8 I wouldn't -- I have no idea what Mr Dacre's sex life 9 is. All I know is that he has this sort of 10 preoccupation with schoolboy smut in his website, with 11 Ms X in her bikini, Ms Y showing off her suntan, 12 et cetera. So he may have some sort of strange sex 13 life, but the point is it's not up to me to go into his 14 bedroom, film him and then write about it. It's his 15 business. And equally, if somebody has a slightly 16 unusual sex life, exactly the same thing applies. 17 I think the law is very clear, and I think it's 18 quite right, that if it's private, it's adult and it's 19 consensual, then it concerns nobody else. The moment 20 you go into the area where you say, "I don't really like 21 what that person's doing", lots of people do things 22 I don't like, it's not up to me to tell them not to. 23 All I can object to, I can say please don't do it in 24 front of me, please make sure everybody consents, and 25 that's an end of the matter. Page 22</p>	<p>1 something that I did sexually, in private, with 2 consenting adults, and that that -- the fact that he 3 didn't like it should prevent me from saying the press 4 should not invade people's privacy. It's an absolutely 5 ludicrous argument. It's a very sad thing for Mr Dacre 6 that every time I get invited to a university to debate, 7 I'll say I'll come to the other end of England if you 8 can get Dacre on the other side. No chance. 9 Q. He crystallised his point a little bit later on: 10 "My main objection was the way he exploited and 11 humiliated and degraded women in this way. Paid women, 12 yes." 13 A. It just shows again he's completely naive obviously 14 about sex. That's not a criticism, but it's a fact. 15 The women in my -- my little party, I like to call it, 16 they are total complete enthusiasts for what they do. 17 They love what they do. They're more into it than I've 18 ever been. The idea that you're exploiting them is 19 ludicrously naive and in fact offensive to them. They 20 all do these sort of things in their private lives, with 21 their partners. That's how they are. Mr Dacre may not 22 approve of it, but the fact is we live in a civilised 23 society where grown-ups in private should be allowed to 24 do what they please. It's not up to him to decide who 25 can do what between consenting adults. Page 24</p>

6 (Pages 21 to 24)

<p>1 Q. Two further points, so the position is clear. First of  2 all, Mr Dacre's evidence to the Select Committee is  3 categorical to this extent, that the article that the  4 News of the World published was certainly not an article  5 that the Daily Mail would publish, because of its  6 nature, for reasons of good taste. You probably recall  7 that part of his evidence, do you?  8 A. I do well.  9 Q. Yes.  10 A. The thing is that he's in the position -- he's like the  11 crocodile's killed the animal and then the hyenas come  12 along and scavenge and he's the scavenger.  13 Q. The second matter, which I'm sure you accept as well, is  14 that Mr Dacre's agenda is that (a) this is a matter of  15 his human rights which he is entitled to pursue, and  16 it's certainly not part of his objective, he would say,  17 in any way to undermine Mr Justice Eady. What he is  18 doing is exercising his democratic rights. Would you  19 accept that much?  20 A. I can't really accept that because what he said was that  21 this is an amoral judgment, I think those were the  22 words, from an amoral man. Well it isn't. It's  23 a judgment that recognises that consenting adults are  24 allowed to do by the law of this country what they wish  25 in private. He may criticise the law, that's absolutely</p> <p style="text-align: center;">Page 25</p>	<p>1 106. For reasons of balance, could you tell us a little  2 bit about those matters perhaps so far as they bear on  3 you?  4 A. Absolutely. The Press Complaints Commission in my case  5 were helpful when it came to trying to stop press  6 harassment or harassment after the death of my son.  7 They did co-operate there. And I believe, but I have no  8 personal experience, that they've had some success in  9 preventing the publication of stories which shouldn't be  10 published. I think that people who know a story is  11 coming out can call them up, and I think they've done,  12 I believe, a lot in that way quite successfully, but  13 that brings us back to the fundamental point that if you  14 don't know the story's coming out, you can't ring the  15 PCC for help. That's why prior notification, once  16 again, is vital.  17 Q. Thank you. Then you make the "no teeth" point which  18 others of course have made and the conflict of interest  19 point which again others have made, but I would ask you,  20 please, to develop your point about a suggested  21 alternative to the PCC. I know you've touched on this  22 a little bit but could you in your own words help the  23 Inquiry with the contours of your suggested alternative?  24 A. It's a subject which I could talk about for hours, but  25 briefly, I think a tribunal or body of some kind is</p> <p style="text-align: center;">Page 27</p>
<p>1 possible. What he should not do is criticise a judge  2 for imposing the law or applying the law.  3 What's deeply hypocritical about the thing is that  4 if this were not the law, they could appeal -- we've had  5 this point before -- and they did not appeal. He should  6 recognise that the reason that News International did  7 not appeal was not because they agreed with the  8 judgment, it was because they knew they would lose. So  9 what he's doing is he's attacking the man, the judge,  10 he's playing the man rather than the ball. The ball is  11 the law. If he doesn't like the law, he could campaign  12 to change it. Meanwhile, all the judge can do is apply  13 it, and this Mr Justice Eady did.  14 Q. I think I've taken that point as far as I need to. Can  15 I look at the wider picture through your evidence and  16 this is the part of your witness statement which starts  17 at paragraph 100. First of all, you deal with the PCC.  18 What you say about the PCC is perhaps not unfamiliar to  19 this Inquiry, because it chimes with other evidence or  20 other opinion which the Inquiry has received. You make  21 the various points there's no power to sanction,  22 Northern &amp; Shell have opted out, PCC wouldn't, couldn't  23 or didn't prevent the most scandalous abuses you refer  24 to, and you name them.  25 You mention some positive aspects in paragraphs 105,</p> <p style="text-align: center;">Page 26</p>	<p>1 needed, and the basic principle of the PCC that it is  2 free I think is right. That it is paid for by the press  3 I think is right. But I would give the new body --  4 I would make it slightly different, that I would first  5 of all divide it into two sections, one which would make  6 the rules and the other which would enforce them, and  7 the rule-making, I think, doesn't need a great deal of  8 work. There are certain things like prior notification,  9 but fundamentally the rules are not that bad.  10 But what is needed is a body that can enforce them,  11 so a body that would have the power to order a story not  12 to come out, if it were justified under the law as it  13 stands, would have the power to find -- would have  14 various powers effectively rather like a judge would  15 have, and I would add to that the power to stop the  16 press harassing somebody, not ask them as the PCC does,  17 but tell them. Those points could be worked out and  18 I would be very, very happy to submit to the Inquiry  19 a detailed proposal of that.  20 But fundamentally, you should be able to go very  21 simply and say, "I think my privacy's about to be  22 invaded", and I would add to that even defamatory  23 statements. I know about the rule in <i>Bonnard v</i>  24 <i>Perryman</i>, obviously, but I think there is a case for  25 trying to mediate these things at the beginning.</p> <p style="text-align: center;">Page 28</p>

<p>1 I think if somebody went with their complaint, either                  2 defamation or breach of privacy, and the other side were                  3 made to turn up as well and you have a mediator sitting                  4 there, a large proportion of these things would                  5 disappear before they even started.                  6 Most cases are quite simple. You would have to have                  7 some mechanism for the complicated cases to go to the                  8 High Court and you would have to have some mechanism for                  9 paying for them, but there are various ways in which                  10 that could be approached. But the overwhelming majority                  11 of cases could be dealt with simply with a single                  12 adjudicator, the two parties sitting there, the issue                  13 explained briefly, no big expensive lawyers, pleadings                  14 and all the rest of it. Most of these issues are really                  15 quite simple. It's just that the capacity, with the                  16 greatest respect to the legal profession, the capacity                  17 for the legal profession to make things complicated, of                  18 course, is great, and that's very expensive.                  19 Q. Thank you, Mr Mosley. Journalistic practices now,                  20 paragraph 120. This is to some extent, if I can be                  21 forgiven for saying so, a commentary on evidence which                  22 the Inquiry has received and will receive in due course,                  23 particularly when it comes to Operation Motorman, do you                  24 understand --                  25 A. Yes.</p> <p style="text-align: center;">Page 29</p>	<p>1 probably get no reply. Equally, if one of their                  2 soldiers went to prison, as Mr Rees did, and was                  3 promptly reemployed when he came out after serving a                  4 sentence for a very serious offence, again you would                  5 expect that from the Mafia, you would not expect it from                  6 a serious company like News International down in                  7 Wapping.                  8 Q. Well, Mr Mosley, doubtless your legal team will remind                  9 me in due course, it may be a few months' time, to get                  10 the reply which you've been seeking, because it may be                  11 possible to do that.                  12 A. Thank you.                  13 Q. I hope you don't mind that I leave off                  14 Operation Motorman.                  15 A. No, it's just my opinion.                  16 Q. Thank you. The Internet is a big issue. You have                  17 touched on it. Is there anything else, because of                  18 course it's of great concern to this Inquiry, any                  19 practical solutions, any ideas you'd wish to share with                  20 us to deal with the proliferation of information                  21 literally at the speed of light globally?                  22 A. I think this is something that will probably require                  23 certainly national laws, but it would probably better                  24 require European laws and in the end an international                  25 convention.</p> <p style="text-align: center;">Page 31</p>
<p>1 Q. -- we're dealing with in a lot of detail next week and                  2 the Inquiry will be able to reach its own conclusions                  3 about that.                  4 But you do make one point in the context of                  5 blackmail, paragraph 124. I'm sure you'd like to bring                  6 this point out, that after Mr Justice Eady delivered                  7 judgment on 24 July 2008, with his criticisms of                  8 Mr Thurlbeck, you wrote to Mr Rupert Murdoch in New York                  9 drawing your concerns to his attention. Did you receive                  10 a reply to that letter?                  11 A. No, I didn't. That letter was written on 10 March this                  12 year and I sent it by recorded delivery and I have                  13 evidence from the United States postal service that it                  14 was delivered.                  15 I also sent two emails, and I was astonished,                  16 because all I was asking him to do was to order an                  17 inquiry in his Wapping 1 per cent into this, but got no                  18 reply. I have to say that I cannot imagine writing to                  19 a proper international company a letter alleging serious                  20 criminal conduct by a senior employee and getting no                  21 reply.                  22 I'm sorry to say this, but I think I will, if I may.                  23 That to me is the conduct of the Mafia. It's what you                  24 would expect if you wrote to the head of a Mafia family                  25 complaining about one of their soldiers. You would</p> <p style="text-align: center;">Page 30</p>	<p>1 But what I think can be done at quite an early stage                  2 is to -- could be done would be to require the service                  3 providers and also the search engines not to proliferate                  4 information which is illegal or wrong in some way.                  5 I think the technology for that exists. Again, if it                  6 would be helpful, I'm very happy to put together                  7 a detailed proposal to submit to the Inquiry.                  8 Q. Thank you.                  9 LORD JUSTICE LEVESON: That's actually the second time                  10 you've offered to do something, Mr Mosley, and speaking                  11 for myself, it's very tempting to take you up on the                  12 offer, but I'm not doing that generally because I think                  13 it potentially imposes an undue burden on somebody when                  14 at the end of the day I've not reached a conclusion as                  15 to what might work.                  16 But I might make an exception in your case for this                  17 reason, depending on what you say about this. You have                  18 experience of international governance in motor racing,                  19 so I don't know whether or not that gives you any                  20 additional understanding of the potential pitfalls to be                  21 faced either in trying to do something nationally, let                  22 alone internationally. So if you want to submit                  23 anything to the Inquiry, then you can rest assured it                  24 will be considered, but you will equally understand that                  25 I am making absolutely no promises.</p> <p style="text-align: center;">Page 32</p>



<p>1 A. I mean, what I submit, sir, may well turn out to be 2 inadequate or no good for all sorts of reasons, but we 3 have given it a great deal of thought and it would be -- 4 well, one can submit, and then it will be for the 5 Inquiry to decide whether it wants to adopt any or part 6 of it.</p> <p>7 LORD JUSTICE LEVESON: Yes, as long as -- the basis upon 8 which you're doing this, and I'm conscious this takes 9 your time and is an effort, as long as the basis upon 10 which you're doing it is well understood.</p> <p>11 A. I'm very happy to do that, sir.</p> <p>12 MR JAY: Final point, Mr Mosley. The whole of your 13 statement has I think already gone online. Therefore 14 people may already be reading or have read 15 paragraph 131, which touches on the Daily Mail. You 16 say, and of course you're entitled to your opinion, in 17 the context of Operation Motorman, you say in the middle 18 of that paragraph:</p> <p>19 "It is inconceivable that the Daily Mail and other 20 newspapers did not know that they were procuring and 21 encouraging criminal acts."</p> <p>22 May I make this clear on behalf of the Daily Mail, 23 that that is strongly denied by them and they will say 24 when they have the opportunity to do that that the 25 Information Commissioner's office in September 2011</p> <p style="text-align: center;">Page 33</p>	<p>1 MR JAY: If that's the case, that would be my fault. But 2 thank you very much, Mr Mosley.</p> <p>3 A. Thank you.</p> <p>4 LORD JUSTICE LEVESON: Thank you.</p> <p>5 It's probably sensible just to have five minutes for 6 the shorthand writer and for all of us, but I repeat, 7 five minutes actually means five minutes, or perhaps in 8 this case seven minutes, but not longer. Thank you.</p> <p>9 (2.52 pm)</p> <p>10 (A short break)</p> <p>11 (3.00 pm)</p> <p>12 MR JAY: The next witness is Joanne Kathleen Rowling, 13 please.</p> <p>14 MS JOANNE KATHLEEN ROWLING (sworn)</p> <p>15 MR JAY: Can you confirm please your full name?</p> <p>16 A. Joanne Kathleen Rowling.</p> <p>17 Q. What I'm going to do is invite you to confirm your 18 witness statement. It's in that file in front of you 19 under tab 1. It runs over 33 pages and at the end of it 20 you'll see, I hope, your name, your signature, a date, 21 which is 2 November, and the usual statement of truth. 22 So this is your evidence?</p> <p>23 A. It is.</p> <p>24 LORD JUSTICE LEVESON: Thank you. Ms Rowling, you might 25 have heard me say to other witnesses that I'm very</p> <p style="text-align: center;">Page 35</p>
<p>1 stated that there was no evidence that any journalist 2 had asked Mr Whittamore to obtain information illegally.</p> <p>3 I'd like to leave the point there only for this 4 reason. One, so that the Daily Mail's position is 5 clearly set out through me, but secondly to make it 6 clear that the rights and wrongs of the issue are being 7 investigated by the Inquiry, so let's wait and see what 8 happens next week. Are you content with that?</p> <p>9 A. May I say a word on that? I would just like to say that 10 of course they would say that. I'd hope they won't 11 consider this a mendacious smear. All I'm saying is the 12 fact that no journalist asked for an illegal act is not 13 the same as saying that no journalist would have 14 realised that the information they were getting had to 15 be illegally obtained. But that's a matter for the 16 Inquiry.</p> <p>17 LORD JUSTICE LEVESON: You're reaching your conclusions 18 based upon your study of "What price privacy"?</p> <p>19 A. Indeed, sir, yes.</p> <p>20 LORD JUSTICE LEVESON: I'll be doing that as well.</p> <p>21 MR JAY: I think a very long day is in store next Thursday 22 when these issues are going to be investigated.</p> <p>23 Mr Mosley, the Inquiry is extremely grateful to you. 24 Have we covered all the ground you wished to?</p> <p>25 A. I think so. Some of it twice, sir.</p> <p style="text-align: center;">Page 34</p>	<p>1 grateful to them for giving up the time and putting the 2 effort into volunteering evidence to the Inquiry.</p> <p>3 I appreciate that you'll be talking about things which 4 I very clearly understand you wish to remain private.</p> <p>5 A. Thank you.</p> <p>6 LORD JUSTICE LEVESON: And by talking about them, you are to 7 some extent blowing on that wish. I understand that, 8 but I hope you do realise the importance of what I'm 9 trying to do.</p> <p>10 A. I do.</p> <p>11 LORD JUSTICE LEVESON: It's clear you do, because you're 12 here, and I wanted to express my gratitude to you.</p> <p>13 A. Thank you very much.</p> <p>14 LORD JUSTICE LEVESON: If you want a break at any stage, 15 I know we've had one, but you're entitled to say, "Just 16 five minutes, please". I appreciate it's a very unusual 17 environment.</p> <p>18 A. Thank you very much.</p> <p>19 LORD JUSTICE LEVESON: Thank you.</p> <p>20 Questions from MR JAY</p> <p>21 MR JAY: You're a witness who doesn't really need much 22 introduction at all, Ms Rowling. We know your books 23 were published over a ten-year period, the seventh and 24 last book in 2007.</p> <p>25 A. 2007, yes.</p> <p style="text-align: center;">Page 36</p>

<p>1 Q. Can I move to paragraph 3 of your witness statement.                  2 You make it clear that you have no personal vendetta                  3 against the press at all.                  4 A. Absolutely.                  5 Q. What are your views about freedom of the press, please?                  6 A. I believe very, very strongly in freedom of the press                  7 and freedom of expression, and I would like to make it                  8 clear from the start that I think that there's --                  9 alongside the kind of journalism that we're going to be                  10 talking about today, I think there is truly heroic                  11 journalism in Britain. I suppose my view is that we                  12 have at the one end of the spectrum people who literally                  13 risk their lives to go and expose the truth about war                  14 and famine and revolution, and then at the other end we                  15 have behaviour that is illegal, and I think                  16 unjustifiably intrusive. I wonder sometimes why they're                  17 given the same name, why they're called the same thing.                  18 We should maybe invent a new word for the second group.                  19 Q. In paragraph 4 of your witness statement, you recognise                  20 that at least at the start of your career, media                  21 interest had some beneficial effect on the sales of your                  22 book; is that right?                  23 A. I'd say so. I'd say it's a very interesting question                  24 with regard to Harry Potter in particular, because in                  25 1997, when the first book was published, the traditional</p> <p style="text-align: center;">Page 37</p>	<p>1 showed not only the number of the house but also the                  2 name of the street, which happened to be on the building                  3 where I was living, so I really was a sitting duck for                  4 anyone who wanted to find me. Journalists sitting                  5 outside in cars and so on. And because the street --                  6 when I bought the house, obviously I didn't know what                  7 was coming. I didn't know that I was going to make                  8 a considerable amount of money. I had bought within my                  9 means, and this house lay directly on the street. So                  10 I really couldn't have chosen a worse property for                  11 someone who was going to receive that kind of press                  12 attention.                  13 Q. Thank you. You explain quite generally, we'll deal with                  14 the detail later, in paragraph 7, that you've had no                  15 choice but to take action against the press, both                  16 through the PCC, the Press Complaints Commission, and                  17 the courts.                  18 A. Mm-hm.                  19 Q. The number of times you've had to engage solicitors in                  20 this sort of case you number at about 50; is that right?                  21 A. Probably, yes.                  22 Q. Does that cover both the PCC and litigation or just                  23 litigation?                  24 A. Yes, it might be more, but as far as I can tell, roughly                  25 that, yes.</p> <p style="text-align: center;">Page 39</p>
<p>1 media was really the only game in town if a creative                  2 person wanted to say that they'd written a book or                  3 a film or anything of that sort. But during the ten                  4 years that Harry Potter was published, of course the                  5 Internet became a huge game-changer, and my fans were                  6 primarily young people who were very Internet savvy, so                  7 I think the Internet became for Harry Potter as great if                  8 not a greater promotional tool. But yes, in the                  9 beginning, certainly the press was helpful.                  10 Q. So that's, as it were, the good side of journalism?                  11 A. Mm.                  12 Q. But in paragraph 5 you immediately move to what you                  13 describe as a different kind of journalistic activity,                  14 which culminated, as you explain, in you literally being                  15 driven out of your first house.                  16 A. Yes.                  17 Q. Can you give us an approximate date for that, please?                  18 A. I moved -- that was the first house that I'd ever owned,                  19 and I bought that with advances that I'd received on the                  20 first Harry Potter book, particularly from America. So                  21 we moved into that house in 1997, and we left that house                  22 in 1999. So during those two years, it had really                  23 become untenable to remain in that house.                  24 Q. Yes. It was the result of what which made it untenable?                  25 A. Doorstepping. A photograph had been published that</p> <p style="text-align: center;">Page 38</p>	<p>1 Q. The main concerns you wish to express relate to --                  2 perhaps this is the foremost concern, you'll tell me if                  3 this is right or wrong -- privacy of your children?                  4 A. Definitely.                  5 Q. Then there's the privacy of your home and then there's                  6 the broader issue of fair treatment?                  7 A. Yes.                  8 Q. Is that correct? Privacy of your children first,                  9 please. You deal with this in paragraph 9. When your                  10 first novel came out, I hope you don't mind me dealing                  11 with this, it's in the public domain, you were a single                  12 mother; is that correct?                  13 A. Yes.                  14 Q. What was your attitude or strategy, if you had one, in                  15 relation to any publicity first as regards the book and                  16 secondly protection of your child? Could you assist the                  17 Inquiry with that, please?                  18 A. Well, I took the view then, and I would like to say that                  19 I'm not -- certainly wouldn't like to be seen to be                  20 standing in judgment on anyone who took a different                  21 view, because there are people I know and respect who                  22 have taken a different view on this, but it was my                  23 belief and remains my belief that children do best when                  24 they are kept out of the public eye and that their home                  25 life is secure and that means -- it feels like a place</p> <p style="text-align: center;">Page 40</p>

<p>1 of safety, and I think that means private. So</p> <p>2 I endeavoured from the very first to draw a very clear</p> <p>3 line between what I considered unwarrantable intrusion</p> <p>4 into my private life, and that was largely my daughter.</p> <p>5 I had countless requests to be photographed with my</p> <p>6 daughter. I vividly remember a women's magazine who</p> <p>7 wanted to take a photograph of me with my broken down</p> <p>8 typewriter and my daughter on my knee, and when I said</p> <p>9 that is absolutely not happening, they said, "We won't</p> <p>10 do the interview then", which was no loss to me.</p> <p>11 I really did not want that to happen.</p> <p>12 I think it's one reason I agreed to appear, because</p> <p>13 I think this is something I feel very strongly. When</p> <p>14 you become well-known, and it was a shock to me that</p> <p>15 I became so well-known so quickly, no one gives you</p> <p>16 a guidebook. There is nothing that's handed to you to</p> <p>17 say, "You can do route A, B or C". You have to make it</p> <p>18 up, to an extent, yourself. And I inferred from the</p> <p>19 press's often justification for printing photographs of</p> <p>20 people's families, their justification was so</p> <p>21 frequently, "Well, you have sold your family life,</p> <p>22 you've invited them into your home, you've allowed</p> <p>23 photographers to take pictures of your children, you</p> <p>24 have in effect used your family as a promotional tool",</p> <p>25 so I inferred from that that if I do not do those</p> <p style="text-align: center;">Page 41</p>	<p>1 you support. Would you like to cover those</p> <p>2 specifically?</p> <p>3 A. Yes.</p> <p>4 Q. Please do.</p> <p>5 A. I think it's relevant to say that I have, on occasions,</p> <p>6 discussed my own -- not my children's, but my own life,</p> <p>7 and I suppose broadly speaking there are three areas of</p> <p>8 my life that are quite private that I have discussed.</p> <p>9 I wrote the first book as a single parent, and that</p> <p>10 was common knowledge, and I wasn't ashamed of that and</p> <p>11 did discuss that, the fact that we had lived on benefits</p> <p>12 for a time and it had been difficult to find work and</p> <p>13 find childcare. All these things I did talk about. And</p> <p>14 latterly I tried to parlay that into doing something</p> <p>15 meaningful because I became an ambassador for a charity</p> <p>16 that campaigns for lone parents.</p> <p>17 I've also said in my statement that I for quite</p> <p>18 a long time was patron of the MS Society and I fund</p> <p>19 research and attempt to raise funds for MS. My mother</p> <p>20 died of complications from MS. It's not something that</p> <p>21 I relish talking about, but I talk about it with</p> <p>22 a purpose and I think that that's one of the upsides, if</p> <p>23 you like, of being well-known, that you can become</p> <p>24 a spokesperson for those kind of charities.</p> <p>25 Then the last thing I've said in my witness</p> <p style="text-align: center;">Page 43</p>
<p>1 things, the privacy of my children will be -- well, at</p> <p>2 that time my only child, will be respected. So I was</p> <p>3 trying hard to abide by what I thought was the unwritten</p> <p>4 code. And I would say that I think a significant</p> <p>5 section of the press have respected my stance on that,</p> <p>6 but a significant section of the press, in my view, have</p> <p>7 seen that almost as a challenge.</p> <p>8 So I tried very hard to abide by what I thought were</p> <p>9 the rules, and I failed.</p> <p>10 Q. You mention one occasion, but it was the only occasion,</p> <p>11 paragraph 10 of your witness statement, where you took</p> <p>12 your daughter along to a book awards and someone did try</p> <p>13 and take a photograph and that never happened again?</p> <p>14 A. No. Well, I never took her anywhere like that again.</p> <p>15 I vividly remember that occasion. It was -- I was</p> <p>16 thrilled to have received the award and I couldn't get</p> <p>17 a babysitter and I took her. I knew other children were</p> <p>18 going to be there, and it's not that I don't want my</p> <p>19 children to share these occasions with me, but that</p> <p>20 experience taught me that can't happen, because, as</p> <p>21 I say, she was marched into a shot and I physically</p> <p>22 said, "No I don't want that to happen" and I took her</p> <p>23 away, and after that I decided clearly the way forward</p> <p>24 is not to take my children to these kinds of events.</p> <p>25 Q. Yes. In paragraph 12, you deal with three causes which</p> <p style="text-align: center;">Page 42</p>	<p>1 statement, I have talked openly about the fact that</p> <p>2 I have suffered from depression. I think originally</p> <p>3 I discussed this in the context of my work, and I do</p> <p>4 feel quite strongly that as a writer, or any kind of</p> <p>5 creative person, your life becomes such an important</p> <p>6 factor in your work, so there are themes in my work that</p> <p>7 relate to bereavement or depression or things that</p> <p>8 I myself have experienced.</p> <p>9 So in other words, I was talking about depression</p> <p>10 not trying to gain sympathy or pity, but there was</p> <p>11 a purpose. I had created certain creatures in the</p> <p>12 Harry Potter books that had the effect of depression on</p> <p>13 those they encountered. But I don't in any sense regret</p> <p>14 talking about depression because as I say in my</p> <p>15 statement, I've received a number of letters and so</p> <p>16 forth, particularly from young people who have been</p> <p>17 depressed, who find it helpful that people don't treat</p> <p>18 that as something to be ashamed of.</p> <p>19 So yes, I have discussed these matters, but I would</p> <p>20 say firstly that I think our cultural life would be</p> <p>21 greatly diminished if creative people weren't allowed to</p> <p>22 say where they received inspiration and ideas, and</p> <p>23 secondly I would say I don't think any reasonable person</p> <p>24 could decide that because I'd discussed these things, my</p> <p>25 children ought to be long-lensed in swimsuits. I think</p> <p style="text-align: center;">Page 44</p>

<p>1 a reasonable person would see a clear division there.                  2 Q. Thank you. In paragraph 13 you develop the point which                  3 you've already touched on, namely the importance of                  4 a normal childhood for your children.                  5 A. Mm-hm.                  6 Q. You mention one incident where there was a note from                  7 a journalist slipped into your daughter's school bag.                  8 A. Yes.                  9 Q. Could you give us a little bit more context?                  10 A. Yes. My daughter -- this was my eldest daughter, so                  11 this would have been when I was -- really, in the first                  12 burst of publicity surrounding me. She was in her first                  13 year at primary school and I unzipped her school bag in                  14 the evening and among the usual letters from school and                  15 debris that every child generates, I found an envelope                  16 addressed to me and a journalist -- the letter was from                  17 a journalist.                  18 It's my recollection that the letter said that he                  19 intended to ask a mother at the school to put this in my                  20 daughter's bag or I don't -- I know no more than that,                  21 I don't know whether that's how the letter got in my                  22 daughter's school bag or not, but I can only say that                  23 I felt such a sense of invasion that my daughter's                  24 bag -- it's very difficult to say how angry and how --                  25 how angry I felt that my five-year-old daughter's school</p> <p style="text-align: center;">Page 45</p>	<p>1 children in blankets.                  2 A. There were two particularly bad periods where it really                  3 was like being under siege or like a hostage. After the                  4 birth of each of my subsequent children, for a week it                  5 was impossible for me to leave the house without being                  6 photographed, unless I wanted to be photographed or                  7 unless I wanted the children to be photographed, and on                  8 both of those occasions they took up permanent residence                  9 outside our house and my husband was obviously going to                  10 work and he was going in and out through them and being                  11 photographed, but I felt completely trapped in the                  12 house.                  13 Of course, that had a massive effect on the                  14 children.                  15 Q. You've made it clear, you clearly state in paragraph 17,                  16 to press photographers, agencies, perhaps more                  17 importantly even picture editors at newspapers,                  18 magazines and other media outlets, how seriously you                  19 take the privacy of your children. Have you done this                  20 by making statements to them or how has this been                  21 achieved?                  22 A. I think I've gone to such lengths to try and prevent                  23 photography of my children that they really can be in no                  24 doubt and I have complained to the PCC and -- as is                  25 clear later in the statement -- I've been to court.</p> <p style="text-align: center;">Page 47</p>
<p>1 was no longer a place of, you know, complete security                  2 from journalists.                  3 Q. Paragraph 14, your position is very clearly stated in                  4 the second line:                  5 "My husband and I have taken every step we could                  6 think of to prevent the children being photographed by                  7 press photographers."                  8 And then you outline some of the measures you've                  9 taken. Some are quite general, some are quite specific.                  10 Would you care to elaborate on any of those, please, for                  11 us, Ms Rowling?                  12 A. Well, we have -- I say in my statement, for example, we                  13 didn't take a honeymoon immediately after we were                  14 married because we had previously taken a holiday                  15 together shortly before we were married, and that was                  16 the occasion on which we were all long-lensed and my                  17 daughter appeared in the press in her swimsuit. So we                  18 decided that -- we took -- we went to great lengths to                  19 ensure that our wedding itself was private.                  20 There are many things you can do, and we have tried                  21 to do all of them, I would say. We really have tried to                  22 do all of them to prevent the children being                  23 photographed.                  24 Q. In paragraph 15, occasions where paparazzi have been                  25 outside your house, you've had to on occasion hide your</p> <p style="text-align: center;">Page 46</p>	<p>1 I would like to say that particularly with regard to                  2 photographers outside our house, I think a very good                  3 example of this is two journalists from a Scottish                  4 tabloid took up residence outside our house in a car at                  5 a time when I was absolutely unaware that there was                  6 particular interest in me. I didn't have a book coming                  7 out, I hadn't just given birth, they were just sitting                  8 there. So I asked someone who works for the public                  9 relations company that I employ to please ask them what                  10 they wanted. The response she received was: it's                  11 a boring day at the office. So my family and I were                  12 literally under surveillance for their amusement. There                  13 wasn't even a pretence that there was a story.                  14 It's difficult to explain to people who haven't                  15 experienced it what that feels like. The twist in the                  16 stomach as you wonder what do they want? What do they                  17 think they have? It's incredibly threatening. It feels                  18 threatening to have people watching you.                  19 Q. Then you quite rightly state that the Sun published an                  20 article on 25 March 2003, absolutely no criticism of                  21 that, but they rightly said:                  22 "The 38-year-old author is fiercely protective of                  23 her private life and kept details of her son's birth top                  24 secret."                  25 A. Yes.</p> <p style="text-align: center;">Page 48</p>

<p>1 Q. Accurately stating the position. You give us some 2 specific examples, starting in paragraph 21. The 3 picture in 2001 in OK magazine when your child was then 4 eight, I think. 5 A. Yes. 6 Q. And that was on a -- was it a public beach or a private 7 beach? You tell us in your own words. 8 A. This is where it all went wrong, because my husband and 9 I weren't married then, it was shortly before we were 10 married. We were, wrongly, convinced that we were on 11 a private beach. We subsequently discovered that no 12 beach in Mauritius is private, they're all public by 13 law. But the hotel we were staying at had advertised 14 that it had its own beach, and we wrongly understood 15 from that that it was private. So we believed ourselves 16 to be in a private situation. 17 My husband, who it is more observant than I, 18 clearly, said he was worried about a boat that was 19 a little way out while we were all on the beach, and 20 I dismissed this and said I was sure everything was fine 21 and he was being paranoid. He wasn't being paranoid at 22 all. We were being long-lensed and when we arrived home 23 it was to photographs of the two of us, not my daughter, 24 the photographs including my daughter weren't published 25 at first, on the beach.</p> <p style="text-align: center;">Page 49</p>	<p>1 "In addition, it gives greater protection to 2 children, does not allow photographs of children under 3 the age of 16 to be taken where the child's welfare is 4 involved, and requires a justification other than the 5 fame of a child's parent for publishing material about 6 the private life of a child. There may also be an 7 exceptional public interest justification for breaching 8 these provisions, but none was provided in this case. 9 "The Commission noted that it was not in dispute 10 that Ms Rowling had gone to considerable lengths in the 11 past to protect her daughter's privacy. This seemed to 12 have been reflected in her selection of a holiday 13 location. It had not been challenged that the beach was 14 not overlooked by other holiday apartments and that the 15 family had gone there in the low season to avoid 16 unwanted attention. 17 "The Commission was not asked to consider whether 18 the photographs of the complainant and her partner 19 breached the Code but it considered in the circumstances 20 outlined above, and given the high level of protection 21 afforded by the Code to children, photographs of the 22 complaint's daughter should not have been taken or 23 published and therefore breached clause 3." 24 Well, you would presumably agree with every word of 25 that decision, Ms Rowling?</p> <p style="text-align: center;">Page 51</p>
<p>1 Q. It led to a complaint to the PCC? 2 A. Yes. 3 Q. You have the adjudication under tab 2 there, Ms Rowling. 4 A. Yes. 5 Q. The complaint was upheld. 6 A. Yes. 7 Q. As you know. 8 A. This was the complaint about the photographs of my 9 daughter, including my daughter, yes. 10 Q. Absolutely. The public/private beach point was not one 11 which, as it were, lost you the case. You won the case 12 because of the particular circumstances. 13 If you look at the adjudication, it's in fact set 14 out in your witness statement, but it's right to read it 15 out because the PCC may well want me to do so: 16 "While the Commission may have regard to its 17 previous decision, circumstances will necessarily vary 18 from case to case. It therefore considers each 19 complaint on its merits under the Code." 20 I think as a lawyer we all understand that. 21 "The Code entitles everyone of all ages to respect 22 for their private and family life and deems unacceptable 23 the use of long lens photography to take pictures of 24 people in places where they have a reasonable 25 expectation of privacy.</p> <p style="text-align: center;">Page 50</p>	<p>1 A. I would agree with every word of that, yes. 2 Q. Do we need to go on to the complaint under Rule 6? 3 I will if you like. 4 A. May I say one thing about the photograph of -- that 5 photograph of my daughter in her swimsuit? 6 Q. Yes, of course. 7 A. Unlike an untruth that is in print, for which you can at 8 least receive an apology, when an image is disseminated, 9 it can spread around the world like a virus, and that 10 photograph of my daughter in her swimsuit was on the 11 Internet months after the PCC ruling. 12 Of course I accept the PCC could not adjudicate for 13 members of the public who had copied the image and put 14 it up on websites, and that they had no mechanism to 15 prevent that happening, but I feel that given the fact 16 that an image has a life that cannot be recalled once 17 you have seen what someone looks like in their swimwear, 18 an apology does not remove that knowledge from everyone 19 else. An image has a particular property in that way. 20 So I needed to -- I contacted my lawyers when 21 I realised this image was still out there, and they 22 laboriously attempted to remove it wherever they could. 23 I'm sure it is still out there. That's the particular 24 harm of an image. 25 Q. Yes. The analysis of the PCC in line with their</p> <p style="text-align: center;">Page 52</p>

<p>1 standard practice is to divide your case up into                  2 different parts of the Code?                  3 A. Mm-hm.                  4 Q. We've been looking at clause 3, which is privacy.                  5 A. Mm-hm.                  6 Q. Although the age of your child is of course a relevant                  7 factor, but then they deal separately with clause 6,                  8 which is the children issue. And on a separate basis                  9 they uphold the complaint there, which is hardly                  10 surprising given their reasoning in relation to clause                  11 3.                  12 It's noteworthy, though, in relation to clause 3                  13 that the Commission have weighed up a number of factors                  14 and it's immediately clear which factor is                  15 determinative, but they considered all the circumstances                  16 of your case.                  17 A. Mm-hm.                  18 Q. Which some may say demonstrates that these issues are                  19 not always straightforward ones. Would you accept that                  20 or not? Although of course you clearly won this case.                  21 A. Well, where children are concerned, it's my personal                  22 belief that the issue is not complex at all. A child,                  23 no matter who their parents are, I think, deserves                  24 privacy.                  25 Q. Yes.</p> <p style="text-align: center;">Page 53</p>	<p>1 afterwards we did then see the man running down the road                  2 to get a better angle of us with my son. My eldest                  3 daughter was then at school, so this was now my middle                  4 child, my son, who was being photographed.                  5 Q. The photographs were published?                  6 A. Yes.                  7 Q. And as you explain, one of the newspapers published                  8 a photograph that clearly showed your son's face.                  9 A. Mm-hm.                  10 Q. What had happened, as very often happens, a picture                  11 agency had taken the photograph, in this particular                  12 instance it happened to be a company called Big Pictures                  13 Limited, and they sold it on perhaps to the highest                  14 bidder?                  15 A. Yes, that's my understanding of what happened, yes.                  16 Q. You then brought proceedings and sought an injunction as                  17 well as damages for breach of confidence and breach of                  18 privacy. At the first stage before the High Court judge                  19 your claim was struck out; is that right?                  20 A. Yes. May I just say before we move on to that point --                  21 Q. Of course.                  22 A. There was a reason why I didn't again go to the PCC. It                  23 had been my hope, perhaps hope more than belief, but my                  24 strong hope that the PCC adjudication of my eldest                  25 daughter would send notice to the press that I took it</p> <p style="text-align: center;">Page 55</p>
<p>1 A. They have no choice in who their parents are, they have                  2 no choice in how their parents behave, so I would                  3 respectfully say that I think where children are                  4 concerned, the issue is fairly black and white, and                  5 I think it would have to be extraordinary public                  6 interest to justify publication of photographs of                  7 children, particularly without their consent.                  8 Q. The next sequence of evidence you're about to give is                  9 slightly more complicated legally, and it's the                  10 Marion(?) Big Pictures litigation. Tell us what                  11 happened on 8 November 2004 before we look at the legal                  12 consequences of it, Ms Rowling.                  13 A. This was an occasion -- I was fairly heavily pregnant                  14 with my third child. Most unusually, my husband had                  15 a morning off, and this is relevant in that we very                  16 rarely went out at this time of day together, so it's                  17 our belief that again people were watching the house on                  18 the off-chance, without any particular justification.                  19 Anyway, it so happened that we took a walk to                  20 a local cafe. Most people, I think, would say that's a                  21 very innocuous thing to do as a family. And we were                  22 photographed covertly going to the cafe, didn't realise                  23 that had happened. Only subsequently did we realise                  24 when we saw the photos that it must have been happening                  25 before we hit the cafe and afterwards, because</p> <p style="text-align: center;">Page 54</p>	<p>1 extremely seriously if they invaded my children's                  2 privacy. Clearly, the message had not been strong                  3 enough. Sanctions had not been imposed that would make                  4 anyone think twice about this and they had again bought                  5 photographs of my child, a different child but of my                  6 child. So that's why we didn't go back to the PCC.                  7 That's why now we went a step further and our intention                  8 was to underline our position on this.                  9 Q. The argument of the defendant newspaper, which at first                  10 instance was accepted then was reversed on appeal, was                  11 that this was a public place, there was no harassment,                  12 therefore there was no confidence or privacy which could                  13 be protected?                  14 A. I disagree, as you would expect, on a number of counts                  15 there. First of all, that there was no harassment --                  16 Q. I'm just setting out the argument.                  17 A. I know.                  18 Q. As we know, the Court of Appeal came to a different                  19 view.                  20 A. They did, but we were extremely disappointed that that                  21 was the response of the court in the first instance.                  22 Q. You had a right of appeal, you exercised it, and on                  23 7 May 2008, the Court of Appeal, presided over by the                  24 then Master of the Rolls, Sir Anthony Clarke, found in                  25 your favour. The judgment is of course publicly</p> <p style="text-align: center;">Page 56</p>

<p>1 available. We provided it to you in your bundle at                  2 tab 5.                  3 A. Yes.                  4 Q. You, if I may say so, have correctly summarised it in                  5 your witness statement at paragraph 28.                  6 A. Yes.                  7 Q. You say that it is understood, given the way this went                  8 off procedurally, the Court of Appeal were deciding that                  9 you had an arguable case. They weren't deciding whether                  10 you were going to win or lose at the end of the day.                  11 A. Mm-hm.                  12 Q. Although the result of the Court of Appeal's judgment is                  13 that in the end there was a settlement of the case to                  14 your satisfaction; is that right?                  15 A. That's correct, yes.                  16 Q. The judgment does bear reading in full. It is                  17 a detailed and legally sophisticated judgment. I'm not                  18 going to take time with it because I couldn't possibly                  19 do justice to it by summarising it, but you in                  20 paragraph 28, subparagraphs (a) to (e), have identified                  21 the key features and of course, unsurprisingly, a key                  22 feature here is the fact we are concerned with the                  23 rights of a child?                  24 A. Yes.                  25 Q. In paragraph 29, you explain why you decided to bring                  Page 57</p>	<p>1 Q. Yes.                  2 A. So yes, I did decide that it was time to take action                  3 when we had yet another incident.                  4 Q. The point at (c), this is at your page 16, you make it                  5 clear that you hadn't consented. Of course you hadn't                  6 consented to the photographs being taken. Point (d) is                  7 the long lens camera point and the reasonable                  8 expectation of privacy point.                  9 A. Yes.                  10 Q. It might be said that the very fact that you need to use                  11 a long lens gives rise to some sort of presumption that                  12 you're invading privacy, but at least that's a factor                  13 which may be relevant.                  14 What about your point (e) at page 17 that you were                  15 not contacted prior to publication? What difference                  16 might that have made, do you think?                  17 A. If I had been told what was coming, I think I could have                  18 said, well, I will take steps, possibly through the                  19 courts, possibly through the PCC, I don't know what it                  20 would have been, if I had been notified, to prevent                  21 publication. We could have had a conversation. I could                  22 have restated my reasons for not wishing the children to                  23 be photographed.                  24 I mean, again, I think the point here is that like                  25 a lot of people who have agreed to give evidence at this                  Page 59</p>
<p>1 this case. You've given us one of the reasons: you'd                  2 lost confidence in the PCC and this was really the                  3 failure of the press to respond positively to the                  4 adjudication following the Hello publication in 2001?                  5 A. Yes.                  6 Q. That's your second reason. Your first reason at 29(a),                  7 please, Ms Rowling, might you elaborate on that for us,                  8 please?                  9 A. There had been another incident shortly after my son was                  10 born, so I had at this point a 10-year-old daughter and                  11 a virtually newborn baby, so we were besieged for a week                  12 and then I believed that the photographers had                  13 disappeared, and for the first time in a week I was able                  14 to get out of the house with my daughter and the baby.                  15 And we were long-lensed and on this occasion I saw the                  16 photographer taking the picture from across the street,                  17 I pulled my daughter behind me because I didn't want her                  18 photographed, and I rather absurdly gave chase. How                  19 I thought I was going to outrun a 20-something paparazzo                  20 while pushing a buggy ...                  21 My daughter was, "Calm down Mum, calm down, don't be                  22 silly, it doesn't matter", but it mattered hugely to me                  23 that the moment I set foot outside the door, my children                  24 were being photographed again.                  25 So the cumulative effect, it becomes quite draining.                  Page 58</p>	<p>1 Inquiry, we are not looking for special treatment.                  2 We're looking for normal treatment. I don't regard                  3 myself as entitled to more than; I'm simply asking for                  4 the same as. And I'm particularly asking for that on                  5 behalf of my children.                  6 So yes, if I had been notified of the intention to                  7 print another photograph of my child, which neither                  8 I nor they had consented to, I would have been given an                  9 opportunity to explain my position again to the                  10 newspaper in question, and one would hope that would                  11 have carried some weight, but again I wasn't notified so                  12 I couldn't do that.                  13 Q. Though your position had been so clearly stated before,                  14 one wonders why there was any need to restate it because                  15 everybody knew what it was.                  16 A. This is exactly right. I mean, short of getting                  17 a skywriter, what can you do?                  18 Q. In paragraph 30, Ms Rowling, there were further                  19 photographs.                  20 A. Yes.                  21 Q. Presumably long lens photographs, is this right?                  22 A. Yes.                  23 Q. Your holiday in the US in July 2006, photographs of your                  24 family and your three children, isn't that right?                  25 A. Yes, and I would have to say here that I felt an idiot,                  Page 60</p>

<p>1 a fool. This was literally the second time since --                  2 twice since 1998 I have put on a swimsuit on a public                  3 beach. Twice. And on both of those times I've been                  4 photographed.                  5 As I've already explained, on the first occasion                  6 I believed it was a private beach. On the second                  7 occasion, I think my guard was really down. We'd gone                  8 on holiday, we hadn't encountered any press. I assumed,                  9 wrongly, that we were -- I forgot myself for a few                  10 moments, and the result was that I was long-lensed                  11 again.                  12 Initially, there were photographs only of me, and                  13 while I don't accept that -- well, to call a spade                  14 a spade, I'm a writer, so I don't really think that it's                  15 of any relevance or of any public interest to know what                  16 I look like in a swimsuit, but the general feeling of                  17 people around me was, "Leave it", and I felt the same                  18 way. I felt that I wasn't going to be able to succeed                  19 in preventing publication of that photograph of me.                  20 I was very concerned because when I saw the photograph,                  21 I knew they must have photographs of the children                  22 because I knew that I was in very close proximity to the                  23 children all of that afternoon.                  24 Sure enough, the picture agency confirmed that they                  25 were holding a picture -- they said one photograph of</p> <p style="text-align: center;">Page 61</p>	<p>1 children were so upset by this.                  2 So my daughter was being characterised as some kind                  3 of bully, as using information from me to upset people,                  4 and there was not one word of truth in it. There had                  5 been no complaint. My daughter could not possibly have                  6 told anyone what happened in book 7, because at her own                  7 request she didn't want to know. So it -- I mean,                  8 what -- I am very wary of speculating, but I have been                  9 on the receiving end of stories being put to one that                  10 probably, I would guess, the journalist is aware aren't                  11 true, but the strategy seems to be that they will                  12 surprise someone into saying something that they can                  13 then print. Because I would say why not contact me?                  14 But possibly there was a hope that the headmaster might                  15 inadvertently reveal that she had said something, or                  16 inadvertently reveal "That's not what I heard, I heard                  17 she said he survives". Who knows? But again, to                  18 approach my daughter's school to me was outrageous.                  19 Q. This was the time of wild speculation as to what                  20 happened at the end of the last book?                  21 A. That's right, yes.                  22 Q. And then in subparagraph (c), November 2007, more                  23 photographs, this time outside a coffee house I think in                  24 Edinburgh.                  25 A. I had taken my youngest daughter out actually to buy her</p> <p style="text-align: center;">Page 63</p>
<p>1 the children, and agreed to destroy it. Which I believe                  2 was done. I've never seen that photograph published.                  3 Q. Thank you. Did that give rise to a PCC complaint?                  4 A. I don't -- I think -- my recollection is that we didn't                  5 complain to the PCC and I think that that was because --                  6 Q. We've seen your evidence --                  7 A. Yes. My confidence in the PCC was fairly low at this                  8 point, so I decided my embarrassment wasn't worth the                  9 stress of going through the complaint, really.                  10 Q. There was another incident, paragraph 30,                  11 subparagraph (b) at page 19, that in July 2007                  12 a journalist from the Scottish Sun contacted the                  13 headmaster of your eldest daughter's school.                  14 A. Yes. There are -- this is one of the incidents about                  15 which I feel most outrage. A journalist contacted --                  16 did not contact me. I'm a highly contactable person.                  17 I have an agent, there's a PR firm that represents me,                  18 I have publishers. There are numerous ways to contact                  19 me very easily. No one contacted me, they went directly                  20 to the headmaster of my child's school. And as I say in                  21 my witness statement, the claim by the journalist was                  22 that my eldest daughter had distressed fellow pupils by                  23 revealing that Harry Potter died in the final                  24 Harry Potter book, and that the headmaster had received                  25 complaints from students and parents because their</p> <p style="text-align: center;">Page 62</p>	<p>1 an advent calendar. She was quite excited. We became                  2 aware that we were being photographed from across the                  3 street and someone was with me and crossed the street                  4 and said to the photographer, "She's with her child,                  5 please stop", and the photographer refused.                  6 I don't know whether they got a clear shot of my                  7 youngest daughter, I've no idea. They claimed that they                  8 only saw her legs in the developed photographs. I don't                  9 know.                  10 The justification that I heard on that occasion was                  11 they believed I was wearing a fur coat. I was wearing                  12 a woollen coat that I've never worn in public again.                  13 Q. The impact on your children, are you able to assist the                  14 Inquiry with some insight into that?                  15 A. There's the particular impact on a given day. For                  16 example, my youngest daughter was very upset that we                  17 couldn't get her advent calendar because the                  18 photographer was clearly not going to desist, he'd                  19 refused in so many words. We had nowhere to go so we                  20 got back in the car and we went home again.                  21 On a general note, the sense of being often unable                  22 to leave your house or move freely is obviously                  23 prejudicial to a normal family life, and certainly all                  24 three of my children have been aware of being suddenly                  25 pulled behind me or I will split from the family group</p> <p style="text-align: center;">Page 64</p>



<p>1 because I'm aware there's a photographer there, so                  2 you're hoping to draw them off: "You take the kids that                  3 way, I'll go this way".                  4 So there's a general edginess sometimes when you are                  5 aware that there are people in the vicinity, and                  6 sometimes when there aren't, you start becoming jumpy.                  7 You start thinking that the person behaving in                  8 a peculiar manner near your house might be concealing                  9 a long lens. They might not be at all, but it's a very                  10 unnerving feeling to know that you're being watched. So                  11 obviously that impacts my children.                  12 Q. Yes. We now move on to the second topic, which is                  13 privacy of home life, and this is related, of course, to                  14 the issue of personal security, which is obviously an                  15 obvious matter of concern to you.                  16 Can I deal with the matters in chronological order?                  17 Paragraph 41, I think, first.                  18 A. Yes.                  19 Q. There may be a typographical error in the title.                  20 I think the right date is January 2005; is that right?                  21 A. That -- I think so, yes.                  22 Q. There was an article published in the Scottish Daily                  23 Mail about conversion works which were taking place at                  24 your home. Your full address, without the postcode, was                  25 published, together with a large photograph of the house                  Page 65</p>	<p>1 here and now, although I'm happy to provide those                  2 details if they're relevant. But like virtually                  3 everyone in the public eye, I have on occasion been the                  4 target of unbalanced individuals. I don't want to go                  5 into details.                  6 I mention this because my desire to keep the precise                  7 address of the property where I live with my family out                  8 of national newspapers is not because I'm being starry                  9 or precious; it's because on a number of occasions we                  10 have needed to -- the police have been involved because                  11 of incidents or even threats.                  12 So I think it's reasonable of me to wish that the                  13 papers would refrain from making my whereabouts so very,                  14 very identifiable. Clearly I have to live somewhere,                  15 and we've taken all reasonable precautions in this                  16 matter. Of course locally it may be known where my                  17 house is, but again I think a reasonable person would                  18 see a difference between my neighbours knowing which is                  19 my house, my children's friends knowing where we live                  20 and anyone who reads a national newspaper being able to                  21 find us with extraordinary ease.                  22 Q. What happened in this particular case, and we'll deal                  23 with the PCC element in a moment, Ms Rowling,                  24 paragraph 43 of your witness statement, the paper's                  25 position was that the addresses were in the public                  Page 67</p>
<p>1 in question. Obviously, even without the postcode, the                  2 full address was enough to identify which house we're                  3 talking about.                  4 A. Yes.                  5 Q. It's obvious. So that it's clear, what happened as                  6 a result of this?                  7 A. Well, as a direct -- sorry, could you ask me that                  8 question again? As a direct result of the publication                  9 of this photograph?                  10 Q. Yes.                  11 A. We asked them -- we went to the newspaper and asked that                  12 they remove those details from their website and so on,                  13 and I believe they did do that.                  14 Q. Yes. Then in July 2005, this time the Mirror -- I think                  15 we're south of the border now, Ms Rowling; is that                  16 right?                  17 A. Yes.                  18 Q. Published an article printing the street names and                  19 photographs of three of your properties in England and                  20 Scotland just before Harry Potter 6, this was.                  21 A. Yes.                  22 Q. No public interest in that. And your concern                  23 additionally was that the article showed certain                  24 security features which you quite rightly had in place?                  25 A. Yes. For obvious reasons I don't wish to go into detail                  Page 66</p>	<p>1 domain, they could be found on the Internet.                  2 A. In fact, we've taken every step that one can to make                  3 sure that we are not listed in the usual ways on                  4 registries that exist online. We can't prevent any                  5 individual putting our address online, but if that's the                  6 justification a newspaper's using for then reprinting it                  7 in the national press, I think that's a fairly flimsy                  8 justification, but we have taken every reasonable                  9 precaution we can think of to protect our own privacy.                  10 Q. Then you point out that the -- this is the third line of                  11 paragraph 4 -- the paper continued to disregard your                  12 feelings because five days later it published a picture                  13 of your eldest daughter as a baby?                  14 A. I would like to emphasise that what I'm about to say                  15 does not apply to the whole of the British press, but it                  16 is my experience with certain sectors of the British                  17 press. If you lock horns with them in this way, if you                  18 protest or you make a complaint, then you can expect                  19 some form of retribution fairly quickly, and I thought                  20 the fact that in this case a picture of my child was put                  21 into the papers, so very quickly after I'd asked them                  22 not to print my address, I thought that was spiteful,                  23 actually. Just spiteful.                  24 Q. We move to a different title. The Evening Standard in                  25 October 2007 published photographs and information about                  Page 68</p>

<p>1 your homes, including descriptions of the properties, 2 details as to their history, details of their location 3 and details of security arrangements and pictures. 4 A. Yes. 5 Q. There was a complaint at least at a legal level. What 6 was the upshot of that? 7 A. As my witness statement says, they wrote a one-line 8 letter back saying they had noted the contents of my 9 letter. 10 Q. Yes? 11 A. Again, this doesn't apply to the whole of the press, but 12 the attitude seems to be utterly cavalier. 13 Indifference. What does it matter? You're famous; 14 you're asking for it. 15 Q. I think the final series of articles on this sort of 16 theme, October/November 2007, the Mirror, the 17 Daily Record and the Scottish Mail on Sunday each or all 18 published articles that identified the precise location 19 of your home in the Scottish countryside, showing the 20 name of your home, the name of the neighbouring property 21 and the name of the small town in which you lived? 22 A. Yes. And when we complained about this, the argument 23 was, well, this information is in the public domain, but 24 the joke of that to me is they put it into the public 25 domain. What they were effectively saying was you can't Page 69</p>	<p>1 A. Yes. The key point on which they disagreed with me, 2 they said they hadn't given enough information to 3 identify the property, and I strongly disagree. Indeed, 4 people said to me afterwards, "Oh, I know where you live 5 now, it is ..." and then they described -- from the 6 information in the newspaper they were able entirely 7 accurately to identify which house we'd bought, so 8 I must disagree with the papers on that matter. 9 Q. The reasoning of the PCC, so that we're clear about it, 10 is the part of the case which was upheld, the Commission 11 were satisfied that the photograph and the caption 12 contained sufficient information to identify the exact 13 location of the property. 14 A. Mm. 15 Q. So that was objectionable because it was too precise. 16 A. Yes. 17 Q. Their argument was that in relation to the two other 18 house, it wasn't sufficiently precise and therefore 19 there wasn't a breach because one would have to carry 20 out further enquiries in order to pinpoint the exact 21 location? 22 A. But I feel that in this respect the PCC isn't seeing the 23 wood for the trees. All it needs is for three or four 24 newspapers to provide partial information and one is 25 virtually giving a guided tour to my house. Page 71</p>
<p>1 complain that we are printing photographs and the 2 address because we've already printed photographs and 3 the address. 4 Q. Just so that's made clear, it had been put in the public 5 domain the day before by the Mail on Sunday? 6 A. Yes, about which we'd complained. 7 Q. About which you complained. Therefore it's entirely 8 disingenuous, you say, for the Scottish Mail to rely on 9 that argument. Just so we're absolutely clear, they're 10 part of the same newspaper group. Is that correct? 11 A. Exactly right, yes. 12 Q. But does that disingenuous argument apply with equal 13 force to the Mirror and the Daily Record? 14 A. The Mirror and the Daily Record, as I said in my witness 15 statement, they agreed to remove the articles from their 16 archives, but they gave no guarantee that they wouldn't 17 publish the information again at some point. 18 Q. There were complaints to the PCC resulting from some of 19 these events, not all of them. 20 A. Yes. 21 Q. So that we understand the position, it's paragraph 48 of 22 your witness statement. Going back to the Mirror's 23 publication in July 2005, which is what you talk about 24 in paragraph 42, your complaint there was upheld in 25 part, I think. We have the adjudication under tab 3. Page 70</p>	<p>1 So if each complaint is going to be struck down 2 because well it's almost your exact address but not 3 quite so we don't think that's good enough, then I feel 4 that we're all in a fairly vulnerable position. 5 LORD JUSTICE LEVESON: It's called a jigsaw identification. 6 A. Precisely the case. And I think exactly right. I don't 7 feel that the PCC is taking a -- is I think a little 8 conveniently not taking a holistic view of the matter. 9 MR JAY: We see a similar theme, whether it's right or wrong 10 or not, and you clearly say it's wrong, in relation to 11 the 2007 publications under our tab 4, because your 12 complaints are not upheld, really for the self-same 13 reason, that the identification is not sufficiently 14 specific. 15 A. Mm. 16 Q. If you just look at the four corners of the article 17 itself, but you say the answer to that is let's feed in 18 other information which is readily available, some of it 19 has been disseminated by the press itself, then it 20 doesn't take too many steps or filling in of the 21 pieces -- 22 A. Literally a click of the mouse. And in fact, when we 23 bought a new house in Edinburgh, one newspaper gave 24 really -- oh no, I'm sorry, I'm mistaken, it was our 25 previous house in Edinburgh. Yes, in fact I believe it Page 72</p>

<p>1 was this precise case we've just been talking about.  2 The PCC said there wasn't sufficient information to  3 identify the precise location of the Edinburgh house.  4 However, someone, I believe abroad, saw the article and  5 said, "But I know exactly ..." they instantly knew which  6 house it was and they said, "I used to live there", and  7 gave the whole address plus the postcode. So they were  8 able, on the basis of what they'd read, to put  9 everything into the public domain, and again I feel that  10 little if any weight is given to that, or has been given  11 to that when the PCC looks at these matters.  12 LORD JUSTICE LEVESON: Did that person put the address and  13 postcode?  14 A. They put the entire address, down to the postcode. And  15 actually, I think it was done quite innocently by that  16 person, I think they were really excited to realise that  17 I was living in the house they'd lived in previously,  18 I think it was a young person who did it, but the whole  19 address was on the Internet within two days and my  20 lawyer was able to contact that person and say to them,  21 "Please could you delete this", which they did, but  22 again, in the meantime, how many people had seen the  23 whole address?  24 MR JAY: Just to understand where you say the boundary lines  25 are. What do you say is permissible and what do you say</p> <p style="text-align: center;">Page 73</p>	<p>1 Q. The figure that Mr Whittamore charged for his services  2 you give as £655. Are you able to assist us in general  3 terms as to the nature of the information he had  4 blagged? If you don't want to tell us, please don't,  5 but just so we get a general idea, perhaps, of the  6 nature of the information. If there's any concern about  7 doing so, I won't press it.  8 A. I'm happy to say what I know, and I say that because  9 I don't know part of what he had. He appears to have  10 been making investigations with people regarding me,  11 with people whose names I don't recognise, so I don't  12 know what he was after there and I don't know what he  13 was searching for. But the bulk of what he appeared to  14 be trying to do was to track down people related to me.  15 For what purpose, I couldn't tell you, but, yes, he  16 seemed to be making extensive enquiries about my  17 extended family.  18 Q. Thank you. Whereas you say in paragraph 52 that you're  19 awaiting a substantive response from the ICO, have  20 I understood your evidence correctly that you've now  21 received some sort of response?  22 A. There is a -- I may need to ask my lawyers to provide  23 details on this, but I believe there is additional  24 information to come.  25 Q. It may or may not be important. You've given us,</p> <p style="text-align: center;">Page 75</p>
<p>1 is impermissible on this issue?  2 A. On this issue, I don't see why it is in the public  3 interest to know exactly where I live. I mean, clearly  4 I can't put an invisibility cloaking device over myself  5 and my house, nor do I wish to. I want to live in as  6 normal a way as possible, but it is not normal for  7 anyone, famous or not famous, for their address to be  8 known to millions of newspaper readers or users of the  9 Internet. So that is where I would draw the line.  10 I would, if I may, make one further point. As  11 I said, I moved out of the first house we ever owned  12 because the photographs of the house precisely  13 identified its location. There was the number on the  14 door and the street name was on the building. So an  15 image can do as much, if not more, damage than even  16 a postal address in print.  17 Q. Thank you. The third area you wish to address is the  18 issue of fair treatment in the press. This starts at  19 paragraph 50, Ms Rowling.  20 In paragraph 51, you're referring to a report in the  21 Independent newspaper regarding the Operation Motorman  22 investigation. Do you believe you were the target of  23 Mr Whittamore, is that correct?  24 A. Well, I -- yes. I've now had the files made available  25 to me, so I know that I was a target, yes.</p> <p style="text-align: center;">Page 74</p>	<p>1 I think, the gist of what you've seen so far.  2 A. Yes.  3 LORD JUSTICE LEVESON: Hang on, Mr Jay. Mr Sherborne, is  4 there anything of significance?  5 MR SHERBORNE: I was simply going to confirm the position.  6 As I understand it, Ms Rowling has seen some of the  7 documentation, but as I understand it equally, there is  8 more to come.  9 LORD JUSTICE LEVESON: If it's so extensive, I don't want to  10 know the details but it might affect what I am thinking  11 about, then doubtless you can provide the information at  12 some stage. I don't want the details.  13 MR SHERBORNE: I understand.  14 LORD JUSTICE LEVESON: But the broad width and length of the  15 information could be valuable, but only if you feel it  16 takes me further.  17 MR SHERBORNE: Sir, indeed. I understand that.  18 LORD JUSTICE LEVESON: Thank you.  19 MR JAY: In paragraph 53, you give another example of  20 blagging which is quite characteristic because we heard  21 similar evidence from somebody this morning, namely  22 someone purportedly from the post office phoning you and  23 explaining they have a package but no address.  24 A. I recalled while preparing this statement two instances  25 of blagging that I know about. When I was blagged,</p> <p style="text-align: center;">Page 76</p>

<p>1 I actually realised halfway through giving personal 2 details that I was being blagged. It was shortly after 3 we moved into our first house that we owned, and 4 I believe the journalist didn't know where I had moved 5 to. Somehow, I don't know how, had my telephone but did 6 not know my exact address. So I received a phone call 7 allegedly from the post office and this man said to me, 8 "I am from the post office, I've got a package here for 9 you, what's your address?" So I began to speak and then 10 I said, "Wait, wait a moment, you're from the post 11 office, well, what does it say on the package?" And 12 there was a moment's embarrassed silence and he hung up. 13 LORD JUSTICE LEVESON: The other story -- the story we heard 14 I think in your absence from another witness this 15 morning, was that he said, "Well, the mobile phone has 16 been left on the ripped paper." And in that case, the 17 information was provided. Anyway. 18 A. I can understand -- well, I -- 19 LORD JUSTICE LEVESON: So your account has resonance with 20 some evidence that we actually heard this morning. 21 A. I understand. Well, my husband was less fortunate than 22 me, and we were not married. We had just started 23 a relationship. My husband had just moved jobs from one 24 hospital to another. Fortunately for the blagger, but 25 not fortunately for Neil, the blagger pretended to be</p> <p style="text-align: center;">Page 77</p>	<p>1 Q. Can I deal with issues of as much commercial confidence 2 as personal privacy, leaked information, Ms Rowling, 3 your books. 4 Paragraph 58, I think we're now on Harry Potter 5, 5 as you say. In June 2003, the Sun apparently came into 6 possession of two copies of the book which were stolen 7 from the printers. 8 A. Yes. 9 Q. Can you tell us a little bit about what happened next, 10 please? 11 A. I believe the story was that an unemployed gentleman had 12 found a copy of Harry Potter in a field. I find that 13 story rather difficult to believe, but there you are. 14 So we had taken every reasonable step to try and 15 prevent prepublication leaks, and now the manuscript was 16 in the possession of a tabloid newspaper, so we took 17 out -- I'm not an expert on this by any means, but we 18 took out what's call a John Doe injunction against 19 unknown persons to prevent -- because we didn't know how 20 many journalists at this point had the manuscript -- to 21 prevent publication of the contents. 22 Q. Those representing Associated News wish it to be made 23 clear that as far as they understand the position, the 24 injunction was sought and obtained only in relation to 25 the activities of the Sun and not the Daily Mail and the</p> <p style="text-align: center;">Page 79</p>
<p>1 from the tax office, and my husband was expecting 2 a communication from the tax office so that he could 3 adjust his tax code. 4 Anyway, he's a busy man at a hospital, he gets 5 a call, he takes the call, they say we're from the tax 6 office, and he gave them everything. He confirmed his 7 address, he confirmed his pay rate, he confirmed 8 I believe his National Insurance number. And it was the 9 next day or the day after that he opened his front door 10 at 6 am to go to the hospital and flashes went off in 11 his face and the paparazzi had found him. 12 So that was a not very nice introduction to being 13 involved with someone famous. 14 Oh, I should say that there was subsequently 15 a legitimate contact with the tax office, so that's how 16 we know that the first call was not legitimate. 17 LORD JUSTICE LEVESON: Right. 18 MR JAY: And then you touch on phone hacking issues. The 19 position at the moment is that as far as you are aware, 20 but only on the basis of information and evidence 21 examined to date, there's nothing to connect you with 22 phone hacking; is that right? 23 A. No. I barely used a mobile phone in the 1990s, which 24 now seems like a very smart move, but it wasn't 25 deliberate.</p> <p style="text-align: center;">Page 78</p>	<p>1 Mirror. Are you aware of the exact position there, 2 Ms Rowling? 3 A. Well, it's my belief, but I would need to check with my 4 lawyers, that a John Doe injunction was taken out 5 against whoever may have a copy of the information. 6 MR CAPLAN: I think Mr Jay, an update, there was 7 a subsequent note I have given. That's not our 8 position. The position is it was obtained because 9 I think Ms Rowling and her advisers did not know who 10 might be in possession of the book, and as far as 11 Associated Newspapers is concerned, although the book 12 was offered to us, it was rejected immediately, it was 13 never taken up, that offer, and in court the judge 14 accepted that it had been offered but completely 15 rejected by Associated Newspapers. 16 LORD JUSTICE LEVESON: Very good, thank you very much. 17 MR JAY: That was my fault, because Mr Caplan did provide me 18 with an updated question in manuscript and I -- 19 LORD JUSTICE LEVESON: Missed it. Don't worry, we'll cope 20 with it. 21 MR JAY: I'm sorry about that as well, Ms Rowling. I messed 22 that one up a bit. 23 It continues in paragraph 60. What happened with 24 the return of the copies? Can you help us there, 25 please?</p> <p style="text-align: center;">Page 80</p>

<p>1 A. A great deal happened. There was no straightforward 2 handover of the book. 3 A review of the book was published, which really was 4 a way of publishing some of the contents, paraphrased. 5 This in spite of the fact that they had promised not to 6 reveal -- in court, they had promised not to reveal 7 anything that was in the book. The book was 8 photographed, those photographs obviously went into the 9 paper. So we had to go back to court to try and enforce 10 co-operation with the original injunction. 11 Q. You tell us that the Sun were trying to turn this into 12 a photo opportunity -- 13 A. Yes. This is to me a classic example of -- again 14 I accept this is far from being all journalists, but 15 there is a section of the press that sees opportunities 16 in a situation like this and I felt I was being 17 blackmailed. What they really wanted was a photograph 18 of me gratefully receiving back the stolen manuscript. 19 So I was being asked to pose with the book. 20 Q. It was a similar sort of sequence of events, but perhaps 21 less serious, but you'll tell me if that's right, in 22 relation to another book. I'm not sure whether it's the 23 sixth or the seventh -- 24 A. That's the sixth one, yes. Yes, I would agree that this 25 was less serious.</p> <p style="text-align: center;">Page 81</p>	<p>1 I had granted an interview to a magazine that is 2 primarily notorious for going into people's houses, 3 photographing them with their families, hearing personal 4 details of their private lives, and I censor no one by 5 the way for doing those interviews. I don't think 6 that's an awful thing to do. It simply happens that 7 that's not something I wish to do. 8 So the magazine asserting that I had done it, 9 I feared, would then be used as justification for 10 further invasion: "Well you gave an interview to Hello 11 magazine, you are prepared to sell your private life in 12 this way", and as is clear from my statement, what they 13 had done was taken that article from a different paper 14 and repackaged it. From a different source, and 15 repackaged it. 16 Q. And then you had a lot of difficulty with the apology. 17 It took time and you feel they reneged on the agreement 18 you had with them and it was published less prominently 19 than had been assented to? 20 A. Yes, they were very, very difficult to deal with on that 21 occasion. They dragged their feet for a very long time, 22 they didn't want to admit that they'd done what we knew 23 they had done, and the apology was minuscule. 24 Q. In paragraph 60, a claim in defamation. Would you tell 25 us a little bit about that? One of your characters,</p> <p style="text-align: center;">Page 83</p>
<p>1 This is opinion. My opinion is that if one shows 2 oneself prepared to take a stand, then I suppose I would 3 say that the press has maybe been wary of me latterly, 4 in that they -- on certain issues, obviously my 5 children's privacy being the most important one, but 6 that -- well, crudely, I suppose, they're wary because 7 they're aware that I can afford to pay for expensive 8 lawyers, and that's a sad reflection on the state of 9 affairs, that -- I mean, I therefore receive a kind of 10 treatment on occasion that I think is not available to 11 the ordinary person. 12 So it was a less serious situation on the sixth 13 book, I think because they had seen -- I guess because 14 they had seen that we were prepared to defend the book 15 vigorously in 2003. 16 Q. Thank you. I will move on to false attribution in 17 paragraph 63. In Hello magazine an article in 2001, or 18 thereabouts, claiming to be a rare and exclusive 19 interview. 20 A. Yes. 21 Q. The one which never occurred? 22 A. Yes. I think people might think that's quite a banal 23 occurrence, but in fact it's not. If you are trying, as 24 I am, to make it quite clear that my personal life -- my 25 family life is out of bounds, then the perception that</p> <p style="text-align: center;">Page 82</p>	<p>1 I think it was. 2 A. Yes. This was really quite horrible because it caused 3 real distress to my oldest child. 4 The Daily Express published an article saying that 5 I had based an unpleasant character in the Harry Potter 6 books on my ex-husband. This was wholly untrue, and 7 their justification for writing this was that I had said 8 while doing a book reading with a group of children, and 9 I remember the event, it was at the Edinburgh Book 10 Festival and it was very pleasant. I'm often asked do 11 you base characters on real people? It was a really 12 throw-away comment. I said, humorously, that the 13 character of Gilderoy Lockhart was based on someone with 14 whom I had lived briefly. 15 Now, that's true, but that person probably can't 16 even remember that we were ever flatmates. This is 17 a long time ago. So I felt quite clean about saying 18 that, I'd identified no one, and as I say, the 19 acquaintanceship was so fleeting I didn't feel I was 20 doing anything damaging. 21 Again, this was in the context of speaking to 22 children about the creation of a book. So I was relaxed 23 and not expecting what came next, which was this 24 article. Not only did they say that I'd based this 25 character on my ex-husband, they were clearly depicting</p> <p style="text-align: center;">Page 84</p>

<p>1 me as the kind of vindictive person who would use                  2 a best-selling book to vilify anyone against whom they                  3 had a grudge, which is simply nonsense.                  4 So I had to sit down with my eldest daughter,                  5 because they're talking about her biological father, and                  6 say to her this isn't true, I would never do this.                  7 There is no point of resemblance between this man and                  8 your father. And while she was very understanding about                  9 this, and said, "I know you wouldn't, I know you didn't,                  10 I believe you, I believe you", it was a horrible                  11 conversation to have to have. And, of course, there's                  12 what happens outside the house. There's what happens                  13 when other children, many of whom have read                  14 Harry Potter, told my daughter that her father was the                  15 basis for this unpleasant character, and that can't be                  16 recalled. Because children don't tend to read the                  17 apologies newspapers put in. So that misinformation                  18 caused real emotional hurt, which I'm sure is a matter                  19 of indifference to the person who wrote it, but as you                  20 can tell, quite a big matter to me.                  21 Q. Yes. That resulted in an apology. Can you tell us                  22 anything about the apology, for example where it was                  23 printed and its size and what might have been said?                  24 A. I truly can't remember, but I know that it was small and                  25 it certainly didn't occupy the same kind of space that                  Page 85</p>	<p>1 around the house. There was no question of throwing                  2 money at anyone to make them leave. We had a very                  3 amicable relationship with the seller who moved out in                  4 the normal time period and actually I never held any                  5 kind of Christmas party that year because we'd just                  6 moved in. So it was nonsense from beginning to end.                  7 Again, some people might think it's not a big deal.                  8 Firstly, it's depicting me as a very arrogant person who                  9 is unaware of the value of money, who uses it to bend                  10 anyone to her will, which I do not believe to be the                  11 case.                  12 But it's also you're putting a version of -- or the                  13 newspaper is putting a version of me and my family into                  14 the public domain that has an effect on my children, who                  15 are then asked about the house that we bought when we'd                  16 barely looked at it and the huge party we had and how                  17 your mother just throws money at people to move them out                  18 of their houses, and this is hurtful stuff.                  19 Q. There were a number of apologies but you point out that                  20 four weeks later, the Scottish Times published the very                  21 same defamatory allegations, later denied that they were                  22 defamatory --                  23 A. I think this just builds a picture of how very difficult                  24 it is to stop defamatory articles of any nature, because                  25 no prior notification that this was going to be printed,                  Page 87</p>
<p>1 the original article did.                  2 Q. Paragraph 61, we've covered. Paragraph 62, a separate                  3 defamation issue. Can you help us with that one,                  4 please?                  5 A. Now this one was untrue from beginning to end. There                  6 was an allegation printed that I was taking legal action                  7 against a man who was writing fan literature. It was                  8 simply untrue, and in fact I had never heard of him                  9 until this accusation was made against me.                  10 Q. Thank you. Then another defamatory article,                  11 paragraph 63, published in the Mail on Sunday, Hello,                  12 the Herald, the Scottish Sun, the Scottish Daily Express                  13 and the Daily Star Scotland, concerning the purchase of                  14 a house in town. The basic point there is that you paid                  15 well over the odds, it was alleged, in order to force                  16 the seller to move out early.                  17 A. Yes. The original story said that I walked into this                  18 house, which in actual fact is our family home now, that                  19 I glanced at two rooms, that I then offered a vast                  20 amount of money to get the owner out virtually instantly                  21 because I wished to host a Christmas party in this                  22 house. It's utterly, utterly untrue.                  23 We looked around the house in exactly the way any                  24 normal person would look around a house they were                  25 intending to live in, we took our children to look                  Page 86</p>	<p>1 no opportunity to correct the story, but also it does                  2 spread like fire. You're stamping in one area and                  3 someone else is lighting a fire over here, and you say                  4 to them person A already accepted it's completely                  5 untrue -- "Well, we don't accept that it's untrue".                  6 Q. Thank you. Then the last matter you cover,                  7 paragraph 64, there was an inquiry by the Sunday Times                  8 of your PR agents -- this is quite recent -- about the                  9 development of your Scottish urban home and the type of                  10 trees you were going to use. Can you tell us about                  11 that?                  12 A. This was quite a bizarre story, really. We did receive                  13 notice on this occasion that the Scottish Sunday Times                  14 wished to run an article about what we were planting in                  15 our garden, and I couldn't really understand why that                  16 was of any public interest at all.                  17 Then we were told that they were running an article                  18 on a non-native species and their environmental impact,                  19 and as everything we were using in our garden had been                  20 in Scotland for about 5,000 years, I still couldn't                  21 understand why we were being referenced in the article.                  22 When we said, "We're not minded to let you come and                  23 look at our trees", the journalist said, "I will come                  24 and see for myself then. I'll come onto your property",                  25 I assume. The effect was quite aggressive.                  Page 88</p>

<p>1 Q. Yes.</p> <p>2 A. We've actually -- if you don't mind, we've skated over</p> <p>3 an article that I'm finding it difficult to find it in</p> <p>4 my bundle here.</p> <p>5 Q. Of course.</p> <p>6 A. It was about my husband, I think, in the Sunday Mirror.</p> <p>7 Q. Certainly.</p> <p>8 A. I'm going to need to find it, but I really did want to</p> <p>9 talk about that one.</p> <p>10 Q. What we'll do, we'll find that, come back to that, allow</p> <p>11 you to deal with that in your own way and as completely</p> <p>12 as you like.</p> <p>13 A. Thank you.</p> <p>14 Q. I'm sure a note will be passed to me.</p> <p>15 What I'd like to do is put to you a point that</p> <p>16 News International on behalf of the Sunday Times wish me</p> <p>17 to raise in relation to the non-native species article.</p> <p>18 A. Oh yes, I'm interested to know.</p> <p>19 Q. Then we'll come back to the Sunday Mirror if that's</p> <p>20 acceptable. Have you been shown a copy of the piece in</p> <p>21 the Sunday Times?</p> <p>22 A. I wasn't aware that anything had appeared.</p> <p>23 Q. Yes. (Handed)</p> <p>24 A. Thank you very much.</p> <p>25 Q. This is a general piece, apparently. Indeed, as we can</p> <p style="text-align: center;">Page 89</p>	<p>1 LORD JUSTICE LEVESON: It goes on, and I appreciate this is</p> <p>2 rather difficult if you haven't seen this:</p> <p>3 "A spokesman for Patience &amp; Highmore [I'm not going</p> <p>4 to ask whether you recognise the name], the architecture</p> <p>5 firm helping to design Rowling's garden, said the</p> <p>6 council planning department is happy with the design and</p> <p>7 selection of species."</p> <p>8 Well, there it is.</p> <p>9 MR JAY: News International's position is that the</p> <p>10 information they obtained was from a publicly available</p> <p>11 planning document, which may well be consistent with</p> <p>12 what we see in the final paragraph.</p> <p>13 A. Yes.</p> <p>14 Q. And secondly that you were, they say, offered an</p> <p>15 opportunity to comment through your PR company, and the</p> <p>16 comment came from the architects, as we see reported.</p> <p>17 A. Yes, I see.</p> <p>18 Q. Does that make sense?</p> <p>19 A. Yes, it makes sense. I wasn't aware this had appeared.</p> <p>20 In fact, I thought that they weren't going to run the</p> <p>21 article, so I -- this has been slightly sprung on me,</p> <p>22 but I don't really know what to say about it.</p> <p>23 LORD JUSTICE LEVESON: Mr Sherborne, had you seen article?</p> <p>24 MR SHERBORNE: I had not seen it until very recently, sir.</p> <p>25 MR JAY: I provided it this morning, but I accept that</p> <p style="text-align: center;">Page 91</p>
<p>1 see, in the Sunday Times on 14 August of this year:</p> <p>2 "Garden experts wage war on plant invaders."</p> <p>3 A. Yes, I see myself in this little article.</p> <p>4 Q. The general theme is that apparently the Royal Britannic</p> <p>5 Garden in Edinburgh is to investigate the behaviour of</p> <p>6 every plant in its collection amid concern that more</p> <p>7 than 100 species may pose a threat to wildlife. These</p> <p>8 presumably are non-native species.</p> <p>9 On the right-hand side of the column you'll see:</p> <p>10 "Among those with a fondness for non-native plants</p> <p>11 is JK Rowling who plans to introduce several varieties</p> <p>12 at her Edinburgh home", then they are listed. "They</p> <p>13 include holm oak evergreen, native to the Mediterranean,</p> <p>14 which is invading southeast England. It's listed as</p> <p>15 a plant to avoid."</p> <p>16 So the suggestion there is that these plants or</p> <p>17 trees aren't yet there, but you're planning to introduce</p> <p>18 them. I think that's clear from what's being said. Do</p> <p>19 you have a comment on that?</p> <p>20 A. I don't -- it's just ludicrous. I truly ... I find it</p> <p>21 ludicrous. How is this -- I mean, I do not recognise</p> <p>22 these plants they say I'm going to plant, and as I've</p> <p>23 been very involved in the garden, clearly I've either</p> <p>24 overlooked something important or they are mistaken and</p> <p>25 I tend to think they are mistaken.</p> <p style="text-align: center;">Page 90</p>	<p>1 that's --</p> <p>2 MR SHERBORNE: I'd not seen it.</p> <p>3 LORD JUSTICE LEVESON: We've coped with it. We've now put</p> <p>4 it together.</p> <p>5 A. We've coped.</p> <p>6 LORD JUSTICE LEVESON: Right.</p> <p>7 MR JAY: Can I just check, before we go back to the point</p> <p>8 you wanted to raise, that we were covering the ground.</p> <p>9 Yes.</p> <p>10 There is an article I'm asked to draw to your</p> <p>11 attention, but it may be that there simply hasn't been</p> <p>12 the opportunity for you properly to consider this and</p> <p>13 therefore it's not something I --</p> <p>14 A. I was just given it before I came up here to --</p> <p>15 Q. Yes.</p> <p>16 LORD JUSTICE LEVESON: What's --</p> <p>17 MR JAY: This came to me very, very late from the</p> <p>18 Daily Mail. It's probably something if we're going to</p> <p>19 explore at all you should have the opportunity to look</p> <p>20 at. I don't think it's right I can really press it now</p> <p>21 without the witness having even had the chance to read</p> <p>22 it.</p> <p>23 A. I am happy to answer questions on this. I don't know</p> <p>24 what's coming, but I am. I sort of skimmed through it</p> <p>25 just before I came up here to sit down. I'd just seen</p> <p style="text-align: center;">Page 92</p>

<p>1 it. I'm happy to talk about it.                  2 LORD JUSTICE LEVESON: Can I see it?                  3 MR JAY: Is there a spare copy? (Handed)                  4 LORD JUSTICE LEVESON: Thank you. Hang on.                  5 It's an article 12.5 years ago?                  6 MR JAY: Yes.                  7 LORD JUSTICE LEVESON: All right.                  8 MR JAY: Let me see if I can put the point in the way that                  9 others would wish me to put it.                  10 A. Yes.                  11 Q. The sequence of events, on my understanding, is this,                  12 that after your first Harry Potter book, which was of                  13 course in 1997, you were interviewed by Angela Levin,                  14 then of the Daily Mail. Various personal matters are                  15 dealt with. It's not necessarily to go into them at                  16 all, but the article was not published at that time, as                  17 we can see. It was not published until 9 July 1999.                  18 Are you with me so far, Ms Rowling?                  19 A. I am.                  20 Q. This was published apparently after the second                  21 Harry Potter novel was published.                  22 A. Sorry, no, this is 1999, so that would have been around                  23 the time that the third book was published.                  24 Q. Right.                  25 A. The picture here is of the first book, but I see the                  Page 93</p>	<p>1 see that there's anything in here that I would have                  2 complained about. It seems to be largely factual. It's                  3 all information that I had already discussed in other                  4 interviews in the early part of my career as a published                  5 writer, so I cannot see why -- what I would have been                  6 angry about.                  7 But then while racking my brains it occurred to me.                  8 In 1999, when the third Harry Potter book was about to                  9 be published, I did tell my publishers that I did not                  10 wish to do any press, and the reason for that was that                  11 the phenomenon, if I can call it that, had really taken                  12 off, the books were selling very, very fast. I don't                  13 absolutely love giving interviews. Obviously it depends                  14 on the circumstances, but it's not my very favourite                  15 thing, and I just felt that giving more press felt like                  16 overkill. So I said to them, "Can we not say the books                  17 are selling very well and not do a big marketing                  18 campaign?" They were very understanding of that and                  19 I did one interview, on Radio 4, with Jim Naughtie I                  20 think and some children.                  21 I think that what seems to have happened is that the                  22 Mail has published this article when I had not given                  23 them the interview at that time. However, I made no                  24 complaint about that. It may be that they -- it may be                  25 that someone at my publishers said to the Mail, "But                  Page 95</p>
<p>1 date on it is 1999, so that would have been when the                  2 third book was published, not the second.                  3 Q. Right, okay.                  4 A. In fact it says here:                  5 "Her new book, Harry Potter and the Prisoner of                  6 Azkaban, is the third in her series."                  7 Q. So I shall notionally correct what I'd been told. I was                  8 told it was the second. In fact it's the third.                  9 A. Yes.                  10 Q. The point that I'm asked to put is that your publishers                  11 then telephoned the Daily Mail to say you were very                  12 angry at the publication of this article. Is that                  13 right?                  14 A. No.                  15 Q. No?                  16 A. I do not recall ever asking my publishers to tell -- to                  17 tell a newspaper I was angry. I -- this -- as you know,                  18 you told me I would be asked this question just shortly                  19 before we came into court, and I've been racking my                  20 brains as to what this refers to. I have no memory,                  21 ever, of complaining through my publishers to any                  22 newspaper. That's not the way I would complain to                  23 a newspaper. I would go to the PCC or I would go to                  24 a lawyer, I suppose, if it was something terrible.                  25 Moreover, I have now read this article and I can't                  Page 94</p>	<p>1 she's not doing press", but I never gave instruction for                  2 a complaint to be made. So I'm slightly mystified.                  3 LORD JUSTICE LEVESON: Actually, if one reads it, it's                  4 information that you've already described you're content                  5 to recognise is in the public domain.                  6 A. Yes, sir.                  7 LORD JUSTICE LEVESON: Except that it names your daughter.                  8 A. To whom I'd already dedicated the first book.                  9 LORD JUSTICE LEVESON: Oh, so we know the name of your                  10 daughter. All right.                  11 MR JAY: I think we're beginning to understand where we are                  12 with this piece. It's perhaps not advancing the sum                  13 total of our knowledge in the context of press culture,                  14 practices and ethics.                  15 LORD JUSTICE LEVESON: I understand entirely why it was felt                  16 appropriate to put it forward.                  17 MR JAY: Yes.                  18 LORD JUSTICE LEVESON: Right. There was one other article?                  19 MR JAY: I am having difficulty finding it.                  20 A. Yes, so am I, but I know it's in here.                  21 MR SHERBORNE: Can I assist, given the hour? It's an                  22 article in March 2003 that was written by Carole Malone                  23 in the Sunday Mirror.                  24 LORD JUSTICE LEVESON: Is it in the statement?                  25 MR SHERBORNE: I don't think that's in the statement.                  Page 96</p>



<p>1 A. I thought it was.                  2 MR SHERBORNE: Certainly not in the final version of the                  3 statement. It may have appeared in a previous draft.                  4 A. It did.                  5 MR SHERBORNE: Which is why Ms Rowling is referring to it.                  6 Can I say this, it's called, "Dr Murray at your beck and                  7 call", and just for fairness sake, I ought to point out                  8 that the Sunday Mirror did publish an apology, I don't                  9 have it in its published form so I can't say in what                  10 form the apology appeared, but I know that's the article                  11 Ms Rowling is referring to.                  12 LORD JUSTICE LEVESON: All right. Ms Rowling, you said you                  13 wanted to mention it, so mention it. Tell me about it.                  14 A. Thank you, sir. Ms Malone wrote a short piece in which                  15 she alleged in very vehement language that I had married                  16 a doctor and doubtless had been attracted to him partly                  17 because of his job and he had -- you know, he was                  18 someone who was doing a very worthwhile job, and that my                  19 husband had now given up his job to be -- and I remember                  20 it quite vividly -- to be at the beck and call of his                  21 obscenely rich wife.                  22 The language was really very strong, and no phone                  23 call had been made to me or any of my representatives,                  24 or to my husband, to check the veracity of the                  25 statements, and the truth was that my husband in ten</p> <p style="text-align: center;">Page 97</p>	<p>1 to my husband's colleagues, some of whom he might wish                  2 to work with or for at some point.                  3 Yes, we did receive an apology, but it's the old                  4 case of a lie can spread around the world before the                  5 truth has got its boots on. There were still people for                  6 some time who believed my husband had indeed decided to                  7 give up work to become house husband to his authoress                  8 wife. Although I think nowadays there are fewer people                  9 who still believe that, I can't know. Anyway.                  10 LORD JUSTICE LEVESON: I understand why you wanted to tell                  11 me about it.                  12 A. Thank you.                  13 MR JAY: In your conclusion, you sum up your position,                  14 Ms Rowling.                  15 A. Yes.                  16 Q. Very helpfully. Can I ask you then a more general                  17 question, perhaps born out of your experiences as you                  18 have explained them to us. Do you have any ideas,                  19 recommendations or suggestions which you would invite                  20 the Inquiry to carry away with it, particularly as                  21 a result of what you have told the Inquiry this                  22 afternoon?                  23 LORD JUSTICE LEVESON: This is not a compulsory question.                  24 It's an opportunity, that's all.                  25 A. I do not have any very fully worked-up ideas. I can</p> <p style="text-align: center;">Page 99</p>
<p>1 years of marriage has never taken any time off work                  2 except for family holidays and there has never been                  3 a period when he hasn't been work or on study leave or                  4 something similar.                  5 This was another instance of -- I feel extremely                  6 strongly about this and I wish to mention this because                  7 my husband clearly is not a celebrity and he has no wish                  8 to be a celebrity, and again this was damaging                  9 misinformation. Because his colleagues, those who                  10 weren't in his immediate vicinity and aware he was still                  11 working in the hospital where he was working, believed                  12 it. They thought he had indeed thrown in a career that                  13 he'd worked at so hard --                  14 LORD JUSTICE LEVESON: You mean in former hospitals, not                  15 where he was then working, presumably?                  16 A. He had changed hospitals, which seemed to be the reason                  17 Ms Malone assumed that because he'd disappeared from one                  18 hospital, he must have given up work entirely to be at                  19 my beck and call. And I would -- again, one of the                  20 reasons why I was keen to give evidence here today is                  21 because of the effect on those people who have the                  22 dubious pleasure of being married to, related to or to                  23 live next door to someone of interest to the press, and                  24 I felt that that article was vicious, it was clearly                  25 wholly untrue, and it was sending a horrible message out</p> <p style="text-align: center;">Page 98</p>	<p>1 only say that I feel the PCC is toothless, that it                  2 offers very little in the way of sanctions to                  3 newspapers, that it's a wrist-slapping exercise at best.                  4 That we need -- and I should say I'm vehemently opposed                  5 to state control of the media, of course, as I think                  6 everyone who is going to sit in this chair is, but I do                  7 feel that we need a body that has teeth, that can impose                  8 sanctions. I agree with several of the people who have                  9 spoken to the Inquiry before me when they say that prior                  10 notification would prevent a significant amount of                  11 damage, particularly where defamatory articles are                  12 concerned.                  13 Apart from that, I can't pretend I have a magical                  14 answer. No Harry Potter joke intended. That slipped                  15 out.                  16 LORD JUSTICE LEVESON: I would have been perfectly content                  17 if you had one. Thank you very, very much indeed. It                  18 was a long afternoon.                  19 A. Thank you.                  20 LORD JUSTICE LEVESON: Right. Anything else? No?                  21 MR JAY: Well, if I let the witness return, but there are                  22 a couple of administrative matters.                  23 Discussion re administrative matters                  24 LORD JUSTICE LEVESON: Right, well, let's move to the                  25 exciting topic of administration. Yes?</p> <p style="text-align: center;">Page 100</p>

<p>1 MR JAY: In relation to the day's evidence, all the 2 statements are up on the website, a redacted copy of 3 HJK's statement has been circulated to all the core 4 participants for clearance. 5 The programme for next week has been published. We 6 received some correspondence this afternoon which might 7 be interpreted as a complaint about that, but unless 8 someone has a submission about it to make, the Inquiry 9 is not going to deal with correspondence behind the 10 scenes. That's not the way this Inquiry is going to 11 operate. 12 A point can be made to you by way of submission, but 13 otherwise we press on. 14 LORD JUSTICE LEVESON: Right. Does anybody want to raise 15 anything themselves? Yes, Mr Caplan? 16 MR CAPLAN: I'm not sure whether that letter is to do with 17 us or not, but please, on Tuesday there are two 18 witnesses, in particular Mr Nick Davies, who has written 19 a book called Flat Earth News. 20 LORD JUSTICE LEVESON: Flat Earth News, yes. 21 MR CAPLAN: And I see from the documents which the Inquiry 22 have issued in relation to his evidence that it refers 23 to extracts from his book. May I just say this, that 24 the witness statement he has provided to the Inquiry and 25 at the moment to core participants does not deal with</p> <p style="text-align: center;">Page 101</p>	<p>1 MR JAY: The relevant chapter of his book has been, as it 2 were, incorporated by reference into his evidence, and 3 he will be dealing with that chapter. I think it's the 4 Dark Arts chapter 7 of Flat Earth News. He will be 5 dealing with that evidence on Tuesday. 6 The core participants have had notice of it. They 7 have seen the relevant chapter. 8 LORD JUSTICE LEVESON: Yes. I confess -- I say immediately 9 I have read the book. To what extent is it intended 10 that these witnesses should go into detail? I'm just 11 thinking actually about time rather than anything else. 12 MR JAY: Yes. Well, of course, having regard to the time 13 and the need at the end of the day for a report in 12 14 months' time. 15 LORD JUSTICE LEVESON: Yes, I understand that. No, I'm just 16 thinking about -- and you know my view about that, I've 17 said it often enough. 18 MR JAY: The agenda for Tuesday is Mr Peppiatt first, who we 19 would expect to take about 90 minutes. Mr Davies 20 second. He might take 90 minutes to two hours. And 21 then Mr McMullen. Mr McMullen, it's unclear how long he 22 will take, because his evidence could take a number of 23 different courses. I think that's all I can fairly say 24 at the moment. 25 Certainly it's our preliminary view that his witness</p> <p style="text-align: center;">Page 103</p>
<p>1 that at all. 2 The other matter is that Mr McMullen I see is also 3 coming on Tuesday. Again the witness statement that has 4 been provided to core participants does not deal with 5 his conversation with Mr Hugh Grant about which we heard 6 last week. 7 If either of those matters are going to be canvassed 8 with him in evidence, I would respectfully suggest it is 9 imperative that they give written evidence in advance to 10 yourself and the core participants so that we know what 11 is going to be said. 12 LORD JUSTICE LEVESON: All right. I understand the point. 13 Let me look at that and I won't be able to address it 14 publicly tomorrow because tomorrow we're not sitting. 15 As I recollect it, Mr Jay, Mr McMullen's statement 16 was a statement that he provided to the Inquiry. 17 MR JAY: Yes, it's a wide-ranging statement and contains one 18 or two things which on any view might be regarded as 19 controversial. It represents the maximum extent of his 20 evidence, save for his account of the taped 21 conversation, one end of which we heard from Mr Grant's 22 evidence on Monday. 23 Under the rules, Mr McMullen can deal with his 24 version of events and will be asked to deal with it. 25 LORD JUSTICE LEVESON: What's the position about Mr Davies?</p> <p style="text-align: center;">Page 102</p>	<p>1 statement would not be publicly available. It's been 2 provided to the core participants and we'll just hear 3 what his oral evidence is. 4 LORD JUSTICE LEVESON: But we don't have a statement from 5 him about the interview? 6 MR JAY: No. On the other hand, the interview was published 7 in the New Statesman. It will not be difficult for him, 8 he's had notice of it, to say clearly what his position 9 is. It's right to say that we don't know formally what 10 his position is in relation to that interview. 11 LORD JUSTICE LEVESON: That's the feature that's concerning 12 me and it's not concerning me because I'm not prepared 13 to listen to it, but it is concerning me about the 14 extent to which core participants might want to 15 challenge it. 16 MR JAY: The difficulty, of course, is that the tape has not 17 been released. My understanding of Mr Grant's evidence 18 was that he might be prepared to allow the Inquiry team 19 to listen to part of the tape, but that may not be 20 right. If we have a factual dispute at the end of 21 Mr McMullen's evidence, it would then be, in my 22 submission, for the Inquiry to decide to what extent 23 it's necessary or right to resolve that dispute. Of 24 course we don't know at the moment whether there is such 25 a dispute.</p> <p style="text-align: center;">Page 104</p>

<p>1 LORD JUSTICE LEVESON: One other way of doing it -- I mean, 2 there are a number of things I can do. First of all, we 3 can wait and see. And if it's appropriate, I can use 4 the rules to permit a core participant to cross-examine 5 and could defer the cross-examination. It depends 6 a little bit what happens. 7 MR JAY: Yes. 8 LORD JUSTICE LEVESON: Secondly, if the interview becomes 9 truly significant, and given the over-arching question 10 that I'm seeking to answer, actually, then it may not, 11 but if it truly becomes significant, notwithstanding 12 Mr Grant's sensitivities, and I understand why he says 13 what he said, I am in a position to obtain the tape. 14 I'm not necessarily going to go there, but I could do 15 it. It depends a little bit on what happens. 16 I mean one way of doing it would be to say, well, if 17 we could require Mr McMullen to make a statement and we 18 could identify what we want him to deal with. We've 19 seen what was said in the discussion in the public house 20 because the Spectator article was exhibited to 21 Mr Grant's statement, and I rather gather that it's 22 unlikely to take us very much further but it was right 23 that we investigate it. 24 So my present thinking, but I'll hear what Mr Caplan 25 has to say about it in a moment, is that we press on,</p> <p style="text-align: center;">Page 105</p>	<p>1 concerned, and of course I'll be guided in large part by 2 you, that something has happened which requires time, 3 and which allows me or justifies me taking a different 4 view under Rule 10, then I'll do it. Fairness remains 5 what I am anxious to achieve, but I'm anxious to achieve 6 it in the context of the fact that I will not be 7 specifically looking at individual stories to make 8 findings of fact. I can't do that, because, as I've 9 said many times, that would take years. 10 There may be one or two stories which I will want to 11 investigate a little bit more on. We've heard some 12 talked about. So I do want to see, for example, 13 something more about where Dr Kate McCann's diary came 14 from and what due diligence was put into that, but 15 that's specific people we will ask those questions. 16 There may be another example of that, I think there is, 17 but again I think it's a News of the World employee who 18 is concerned. 19 But given the over-arching issue, I will hear any 20 complaint you have to make as and when you wish to make 21 it, but I'm not minded to make orders about restricting 22 this witness or that witness now, simply because I think 23 that we'll probably manage within the time we have, but 24 I'm always prepared to listen, and if it means that 25 Mr McMullen or Mr Davies have to return, whether it's</p> <p style="text-align: center;">Page 107</p>
<p>1 but that we are prepared -- and I am prepared possibly 2 in both cases -- to wait and see so that, if necessary, 3 we can return to a witness. 4 MR JAY: Yes. I've just been told that the issue might not 5 arise in relation to the tape, but it's not right that 6 I communicate that fully. 7 There are a range of possibilities here. 8 Mr McMullen may say, "Well, I did say all of that on the 9 tape, Mr Grant's transcript is right, but I didn't mean 10 what I meant to say, I believe you've drawn the wrong 11 inferences", or it might be, "It's all 100 per cent 12 right and I meant every word about of it". In my 13 submission, we should wait and see -- 14 LORD JUSTICE LEVESON: All right. 15 MR JAY: -- and then decide what steps we need to take 16 further. 17 LORD JUSTICE LEVESON: All right. Thank you. Mr Caplan, 18 I take the point that you make, and I can't believe that 19 a consideration what's not been given by your clients to 20 that part of Mr Davies' book that impacts upon your 21 clients. 22 There's some surprise being expressed to your right, 23 but I'll hear it if anyone wants to say otherwise. 24 What I'm minded to do is to say that we hear, for 25 example, Mr McMullen's evidence. If I am at all</p> <p style="text-align: center;">Page 106</p>	<p>1 the next day or a couple of days later, then that's what 2 will happen. 3 MR CAPLAN: Thank you, sir. I'm sure I fully understand 4 that if we make an application on fairness grounds, that 5 you would give it very careful consideration, and if we 6 make an application under Rule 10, you equally would 7 consider that. 8 Can I just make this suggestion in relation to 9 Mr McMullen? I would have thought it would be fairly 10 straightforward for the Inquiry team simply to ask him 11 to make a very short statement between now and Tuesday 12 morning. 13 LORD JUSTICE LEVESON: I think that's a good idea. We'll 14 see. We'll do our best. 15 MR CAPLAN: Thank you very much. 16 LORD JUSTICE LEVESON: For the sake of everybody, I agree. 17 Right, anything else? 18 MR SHERBORNE: Sir, I was just going to say this in relation 19 to Mr Grant. As I understand the position to be, is, as 20 you describe it, sensitivities related to him 21 volunteering the material on the interview. 22 LORD JUSTICE LEVESON: Oh, I'm sure. 23 MR SHERBORNE: If he's required to do so, I'm sure he'll 24 provide it. 25 LORD JUSTICE LEVESON: I'm also sure of that, Mr Sherborne,</p> <p style="text-align: center;">Page 108</p>

27 (Pages 105 to 108)

1 and nothing he said suggested that he wouldn't.  
2 MR SHERBORNE: Exactly.  
3 LORD JUSTICE LEVESON: But to such extent as I can pay  
4 respect to the wishes of those who have come to give  
5 evidence -- and that's going to be wherever they come  
6 from, whatever corner of room they emerge from -- I will  
7 do so. I'm not conducting a trial here; I am trying to  
8 conduct an inquiry.  
9 MR SHERBORNE: I understand.  
10 LORD JUSTICE LEVESON: Very good. Is there anything else?  
11 MR SHERBORNE: No, sir.  
12 LORD JUSTICE LEVESON: Thank you very much indeed. I'm sure  
13 everybody will be very pleased that we now will next  
14 meet on Monday. I know there was a concern, I think,  
15 which I am prepared to just observe, that seven days  
16 a fortnight, I said. The fortnight has just ended. The  
17 next fortnight is about to start. Thank you very much.  
18 (4.53 pm)  
19 (The hearing adjourned until Monday, 28 November 2011)  
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<b>A</b>					<b>B</b>	
<b>abide</b> 42:3,8	102:13	<b>allow</b> 15:4 51:2	68:15 69:11	<b>asked</b> 1:13 13:19		85:10 87:10
<b>ability</b> 13:7	<b>addressed</b> 17:15	89:10 104:18	70:12	34:2,12 48:8	<b>b</b> 41:17 62:11	99:9 106:10,18
<b>able</b> 28:20 30:2	45:16	<b>allowed</b> 24:23	<b>applying</b> 26:2	51:17 66:11,11	<b>baby</b> 58:11,14	<b>believed</b> 18:6
58:13 61:18	<b>addresses</b> 67:25	25:24 41:22	<b>appreciate</b> 4:4	68:21 81:19	68:13	49:15 58:12
64:13 67:20	<b>adjourned</b>	44:21	36:3,16 91:1	84:10 87:15	<b>babysitter</b> 42:17	61:6 64:11
71:6 73:8,20	109:19	<b>allows</b> 13:25	<b>appreciation</b>	92:10 94:10,18	<b>back</b> 4:25 8:16	98:11 99:6
75:2 102:13	<b>adjudicate</b> 52:12	107:3	17:17	102:24	27:13 56:6	<b>bend</b> 87:9
<b>abroad</b> 73:4	<b>adjudication</b>	<b>alongside</b> 37:9	<b>approach</b> 9:11	<b>asking</b> 30:16	64:20 69:8	<b>beneficial</b> 37:21
<b>absence</b> 77:14	50:3,13 55:24	<b>alter</b> 3:22	63:18	60:3,4 69:14	70:22 81:9,18	<b>benefits</b> 43:11
<b>absolute</b> 10:7	58:4 70:25	<b>alternative</b> 11:25	<b>approached</b>	94:16	89:10,19 92:7	<b>bereavement</b>
<b>absolutely</b> 1:25	<b>adjudicator</b>	27:21,23	29:10	<b>aspects</b> 26:25	<b>bad</b> 4:21 13:6	44:7
6:2 8:13 12:3	29:12	<b>ambassador</b>	<b>appropriate</b>	<b>assented</b> 83:19	19:9 28:9 47:2	<b>besieged</b> 58:11
14:11 20:21	<b>adjunct</b> 17:14	43:15	96:16 105:3	<b>asserting</b> 83:8	<b>badly</b> 4:17 22:6	<b>best</b> 40:23 100:3
24:4 25:25	<b>adjust</b> 78:3	<b>America</b> 38:20	<b>approve</b> 24:22	<b>assesses</b> 7:12	<b>bag</b> 45:7,13,20	108:14
27:4 32:25	<b>administration</b>	<b>American</b> 14:23	<b>approximate</b>	<b>assessment</b> 7:10	45:22,24	<b>best-selling</b> 85:2
37:4 41:9 48:5	100:25	<b>amicable</b> 87:3	38:17	<b>assist</b> 40:16	<b>balance</b> 3:1	<b>better</b> 21:18
48:20 50:10	<b>administrative</b>	<b>amid</b> 90:6	<b>April</b> 2:2 16:6	64:13 75:2	10:20 14:13,24	31:23 55:2
70:9 95:13	100:22,23	<b>amoral</b> 25:21,22	23:11	96:21	27:1	<b>beyond</b> 2:18 12:6
<b>absurdly</b> 58:18	<b>admit</b> 83:22	<b>amount</b> 39:8	<b>architects</b> 91:16	<b>Associated</b> 79:22	<b>ball</b> 26:10,10	<b>bidder</b> 55:14
<b>abuses</b> 26:23	<b>admitted</b> 2:3	86:20 100:10	<b>architecture</b>	80:11,15	<b>banal</b> 82:22	<b>big</b> 12:2 19:20
<b>academics</b> 12:6	<b>adopt</b> 33:5	<b>amusement</b>	91:4	<b>Associated's</b>	<b>barely</b> 78:23	20:15 29:13
<b>accept</b> 25:13,19	<b>adult</b> 22:18	48:12	<b>archives</b> 70:16	1:14	87:16	31:16 54:10
25:20 52:12	<b>adults</b> 24:2,25	<b>analysis</b> 52:25	<b>area</b> 22:20 74:17	<b>assume</b> 88:25	<b>base</b> 84:11	55:12 85:20
53:19 61:13	25:23	<b>Angela</b> 93:13	88:2	<b>assumed</b> 61:8	<b>based</b> 34:18 84:5	87:7 95:17
81:14 88:5	<b>advance</b> 102:9	<b>angle</b> 55:2	<b>areas</b> 43:7	98:17	84:13,24	<b>bikini</b> 22:11
91:25	<b>advances</b> 38:19	<b>angry</b> 45:24,25	<b>arguable</b> 18:15	<b>assurance</b> 16:11	<b>basic</b> 28:1 86:14	<b>biological</b> 85:5
<b>acceptable</b> 89:20	<b>advancing</b> 96:12	94:12,17 95:6	57:9	<b>assure</b> 3:17	<b>basis</b> 2:10 18:7	<b>birth</b> 47:4 48:7
<b>accepted</b> 18:3	<b>advent</b> 64:1,17	<b>animal</b> 25:11	<b>arguably</b> 17:23	<b>assured</b> 32:23	33:7,9 53:8	48:23
56:10 80:14	<b>advertised</b> 49:13	<b>announce</b> 2:14	18:20	<b>astonished</b> 8:13	73:8 78:20	<b>bit</b> 2:24 15:12,18
88:4	<b>advised</b> 20:10	<b>answer</b> 11:17	<b>argument</b> 8:17	30:15	85:15	19:13 23:21
<b>account</b> 77:19	<b>advisers</b> 80:9	19:17 72:17	10:14 13:13	<b>attacked</b> 1:12	<b>bat</b> 1:17	24:9 27:2,22
102:20	<b>affairs</b> 82:9	92:23 100:14	15:13 16:18	3:7,14	<b>batter</b> 23:22	45:9 79:9
<b>accurate</b> 14:15	<b>affect</b> 76:10	105:10	19:3,21,22	<b>attacking</b> 26:9	<b>beach</b> 49:6,7,11	80:22 83:25
14:16	<b>afford</b> 82:7	<b>Anthony</b> 56:24	24:5 56:9,16	<b>attempt</b> 43:19	49:12,14,19,25	105:6,15
<b>accurately</b> 49:1	<b>afforded</b> 51:21	<b>anxious</b> 107:5,5	69:22 70:9,12	<b>attempted</b> 52:22	50:10 51:13	107:11
71:7	<b>afternoon</b> 61:23	<b>anybody</b> 101:14	71:17	<b>attempts</b> 4:15	61:3,6	<b>biting</b> 3:20
<b>accusation</b> 86:9	99:22 100:18	<b>Anyway</b> 54:19	<b>arguments</b> 17:17	<b>attention</b> 17:22	<b>bear</b> 4:19,24	<b>bizarre</b> 88:12
<b>achieve</b> 107:5,5	101:6	77:17 78:4	18:21	30:9 39:12	27:2 57:16	<b>black</b> 54:4
<b>achieved</b> 47:21	<b>age</b> 4:14 51:3	99:9	<b>armour</b> 23:16	51:16 92:11	<b>beck</b> 97:6,20	<b>blackmail</b> 30:5
<b>acquaintances...</b>	53:6	<b>apart</b> 19:19 22:7	<b>arose</b> 18:13	<b>attitude</b> 40:14	98:19	<b>blackmailed</b>
84:19	<b>agencies</b> 47:16	100:13	<b>arrange</b> 20:23	69:12	<b>becoming</b> 8:24	81:17
<b>act</b> 11:9 34:12	<b>agency</b> 55:11	<b>apartments</b>	<b>arrangements</b>	<b>attracted</b> 97:16	9:1 65:6	<b>blagged</b> 75:4
<b>action</b> 39:15 59:2	61:24	51:14	69:3	<b>attribution</b>	<b>bedroom</b> 22:14	76:25 77:2
86:6	<b>agenda</b> 25:14	<b>apologies</b> 85:17	<b>arrest</b> 12:17	82:16	<b>began</b> 77:9	<b>blagger</b> 77:24,25
<b>actions</b> 8:4	103:18	87:19	<b>arrived</b> 5:11,20	<b>August</b> 90:1	<b>beginning</b> 28:25	<b>blagging</b> 76:20
<b>activities</b> 23:5	<b>agent</b> 62:17	<b>apology</b> 52:8,18	49:22	<b>author</b> 48:22	38:9 86:5 87:6	76:25
79:25	<b>agents</b> 88:8	83:16,23 85:21	<b>arrogant</b> 87:8	<b>authoress</b> 99:7	96:11	<b>blankets</b> 47:1
<b>activity</b> 38:13	<b>ages</b> 50:21	85:22 97:8,10	<b>article</b> 15:17	<b>available</b> 13:17	<b>begs</b> 12:23	<b>blowing</b> 36:7
<b>acts</b> 33:21	<b>aggressive</b> 88:25	99:3	17:11,14 21:22	21:13 57:1	<b>behalf</b> 33:22	<b>bluntly</b> 20:14
<b>actual</b> 86:18	<b>aggrieved</b> 23:17	<b>apparently</b> 79:5	25:3,4 48:20	72:18 74:24	60:5 89:16	<b>boat</b> 49:18
<b>add</b> 28:15,22	<b>ago</b> 84:17 93:5	89:25 90:4	65:22 66:18,23	82:10 91:10	<b>behave</b> 54:2	<b>body</b> 12:1,3,25
<b>added</b> 6:20	<b>agree</b> 11:3,4,23	93:20	72:16 73:4	104:1	<b>behaving</b> 65:7	13:8 27:25
<b>addict</b> 4:6	16:9 51:24	<b>appeal</b> 26:4,5,7	82:17 83:13	<b>avoid</b> 51:15	<b>behaviour</b> 37:15	28:3,10,11
<b>addition</b> 51:1	52:1 81:24	56:10,18,22,23	84:4,24 86:1	90:15	90:5	100:7
<b>additional</b> 32:20	100:8 108:16	57:8	86:10 88:14,17	<b>awaiting</b> 75:19	<b>beings</b> 5:15	<b>bold</b> 11:21
75:23	<b>agreed</b> 1:5 26:7	<b>Appeal's</b> 57:12	88:21 89:3,17	<b>award</b> 42:16	<b>belief</b> 18:10	<b>Bonnard</b> 28:23
<b>additionally</b>	41:12 59:25	<b>appear</b> 3:12	90:3 91:21,23	<b>awarded</b> 7:6	40:23,23 53:22	<b>book</b> 36:24 37:22
66:23	62:1 70:15	41:12	92:10 93:5,16	<b>awards</b> 42:12	54:17 55:23	37:25 38:2,20
<b>address</b> 18:25	<b>agreement</b> 1:10	<b>appeared</b> 46:17	94:12,25 95:22	<b>aware</b> 21:8	80:3	40:15 42:12
65:24 66:2	7:13 83:17	75:13 89:22	96:18,22 97:10	63:10 64:2,24	<b>believe</b> 1:3 3:15	43:9 48:6
67:7 68:5,22	<b>allegation</b> 14:2	91:19 97:3,10	98:24 105:20	65:1,5 78:19	9:13 11:24	62:24 63:6,20
70:2,3 72:2	14:14 86:6	<b>appears</b> 75:9	<b>articles</b> 3:11	80:1 82:7	27:7,12 37:6	79:6 80:10,11
73:7,12,14,19	<b>allegations</b> 87:21	<b>application</b>	69:15,18 70:15	89:22 91:19	62:1 66:13	81:2,3,7,7,19
73:23 74:7,16	<b>alleged</b> 86:15	108:4,6	87:24 100:11	98:10	72:25 73:4	81:22 82:13,14
74:17 76:23	97:15	<b>applies</b> 11:7	<b>Arts</b> 103:4	<b>awful</b> 4:20 83:6	74:22 75:23	84:8,9,22 85:2
77:6,9 78:7	<b>allegedly</b> 77:7	22:16	<b>ashamed</b> 43:10	<b>Azkaban</b> 94:6	77:4 78:8	93:12,23,25
	<b>alleging</b> 30:19	<b>apply</b> 20:8 26:12	44:18		79:11,13 85:10	94:2,5 95:8

96:8 101:19,23 103:1,9 106:20 <b>books</b> 36:22 44:12 79:3 84:6 95:12,16 <b>boots</b> 99:5 <b>border</b> 66:15 <b>boring</b> 48:11 <b>born</b> 58:10 99:17 <b>bottom</b> 15:18 17:24 <b>bought</b> 38:19 39:6,8 56:4 71:7 72:23 87:15 <b>boundary</b> 73:24 <b>bounds</b> 10:18 82:25 <b>brains</b> 94:20 95:7 <b>breach</b> 10:11 19:23 29:2 55:17,17 71:19 <b>breached</b> 13:11 51:19,23 <b>breaches</b> 12:12 <b>breaching</b> 12:19 51:7 <b>break</b> 10:6 19:11 19:15 35:10 36:14 <b>briefly</b> 16:15 27:25 29:13 84:14 <b>bring</b> 20:13 30:5 57:25 <b>brings</b> 27:13 <b>Britain</b> 37:11 <b>Britannic</b> 90:4 <b>British</b> 68:15,16 <b>broad</b> 76:14 <b>broader</b> 40:6 <b>broadly</b> 43:7 <b>broken</b> 10:5 20:16 41:7 <b>Brooks</b> 1:5,16,21 1:22 <b>brought</b> 20:18 55:16 <b>buggy</b> 58:20 <b>building</b> 39:2 74:14 <b>builds</b> 87:23 <b>bulk</b> 75:13 <b>bully</b> 63:3 <b>bundle</b> 16:18 57:1 89:4 <b>burden</b> 32:13 <b>burglar</b> 12:15 <b>burglary</b> 12:10 12:14 <b>burgles</b> 12:10 <b>burst</b> 45:12 <b>bursting</b> 16:7 <b>business</b> 22:15 <b>busy</b> 78:4 <b>buy</b> 63:25	<b>C</b> c 41:17 59:4 63:22 <b>cafe</b> 54:20,22,25 <b>calculated</b> 3:4 <b>calendar</b> 64:1,17 <b>call</b> 12:15 24:15 27:11 61:13 77:6 78:5,5,16 79:18 95:11 97:7,20,23 98:19 <b>called</b> 5:19,22,25 37:17 55:12 72:5 97:6 101:19 <b>calm</b> 58:21,21 <b>camera</b> 59:7 <b>campaign</b> 1:6,8 1:8 26:11 95:18 <b>campaigning</b> 23:22 <b>campaigns</b> 43:16 <b>canvassed</b> 102:7 <b>capacity</b> 29:15 29:16 <b>Caplan</b> 80:6,17 101:15,16,21 105:24 106:17 108:3,15 <b>caption</b> 71:11 <b>car</b> 48:4 64:20 <b>care</b> 46:10 <b>career</b> 37:20 95:4 98:12 <b>careful</b> 108:5 <b>Carole</b> 96:22 <b>carried</b> 60:11 <b>carry</b> 71:19 99:20 <b>cars</b> 39:5 <b>case</b> 1:22 6:10,23 7:4,11,24,25 8:8,13 10:24 11:10,15 15:7 15:23,24 16:4 16:12,24 20:19 21:1 27:4 28:24 32:16 35:1,8 39:20 50:11,11,18,18 51:8 53:1,16 53:20 57:9,13 58:1 67:22 68:20 71:10 72:6 73:1 77:16 87:11 99:4 <b>cases</b> 9:9,14,15 10:10 29:6,7 29:11 106:2 <b>categorical</b> 25:3 <b>caused</b> 84:2 85:18 <b>causes</b> 42:25 <b>cavalier</b> 69:12	<b>celebrities</b> 3:13 <b>celebrity</b> 98:7,8 <b>cancel</b> 83:4 <b>canceling</b> 13:14 13:21 <b>cent</b> 7:14 8:9 9:24 11:5 30:17 106:11 <b>central</b> 13:3 <b>certain</b> 28:8 44:11 66:23 68:16 82:4 <b>certainly</b> 1:16,21 16:8 20:8 25:4 25:16 31:23 38:9 40:19 64:23 85:25 89:7 97:2 103:25 <b>cetera</b> 22:12 <b>chair</b> 100:6 <b>challenge</b> 42:7 104:15 <b>challenged</b> 51:13 <b>Chamber</b> 16:17 17:1,3 19:25 <b>chambers</b> 17:2 <b>chance</b> 20:12 24:8 92:21 <b>change</b> 15:11 26:12 <b>changed</b> 23:7 98:16 <b>chapter</b> 103:1,3 103:4,7 <b>character</b> 84:5 84:13,25 85:15 <b>characterised</b> 63:2 <b>characteristic</b> 76:20 <b>characters</b> 83:25 84:11 <b>charge</b> 7:8 12:4 12:23 13:17 14:19 <b>charged</b> 75:1 <b>charities</b> 43:24 <b>charity</b> 43:15 <b>chase</b> 58:18 <b>cheap</b> 12:5 <b>cheaper</b> 11:2 <b>check</b> 80:3 92:7 97:24 <b>child</b> 40:16 42:2 45:15 49:3 51:6 53:6,22 54:14 55:4 56:5,5,6 57:23 60:7 64:4 68:20 84:3 <b>childcare</b> 43:13 <b>childhood</b> 45:4 <b>children</b> 40:3,8 40:23 41:23 42:1,17,19,24 44:25 45:4	46:6,22 47:1,4 47:7,14,19,23 51:2,2,21 53:8 53:21 54:3,7 58:23 59:22 60:5,24 61:21 61:23 62:1 63:1 64:13,24 65:11 84:8,22 85:13,16 86:25 87:14 95:20 <b>children's</b> 43:6 56:1 67:19 82:5 <b>child's</b> 51:3,5 62:20 <b>chilling</b> 18:9 <b>chimes</b> 26:19 <b>choice</b> 39:15 54:1,2 <b>chosen</b> 39:10 <b>Christmas</b> 86:21 87:5 <b>chronological</b> 65:16 <b>circulated</b> 101:3 <b>circumstances</b> 5:2 7:20 50:12 50:17 51:19 53:15 95:14 <b>civil</b> 7:2 <b>civilised</b> 23:19 24:22 <b>claim</b> 55:19 62:21 83:24 <b>claimant</b> 10:19 <b>claimed</b> 64:7 <b>claiming</b> 82:18 <b>Clarke</b> 56:24 <b>classic</b> 81:13 <b>clause</b> 51:23 53:4 53:7,10,12 <b>clean</b> 23:18 84:17 <b>clear</b> 5:2 20:21 22:17 25:1 33:22 34:6 36:11 37:2,8 41:2 45:1 47:15,25 53:14 59:5 64:6 66:5 70:4,9 71:9 79:23 82:24 83:12 90:18 <b>clearance</b> 101:4 <b>clearly</b> 34:5 36:4 42:23 46:3 47:15 49:18 53:20 55:8 56:2 60:13 64:18 67:14 72:10 74:3 84:25 90:23 98:7,24 104:8 <b>click</b> 72:22 <b>clients</b> 106:19,21 <b>cloaking</b> 74:4	<b>close</b> 6:15 61:22 <b>coat</b> 64:11,12 <b>code</b> 42:4 50:19 50:21 51:19,21 53:2 78:3 <b>coffee</b> 63:23 <b>cold</b> 2:25 <b>colleagues</b> 98:9 99:1 <b>collection</b> 90:6 <b>collusion</b> 1:16 <b>column</b> 90:9 <b>combined</b> 16:4 <b>come</b> 6:2 7:23 8:16 12:17,17 14:11 18:25 21:5,23 24:7 25:11 28:12 75:24 76:8 88:22,23,24 89:10,19 109:4 109:5 <b>comes</b> 9:5 29:23 <b>coming</b> 19:25 27:11,14 39:7 48:6 59:17 92:24 102:3 <b>comment</b> 1:18 3:2 9:12 16:9 21:22 22:2,7 84:12 90:19 91:15,16 <b>commentary</b> 2:6 29:21 <b>commercial</b> 79:1 <b>Commission</b> 13:1 27:4 39:16 50:16 51:9,17 53:13 71:10 <b>Commissioner's</b> 33:25 <b>committed</b> 5:1 <b>committee</b> 9:9 9:14 18:25 21:12 23:10,13 23:24 25:2 <b>common</b> 43:10 <b>communicate</b> 106:6 <b>communication</b> 78:2 <b>company</b> 30:19 31:6 48:9 55:12 91:15 <b>comparatively</b> 14:8 <b>complain</b> 62:5 70:1 94:22 <b>complainant</b> 51:18 <b>complained</b> 47:24 69:22 70:6,7 95:2 <b>complaining</b> 30:25 94:21 <b>complaint</b> 29:1	50:1,5,8,19 52:2 53:9 62:3 62:9 63:5 68:18 69:5 70:24 72:1 95:24 96:2 101:7 107:20 <b>complaints</b> 13:1 27:4 39:16 62:25 70:18 72:12 <b>complaint's</b> 51:22 <b>complete</b> 19:17 24:16 46:1 <b>completely</b> 9:1 11:4,24 20:14 23:2 24:13 47:11 80:14 88:4 89:11 <b>complex</b> 53:22 <b>complicated</b> 29:7,17 54:9 <b>complications</b> 43:20 <b>compulsory</b> 99:23 <b>concealing</b> 65:8 <b>concern</b> 31:18 40:2 65:15 66:22 75:6 90:6 109:14 <b>concerned</b> 53:21 54:4 57:22 61:20 80:11 100:12 107:1 107:18 <b>concerning</b> 86:13 104:11 104:12,13 <b>concerns</b> 14:3 17:25 22:19 30:9 40:1 <b>conclusion</b> 16:19 32:14 99:13 <b>conclusions</b> 30:2 34:17 <b>conclusively</b> 20:17 <b>conduct</b> 21:20 30:20,23 109:8 <b>conducting</b> 109:7 <b>confess</b> 103:8 <b>confidence</b> 55:17 56:12 58:2 62:7 79:1 <b>confident</b> 2:19 <b>confidential</b> 2:15 <b>confirm</b> 35:15,17 76:5 <b>confirmed</b> 61:24 78:6,7,7 <b>conflated</b> 18:16 <b>conflict</b> 27:18 <b>connect</b> 78:21 <b>connection</b> 8:4	<b>conscious</b> 33:8 <b>consensual</b> 22:19 <b>consent</b> 54:7 <b>consented</b> 59:5,6 60:8 <b>consenting</b> 24:2 24:25 25:23 <b>consents</b> 22:24 <b>consequences</b> 6:7 54:12 <b>consider</b> 34:11 51:17 92:12 108:7 <b>considerable</b> 39:8 51:10 <b>consideration</b> 18:22 106:19 108:5 <b>considerations</b> 18:2 <b>considered</b> 17:12 32:24 41:3 51:19 53:15 <b>considers</b> 18:8 50:18 <b>consistent</b> 91:11 <b>contact</b> 62:16,18 63:13 73:20 78:15 <b>contactable</b> 62:16 <b>contacted</b> 52:20 59:15 62:12,15 62:19 <b>contained</b> 71:12 <b>contains</b> 17:23 102:17 <b>contempt</b> 19:15 <b>content</b> 34:8 96:4 100:16 <b>contents</b> 69:8 79:21 81:4 <b>context</b> 30:4 33:17 44:3 45:9 84:21 96:13 107:6 <b>continued</b> 68:11 <b>continues</b> 80:23 <b>contours</b> 27:23 <b>contract</b> 7:9 <b>control</b> 100:5 <b>controversial</b> 102:19 <b>convenience</b> 14:24 <b>conveniently</b> 72:8 <b>convention</b> 31:25 <b>conversation</b> 59:21 85:11 102:5,21 <b>conversion</b> 23:19 65:23 <b>convinced</b> 49:10 <b>convincing</b> 20:12 <b>cope</b> 80:19
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<b>coped</b> 92:3,5 <b>copied</b> 52:13 <b>copies</b> 79:6 80:24 <b>copy</b> 79:12 80:5 89:20 93:3 101:2 <b>core</b> 101:3,25 102:4,10 103:6 104:2,14 105:4 <b>corner</b> 109:6 <b>corners</b> 72:16 <b>correct</b> 1:7 2:19 5:13 6:16 20:4 40:8,12 57:15 70:10 74:23 88:1 94:7 <b>correctly</b> 57:4 75:20 <b>correspondence</b> 101:6,9 <b>cost</b> 6:19 9:20 <b>costly</b> 20:24 <b>costs</b> 7:7,10,12 7:12,15,20,22 7:23 8:5 10:17 11:5,6 <b>council</b> 91:6 <b>countless</b> 41:5 <b>country</b> 25:24 <b>countryside</b> 69:19 <b>counts</b> 56:14 <b>county</b> 12:5 <b>couple</b> 100:22 108:1 <b>course</b> 9:15 11:6 12:22 14:17,22 16:14,21 18:20 20:5 21:17 27:18 29:18,22 31:9,18 33:16 34:10 38:4 47:13 52:6,12 53:6,20 55:21 56:25 57:21 59:5 65:13 67:16 85:11 89:5 93:13 100:5 103:12 104:16,24 107:1 <b>courses</b> 103:23 <b>court</b> 5:25 7:22 10:5,6 15:20 16:16,20,25 17:18,18,25 18:8,20 19:15 29:8 47:25 55:18 56:18,21 56:23 57:8,12 80:13 81:6,9 94:19 <b>courts</b> 12:5 39:17 59:19 <b>Court's</b> 19:18 <b>cover</b> 39:22 43:1 88:6	<b>covered</b> 34:24 86:2 <b>covering</b> 92:8 <b>covertly</b> 54:22 <b>co-authored</b> 4:8 <b>co-operate</b> 27:7 <b>co-operation</b> 81:10 <b>created</b> 44:11 <b>creation</b> 84:22 <b>creative</b> 38:1 44:5,21 <b>creatures</b> 44:11 <b>criminal</b> 18:18 23:6 30:20 33:21 <b>criticise</b> 25:25 26:1 <b>criticised</b> 3:19 <b>criticism</b> 24:14 48:20 <b>criticisms</b> 30:7 <b>crocodile's</b> 25:11 <b>crossed</b> 64:3 <b>cross-examina...</b> 105:5 <b>cross-examine</b> 105:4 <b>crudely</b> 82:6 <b>crusade</b> 23:18,20 <b>crystallised</b> 24:9 <b>culminated</b> 38:14 <b>cultural</b> 44:20 <b>culture</b> 96:13 <b>cumulative</b> 58:25 <b>cut</b> 15:19,21 <b>Cyanamid</b> 14:24 <hr/> <b>D</b> <b>d</b> 59:6 <b>Dacre</b> 1:5,15,21 9:8 21:7,25 22:3 23:9 24:5 24:8,21 <b>Dacre's</b> 22:8 25:2,14 <b>Daily</b> 2:24 25:5 33:15,19,22 34:4 65:22 69:17 70:13,14 79:25 84:4 86:12,13 92:18 93:14 94:11 <b>dam</b> 16:7 <b>damage</b> 12:12,13 74:15 100:11 <b>damages</b> 7:6,24 7:25 8:1 17:10 55:17 <b>damaging</b> 84:20 98:8 <b>dangerous</b> 5:3 9:24 15:4 <b>Dark</b> 103:4 <b>date</b> 35:20 38:17	65:20 78:21 94:1 <b>dates</b> 23:2 <b>daughter</b> 41:4,6 41:8 42:12 45:10,10 46:17 49:23,24 50:9 50:9 51:22 52:5,10 55:3 55:25 58:10,14 58:17,21 62:22 63:2,5,25 64:7 64:16 68:13 85:4,14 96:7 96:10 <b>daughter's</b> 45:7 45:20,22,23,25 51:11 62:13 63:18 <b>Davies</b> 101:18 102:25 103:19 106:20 107:25 <b>day</b> 32:14 34:21 48:11 54:16 57:10 64:15 70:5 78:9,9 103:13 108:1 <b>days</b> 23:3 68:12 73:19 108:1 109:15 <b>day's</b> 101:1 <b>deal</b> 2:22 3:24 5:8 6:22 11:21 21:3 26:17 28:7 31:20 33:3 39:13 40:9 42:25 53:7 65:16 67:22 79:1 81:1 83:20 87:7 89:11 101:9,25 102:4 102:23,24 105:18 <b>dealing</b> 4:12 30:1 40:10 103:3,5 <b>deals</b> 6:8 <b>dealt</b> 16:13 29:11 93:15 <b>death</b> 27:6 <b>debatable</b> 16:13 <b>debate</b> 24:6 <b>debris</b> 45:15 <b>decide</b> 21:1 24:24 33:5 44:24 59:2 104:22 106:15 <b>decided</b> 1:11 42:23 46:18 57:25 62:8 99:6 <b>deciding</b> 13:11 57:8,9 <b>decision</b> 3:3 18:7 20:3 21:9 50:17 51:25 <b>dedicated</b> 96:8	<b>deems</b> 50:22 <b>deeply</b> 26:3 <b>defamation</b> 29:2 83:24 86:3 <b>defamatory</b> 28:22 86:10 87:21,22,24 100:11 <b>defend</b> 18:7 82:14 <b>defendant</b> 56:9 <b>defer</b> 105:5 <b>Definitely</b> 40:4 <b>degraded</b> 24:11 <b>degree</b> 3:12 <b>delete</b> 73:21 <b>deliberate</b> 78:25 <b>deliberately</b> 14:25 <b>delivered</b> 30:6 30:14 <b>delivery</b> 30:12 <b>democratic</b> 25:18 <b>demonstrates</b> 53:18 <b>denied</b> 1:23,23 1:25 33:23 87:21 <b>deny</b> 1:22 <b>denying</b> 2:2 <b>department</b> 91:6 <b>depend</b> 14:14 <b>depending</b> 32:17 <b>depends</b> 95:13 105:5,15 <b>depicting</b> 84:25 87:8 <b>depravity</b> 22:5 <b>depressed</b> 44:17 <b>depression</b> 4:11 44:2,7,9,12,14 <b>Desai</b> 4:8 <b>describe</b> 38:13 108:20 <b>described</b> 71:5 96:4 <b>descriptions</b> 69:1 <b>deserves</b> 53:23 <b>design</b> 91:5,6 <b>desire</b> 67:6 <b>desist</b> 64:18 <b>desperate</b> 6:4 <b>despite</b> 4:13 <b>destroy</b> 18:18 62:1 <b>detail</b> 6:9 30:1 39:14 66:25 103:10 <b>detailed</b> 28:19 32:7 57:17 <b>details</b> 48:23 66:12 67:2,5 69:2,2,3 75:23 76:10,12 77:2 83:4	<b>determinative</b> 53:15 <b>devastating</b> 4:19 <b>develop</b> 27:20 45:2 <b>developed</b> 64:8 <b>development</b> 88:9 <b>device</b> 74:4 <b>diary</b> 107:13 <b>die</b> 5:4 <b>died</b> 43:20 62:23 <b>difference</b> 7:22 13:16 59:15 67:18 <b>differnt</b> 6:14 28:4 38:13 40:20,22 53:2 56:5,18 68:24 83:13,14 103:23 107:3 <b>difficult</b> 14:22 15:2,23,24 21:1 43:12 45:24 48:14 79:13 83:20 87:23 89:3 91:2 104:7 <b>difficulty</b> 7:18 83:16 96:19 104:16 <b>diligence</b> 107:14 <b>diminished</b> 44:21 <b>direct</b> 66:7,8 <b>directly</b> 39:9 62:19 <b>disagree</b> 11:3 56:14 71:3,8 <b>disagreed</b> 71:1 <b>disappear</b> 29:5 <b>disappeared</b> 58:13 98:17 <b>disappointed</b> 56:20 <b>discovered</b> 49:11 <b>discretion</b> 17:19 <b>discuss</b> 43:11 <b>discussed</b> 43:6,8 44:3,19,24 95:3 <b>discussion</b> 16:19 100:23 105:19 <b>disingenuous</b> 70:8,12 <b>dismissed</b> 49:20 <b>dispute</b> 51:9 104:20,23,25 <b>disregard</b> 68:11 <b>disseminated</b> 52:8 72:19 <b>distinguished</b> 3:6 <b>distress</b> 84:3 <b>distressed</b> 62:22 <b>divide</b> 28:5 53:1 <b>division</b> 13:3,4	17:6 45:1 <b>doable</b> 9:1 <b>doctor</b> 97:16 <b>doctors</b> 4:13 <b>document</b> 16:21 91:11 <b>documentation</b> 76:7 <b>documents</b> 101:21 <b>Doe</b> 79:18 80:4 <b>doing</b> 6:20 22:21 25:18 26:9 32:12 33:8,10 34:20 43:14 75:7 83:5 84:8 84:20 96:1 97:18 105:1,16 <b>domain</b> 3:8 11:16 16:22 40:11 68:1 69:23,25 70:5 73:9 87:14 96:5 <b>domestic</b> 17:18 20:6 <b>door</b> 58:23 74:14 78:9 98:23 <b>doorstep</b> 5:11 <b>Doorstepping</b> 38:25 <b>doubt</b> 47:24 <b>doubtless</b> 31:8 76:11 97:16 <b>Dr</b> 97:6 107:13 <b>draft</b> 97:3 <b>dragged</b> 83:21 <b>draining</b> 58:25 <b>draw</b> 17:22 41:2 65:2 74:9 92:10 <b>drawing</b> 30:9 <b>drawn</b> 106:10 <b>dread</b> 6:20 <b>driven</b> 38:15 <b>drug</b> 4:6 <b>drugs</b> 4:13,16,25 5:3 <b>dubious</b> 98:22 <b>duck</b> 39:3 <b>due</b> 16:14 18:20 29:22 31:9 107:14 <b>duty</b> 18:1 <b>dwelt</b> 16:15 <hr/> <b>E</b> <b>e</b> 57:20 59:14 <b>Eady</b> 1:6,11 2:25 3:6 6:24 7:7 13:19,25 15:8 21:11 25:17 26:13 30:6 <b>Eady's</b> 14:5 16:5 21:9 <b>early</b> 32:1 86:16 95:4	<b>Earth</b> 101:19,20 103:4 <b>ease</b> 67:21 <b>easily</b> 62:19 <b>economics</b> 4:8 6:23 <b>edginess</b> 65:4 <b>Edinburgh</b> 63:24 72:23,25 73:3 84:9 90:5 90:12 <b>editor</b> 13:12 15:4 <b>editorial</b> 22:4 <b>editors</b> 22:4 47:17 <b>Edmondson</b> 2:1 <b>effect</b> 1:9 3:23 4:19 10:23 16:5 18:9 37:21 41:24 44:12 47:13 58:25 87:14 88:25 98:21 <b>effective</b> 4:12 8:24 <b>effectively</b> 28:14 69:25 <b>effectiveness</b> 18:1 <b>effects</b> 5:8,10 6:11 <b>effort</b> 33:9 36:2 <b>egregious</b> 10:11 <b>eight</b> 49:4 <b>either</b> 29:1 32:21 90:23 102:7 <b>elaborate</b> 46:10 58:7 <b>eldest</b> 45:10 55:2 55:24 62:13,22 68:13 85:4 <b>element</b> 67:23 <b>email</b> 1:23 <b>emails</b> 30:15 <b>embarrassed</b> 77:12 <b>embarrassment</b> 62:8 <b>emerge</b> 109:6 <b>emotional</b> 85:18 <b>emphasise</b> 68:14 <b>employ</b> 48:9 <b>employee</b> 2:13 30:20 107:17 <b>encountered</b> 44:13 61:8 <b>encouraging</b> 33:21 <b>endeavoured</b> 41:2 <b>ended</b> 7:13 109:16 <b>endless</b> 4:13 <b>enforce</b> 13:7,8 28:6,10 81:9 <b>enforcing</b> 13:5 <b>engage</b> 39:19
--	---	--	--	---	--	--





<p>19:25 grant 14:13 15:25 102:5 108:19 granted 20:1 83:1 Grant's 102:21 104:17 105:12 105:21 106:9 grateful 34:23 36:1 gratefully 81:18 gratitude 36:12 great 12:7 19:8 28:7 29:18 31:18 33:3 38:7 46:18 81:1 greater 38:8 51:1 greatest 23:12 29:16 greatly 44:21 ground 34:24 92:8 grounds 108:4 group 37:18 64:25 70:10 84:8 grown-ups 24:23 grudge 85:3 guarantee 70:16 guard 61:7 guess 63:10 82:13 guidebook 41:16 guided 71:25 107:1 guilty 22:5</p> <hr/> <p><b>H</b></p> <p>hacking 1:25 78:18,22 haddock 2:25 halfway 77:1 hand 104:6 handed 41:16 89:23 93:3 handover 81:2 hands 2:25 Hang 76:3 93:4 Hanover 5:25 happen 41:11 42:20,22 108:2 happened 2:3 5:5 7:17 39:2 42:13 54:11,19 54:23 55:10,12 55:15 63:6,20 66:5 67:22 79:9 80:23 81:1 95:21 107:2 happening 41:9 52:15 54:24 happens 16:12 34:8 55:10 83:6 85:12,12</p>	<p>105:6,15 happy 2:15 19:11 28:18 32:6 33:11 67:1 75:8 91:6 92:23 93:1 harassing 28:16 harassment 27:6 27:6 56:11,15 hard 5:3 42:3,8 98:13 harm 52:24 Harry 37:24 38:4,7,20 44:12 62:23,24 66:20 79:4,12 84:5 85:14 93:12,21 94:5 95:8 100:14 head 30:24 headlines 3:18 headmaster 62:13,20,24 63:14 headquarters 5:23 hear 104:2 105:24 106:23 106:24 107:19 heard 35:25 63:16,16 64:10 76:20 77:13,20 86:8 102:5,21 107:11 hearing 10:17 83:3 109:19 hearings 14:8 heavily 54:13 heirlooms 12:11 held 18:12 87:4 Hello 58:4 82:17 83:10 86:11 help 27:15,22 80:24 86:3 helpful 2:16 27:5 32:6 38:9 44:17 helpfully 99:16 helping 91:5 Herald 86:12 heroic 37:10 he'll 108:23 hide 46:25 high 29:8 51:20 55:18 higher 15:1 highest 55:13 highly 3:14 62:16 Highmore 91:3 history 69:2 hit 3:18 54:25 HJK's 101:3 holding 61:25 holiday 46:14 51:12,14 60:23 61:8</p>	<p>holidays 98:2 holistic 72:8 holm 90:13 home 40:5,24 41:22 49:22 64:20 65:13,24 69:19,20 86:18 88:9 90:12 homes 69:1 honeymoon 46:13 hope 17:9 31:13 34:10 35:20 36:8 40:10 55:23,23,24 60:10 63:14 hoping 65:2 horns 68:17 horrible 84:2 85:10 98:25 horrifying 5:14 hospital 77:24 78:4,10 98:11 98:18 hospitals 98:14 98:16 host 86:21 hostage 47:3 hotel 49:13 hour 96:21 hours 27:24 103:20 house 5:9 12:10 12:15 38:15,18 38:21,21,23 39:1,6,9 46:25 47:5,9,12 48:2 48:4 54:17 58:14 63:23 64:22 65:8,25 66:2 67:17,19 71:7,18,25 72:23,25 73:3 73:6,17 74:5 74:11,12 77:3 85:12 86:14,18 86:22,23,24 87:1,15 99:7 105:19 houses 83:2 87:18 huge 38:5 87:16 hugely 58:22 Hugh 102:5 human 5:15 6:5 16:16,25 25:15 humiliated 24:11 humorously 84:12 hung 77:12 hurt 85:18 hurtful 87:18 husband 46:5 47:9 49:8,17 54:14 77:21,23 78:1 89:6 97:19,24,25</p>	<p>98:7 99:6,7 husband's 99:1 hyenas 25:11 hypocritical 26:3</p> <hr/> <p><b>I</b></p> <p>ICO 75:19 idea 22:8 23:2 24:18 64:7 75:5 108:13 ideas 31:19 44:22 99:18,25 identifiable 67:14 identification 72:5,13 identified 57:20 69:18 74:13 84:18 identify 66:2 71:3,7,12 73:3 105:18 idiot 60:25 ignore 19:21 illegal 23:4 32:4 34:12 37:15 illegally 34:2,15 image 52:8,13,16 52:19,21,24 74:15 imagination 22:6 imagine 4:20 30:18 immediate 98:10 immediately 7:3 38:12 46:13 53:14 80:12 103:8 immoral 21:20 impact 3:24 4:1 64:13,15 88:18 impacts 65:11 106:20 imperative 102:9 impermissible 74:1 importance 36:8 45:3 important 8:17 44:5 75:25 82:5 90:24 importantly 47:17 impose 100:7 imposed 56:3 imposes 32:13 imposing 26:2 impossible 47:5 impress 8:20 impunity 10:25 inadequate 33:2 inadvertently 63:15,16 inaudible 2:3 incident 45:6 58:9 59:3 62:10</p>	<p>incidents 62:14 67:11 include 90:13 including 49:24 50:9 69:1 inconceivable 33:19 incorporated 103:2 incorrect 21:9 incredibly 48:17 independent 11:12 13:2 21:1 74:21 indifference 69:13 85:19 individual 9:10 68:5 107:7 individuals 67:4 inexpensive 14:19 inferences 106:11 inferred 41:18 41:25 infiltrates 18:24 influence 3:12 information 8:22 9:2,5,21,22 10:1 11:4,16 31:20 32:4 33:25 34:2,14 63:3 68:25 69:23 70:17 71:2,6,12,24 72:18 73:2 75:3,6,24 76:11,15 77:17 78:20 79:2 80:5 91:10 95:3 96:4 infringed 14:9 Initially 61:12 injunction 9:16 10:19,23 11:5 11:14,20 12:21 13:20 14:13 15:25 16:7 19:10,14 55:16 79:18,24 80:4 81:10 injunctions 14:22,23 innocently 73:15 innocuous 54:21 inquiry 8:20 11:17 26:19,20 27:23 28:18 29:22 30:2,17 31:18 32:7,23 33:5 34:7,16 34:23 36:2 40:17 60:1 64:14 88:7 99:20,21 100:9 101:8,10,21,24 102:16 104:18</p>	<p>104:22 108:10 109:8 insight 64:14 inspiration 44:22 instance 55:12 56:10,21 98:5 instances 76:24 instantly 73:5 86:20 instructed 6:13 instruction 96:1 Insurance 78:8 intelligent 4:7,10 4:10 intended 45:19 100:14 103:9 intending 86:25 intention 9:4 56:7 60:6 interest 10:21 14:3 15:9,13 16:12 18:5,8 18:11,13,17,19 27:18 37:21 48:6 51:7 54:6 61:15 66:22 74:3 88:16 98:23 interested 89:18 interesting 17:21 37:23 international 2:13 7:16 26:6 30:19 31:6,24 32:18 89:16 internationally 32:22 International's 91:9 Internet 6:7,9 31:16 38:5,6,7 52:11 68:1 73:19 74:9 interpret 21:14 interpreted 101:7 interview 41:10 82:19 83:1,10 95:19,23 104:5 104:6,10 105:8 108:21 interviewed 93:13 interviews 83:5 95:4,13 intimidate 3:5,16 introduce 90:11 90:17 introduction 36:22 78:12 intrusion 41:3 intrusive 37:16 invade 24:4 invaded 28:22 56:1 invaders 90:2</p>	<p>invading 59:12 90:14 invasion 12:9 45:23 83:10 invent 37:18 investigate 90:5 105:23 107:11 investigated 34:7 34:22 investigation 15:14 74:22 investigations 75:10 invisibility 74:4 invite 35:17 99:19 invited 19:25 24:6 41:22 involve 19:12 involved 1:24 51:4 67:10 78:13 90:23 issue 2:22 3:24 4:3 6:22 14:6 14:20,21 18:25 19:2 20:22,24 29:12 31:16 34:6 40:6 53:8 53:22 54:4 65:14 74:1,2 74:18 86:3 106:4 107:19 issued 101:22 issues 29:14 34:22 53:18 78:18 79:1 82:4</p> <hr/> <p><b>J</b></p> <p>January 65:20 Jay 1:3 2:22 3:24 8:7,16 15:19 15:21 16:2,3 17:6,8 33:12 34:21 35:1,12 35:15 36:20,21 72:9 73:24 76:3,19 78:18 80:6,17,21 91:9,25 92:7 92:17 93:3,6,8 96:11,17,19 99:13 100:21 101:1 102:15 102:17 103:1 103:12,18 104:6,16 105:7 106:4,15 jigsaw 72:5 Jim 95:19 JK 90:11 Joanne 35:12,14 35:16 job 97:17,18,19 jobs 77:23 John 79:18 80:4 joint 1:8,10</p>
---	--	--	--	---	---	---





<b>pay</b> 7:8,23 12:23 19:12 78:7 82:7 109:3	77:1 79:2 82:24 83:3 93:14	<b>pieces</b> 72:21 <b>pinpoint</b> 71:20 <b>pitfalls</b> 32:20 <b>pity</b> 44:10 <b>place</b> 40:25 46:1 56:11 65:23 66:24 <b>places</b> 50:24 <b>planning</b> 90:17 91:6,11 <b>plans</b> 90:11 <b>plant</b> 90:2,6,15 90:22 <b>planting</b> 88:14 <b>plants</b> 90:10,16 90:22 <b>playing</b> 26:10 <b>pleadings</b> 29:13 <b>pleasant</b> 84:10 <b>please</b> 1:4 4:5 8:20 22:2,23 22:24 24:24 27:20 35:13,15 36:16 37:5 38:17 40:9,17 43:4 46:10 48:9 58:7,8 64:5 73:21 75:4 79:10 80:25 86:4 101:17 <b>pleased</b> 109:13 <b>pleasure</b> 98:22 <b>plus</b> 73:7 <b>pm</b> 1:2 35:9,11 109:18 <b>pocket</b> 7:5,6 8:10 <b>point</b> 8:3,14,15 8:16,19,21 9:8 10:18 13:25 16:7,11 19:8 19:10,18 21:7 22:13 24:9 26:5,14 27:13 27:17,19,20 30:4,6 33:12 34:3 45:2 50:10 55:20 58:10 59:4,6,7 59:8,14,24 62:8 68:10 70:17 71:1 74:10 79:20 85:7 86:14 87:19 89:15 92:7 93:8 94:10 97:7 99:2 101:12 102:12 106:18 <b>points</b> 14:4 21:6 25:1 26:21 28:17 <b>police</b> 12:15 67:10 <b>pose</b> 81:19 90:7 <b>position</b> 1:14 3:5 12:20 19:1	25:1,10 34:4 46:3 49:1 56:8 60:9,13 67:25 70:21 72:4 76:5 78:19 79:23 80:1,8,8 91:9 99:13 102:25 104:8 104:10 105:13 108:19 <b>positive</b> 26:25 <b>positively</b> 58:3 <b>possession</b> 79:6 79:16 80:10 <b>possibilities</b> 106:7 <b>possible</b> 26:1 31:11 74:6 <b>possibly</b> 57:18 59:18,19 63:5 63:14 106:1 <b>post</b> 76:22 77:7,8 77:10 <b>postal</b> 30:13 74:16 <b>postcode</b> 65:24 66:1 73:7,13 73:14 <b>pot</b> 10:15 <b>potential</b> 32:20 <b>potentially</b> 32:13 <b>Potter</b> 37:24 38:4,7,20 44:12 62:23,24 66:20 79:4,12 84:5 85:14 93:12,21 94:5 95:8 100:14 <b>pounds</b> 8:9 <b>power</b> 26:21 28:11,13,15 <b>powers</b> 28:14 <b>PR</b> 62:17 88:8 91:15 <b>practical</b> 10:22 31:19 <b>practice</b> 18:2 53:1 <b>practices</b> 29:19 96:14 <b>precaution</b> 68:9 <b>precautions</b> 67:15 <b>precious</b> 67:9 <b>precise</b> 19:2 67:6 69:18 71:15,18 73:1,3 <b>precisely</b> 72:6 74:12 <b>prefer</b> 13:10 <b>pregnant</b> 54:13 <b>prejudicial</b> 64:23 <b>preliminary</b> 103:25 <b>preoccupation</b> 22:10	<b>prepared</b> 82:2 82:14 83:11 104:12,18 106:1,1 107:24 109:15 <b>preparing</b> 76:24 <b>prepublication</b> 79:15 <b>present</b> 23:15 105:24 <b>presided</b> 56:23 <b>press</b> 13:1,2 14:25 21:4 23:18 24:3 27:4,5 28:2,16 37:3,5,6 38:9 39:11,15,16 42:5,6 46:7,17 47:16 55:25 58:3 61:8 68:7 68:15,17 69:11 72:19 74:18 75:7 81:15 82:3 92:20 95:10,15 96:1 96:13 98:23 101:13 105:25 <b>press's</b> 41:19 <b>presumably</b> 51:24 60:21 90:8 98:15 <b>presumption</b> 59:11 <b>pretence</b> 48:13 <b>pretend</b> 100:13 <b>pretended</b> 77:25 <b>prevent</b> 18:9 24:3 26:23 46:6,22 47:22 52:15 59:20 68:4 79:15,19 79:21 100:10 <b>preventing</b> 27:9 61:19 <b>previous</b> 50:17 72:25 97:3 <b>previously</b> 46:14 73:17 <b>pre-notification</b> 11:21 17:14 18:1,4 <b>price</b> 34:18 <b>primarily</b> 38:6 83:2 <b>primary</b> 45:13 <b>principle</b> 28:1 <b>print</b> 52:7 60:7 63:13 68:22 74:16 <b>printed</b> 70:2 85:23 86:6 87:25 <b>printers</b> 79:7 <b>printing</b> 41:19 66:18 70:1 <b>prior</b> 8:17 9:7 10:12,15,22	14:18 16:17,24 19:3 20:8,19 20:25 27:15 28:8 59:15 87:25 100:9 <b>prison</b> 31:2 <b>Prisoner</b> 94:5 <b>privacy</b> 7:25 8:21 10:11,20 11:18 12:9,13 12:19 13:11 15:1 19:23 24:4 29:2 34:18 40:3,5,8 42:1 47:19 50:25 51:11 53:4,24 55:18 56:2,12 59:8 59:12 65:13 68:9 79:2 82:5 <b>privacy's</b> 14:9 28:21 <b>private</b> 8:23 9:23 22:18 24:1,20 24:23 25:25 36:4 41:1,4 43:8 46:19 48:23 49:6,11 49:12,15,16 50:22 51:6 61:6 83:4,11 <b>privilege</b> 10:7 20:2 <b>prizes</b> 4:10 <b>probably</b> 1:13 4:16 5:24 15:8 25:6 31:1,22 31:23 35:5 39:21 63:10 84:15 92:18 107:23 <b>problem</b> 4:18 9:22 <b>procedurally</b> 57:8 <b>procedure</b> 13:15 13:16 <b>procedures</b> 17:20 <b>proceedings</b> 11:18,20,20 55:16 <b>process</b> 11:2 <b>proclaiming</b> 23:16 <b>procuring</b> 33:20 <b>profession</b> 29:16 29:17 <b>programme</b> 101:5 <b>proliferate</b> 32:3 <b>proliferation</b> 31:20 <b>prominently</b> 83:18 <b>promised</b> 81:5,6 <b>promises</b> 32:25	<b>promotional</b> 38:8 41:24 <b>promptly</b> 31:3 <b>proper</b> 15:14 30:19 <b>properly</b> 92:12 <b>properties</b> 66:19 69:1 <b>property</b> 39:10 52:19 67:7 69:20 71:3,13 88:24 <b>proportion</b> 29:4 <b>proposal</b> 28:19 32:7 <b>protect</b> 51:11 68:9 <b>protected</b> 56:13 <b>protection</b> 40:16 51:1,20 <b>protections</b> 20:7 <b>protective</b> 48:22 <b>protest</b> 68:18 <b>provide</b> 20:7,9 67:1 71:24 75:22 76:11 80:17 108:24 <b>provided</b> 51:8 57:1 77:17 91:25 101:24 102:4,16 104:2 <b>providers</b> 32:3 <b>providing</b> 2:5 <b>provisions</b> 51:8 <b>proximity</b> 61:22 <b>public</b> 3:8 7:3 8:22,24 9:1 10:21 11:16 14:3 15:9,13 16:12,21 18:5 18:8,10,13,16 18:19 40:11,24 48:8 49:6,12 51:7 52:13 54:5 56:11 61:2,15 64:12 66:22 67:3,25 69:23,24 70:4 73:9 74:2 87:14 88:16 96:5 105:19 <b>publication</b> 6:7 18:20 27:9 54:6 58:4 59:15,21 61:19 66:8 70:23 79:21 94:12 <b>publications</b> 72:11 <b>publicity</b> 40:15 45:12 <b>publicly</b> 21:8 56:25 91:10 102:14 104:1 <b>public/private</b> 50:10 <b>publish</b> 9:5 10:2
---	----------------------------------	--	---	---	--	---



35:20 45:1 55:1 67:18 72:9 74:2 88:24 90:1,3,9 91:12,16,17 93:2,8,17,25 95:1,5 101:21 102:2 105:3 106:2,13 107:12 108:14 <b>seeing</b> 4:23 71:22 <b>seek</b> 11:4 <b>seeking</b> 31:10 105:10 <b>seen</b> 40:19 42:7 52:17 62:2,6 73:22 76:1,6 82:13,14 91:2 91:23,24 92:2 92:25 103:7 105:19 <b>sees</b> 81:15 <b>Select</b> 9:9,14 18:24 21:12 23:10 25:2 <b>selection</b> 51:12 91:7 <b>self-contained</b> 11:2 <b>self-righteousn...</b> 23:17 <b>self-same</b> 18:25 72:12 <b>sell</b> 15:5 83:11 <b>seller</b> 86:16 87:3 <b>selling</b> 95:12,17 <b>send</b> 55:25 <b>sending</b> 98:25 <b>senior</b> 2:12,12 30:20 <b>sense</b> 5:15 44:13 45:23 64:21 91:18,19 <b>sensible</b> 22:7 35:5 <b>sensitivities</b> 105:12 108:20 <b>sent</b> 30:12,15 <b>sentence</b> 23:15 31:4 <b>sentiment</b> 22:1 <b>separate</b> 14:20 53:8 86:2 <b>separately</b> 53:7 <b>September</b> 33:25 <b>sequence</b> 6:25 54:8 81:20 93:11 <b>series</b> 69:15 94:6 <b>serious</b> 2:22 4:3 18:9 30:19 31:4,6 81:21 81:25 82:12 <b>seriously</b> 47:18 56:1 <b>service</b> 30:13 32:2	<b>services</b> 75:1 <b>serving</b> 31:3 <b>set</b> 34:5 50:13 58:23 <b>setting</b> 56:16 <b>settlement</b> 8:4 57:13 <b>seven</b> 35:8 109:15 <b>seventh</b> 36:23 81:23 <b>sex</b> 22:8,12,16 24:14 <b>sexual</b> 23:4 <b>sexually</b> 24:1 <b>share</b> 31:19 42:19 <b>Shell</b> 26:22 <b>Sherborne</b> 76:3 76:5,13,17 91:23,24 92:2 96:21,25 97:2 97:5 108:18,23 108:25 109:2,9 109:11 <b>shillings</b> 8:10 <b>shining</b> 23:16 <b>shivering</b> 2:24 <b>shock</b> 41:14 <b>shorn</b> 3:1 <b>short</b> 5:12 14:8 35:10 60:16 97:14 108:11 <b>shortfall</b> 8:9 <b>shortland</b> 35:6 <b>shortly</b> 46:15 49:9 58:9 77:2 94:18 <b>shot</b> 42:21 64:6 <b>show</b> 10:20 11:9 <b>showed</b> 39:1 55:8 66:23 <b>showing</b> 22:11 69:19 <b>shown</b> 89:20 <b>shows</b> 24:13 82:1 <b>side</b> 11:19 24:8 29:2 38:10 90:9 <b>siege</b> 47:3 <b>signature</b> 35:20 <b>significance</b> 76:4 <b>significant</b> 42:4 42:6 100:10 105:9,11 <b>silence</b> 77:12 <b>silly</b> 58:22 <b>similar</b> 12:18,25 21:13 72:9 76:21 81:20 98:4 <b>simple</b> 29:6,15 <b>simply</b> 28:21 29:11 60:3 76:5 83:6 85:3 86:8 92:11 107:22 108:10	<b>single</b> 8:5 29:11 40:11 43:9 <b>sir</b> 2:16 3:23 12:25 13:16 17:2 33:1,11 34:19,25 56:24 76:17 91:24 96:6 97:14 108:3,18 109:11 <b>sit</b> 85:4 92:25 100:6 <b>sitting</b> 29:3,12 39:3,4 48:7 102:14 <b>situation</b> 4:22 5:16 6:4,4 13:23 14:17 15:12,18 49:16 81:16 82:12 <b>sixth</b> 81:23,24 82:12 <b>size</b> 85:23 <b>skated</b> 89:2 <b>skimmed</b> 92:24 <b>skywriter</b> 60:17 <b>slightly</b> 6:24 9:12 15:16 22:15 28:4 54:9 91:21 96:2 <b>slipped</b> 45:7 100:14 <b>smack</b> 13:14 <b>small</b> 5:4 16:20 17:2 69:21 85:24 <b>smart</b> 78:24 <b>smear</b> 34:11 <b>smut</b> 22:10 <b>society</b> 22:4 23:20 24:23 43:18 <b>soft</b> 23:14 <b>software</b> 4:9 <b>sold</b> 41:21 55:13 <b>soldiers</b> 30:25 31:2 <b>solecism</b> 17:23 <b>solicitor</b> 5:19 <b>solicitors</b> 39:19 <b>solutions</b> 31:19 <b>solve</b> 9:21 <b>somebody</b> 3:6 5:17 6:3 9:11 12:10 22:15 28:16 29:1 32:13 76:21 <b>somebody's</b> 19:23 <b>son</b> 4:6 27:6 55:2 55:4 58:9 <b>sons</b> 4:21 <b>son's</b> 5:9 48:23 55:8 <b>sophisticated</b> 57:17 <b>sorry</b> 10:9 23:1	30:22 66:7 72:24 80:21 93:22 <b>sort</b> 3:11 4:22 5:9 6:3 22:9,12 24:20 38:3 39:20 59:11 69:15 75:21 81:20 92:24 <b>sorts</b> 23:4 33:2 <b>sought</b> 22:1 55:16 79:24 <b>source</b> 2:18 4:9 83:14 <b>south</b> 66:15 <b>southeast</b> 90:14 <b>so-called</b> 3:13 <b>space</b> 5:12 85:25 <b>spade</b> 61:13,14 <b>spare</b> 93:3 <b>speak</b> 77:9 <b>speaking</b> 32:10 43:7 84:21 <b>special</b> 60:1 <b>species</b> 88:18 89:17 90:7,8 91:7 <b>specific</b> 21:6 46:9 49:2 72:14 107:15 <b>specifically</b> 43:2 107:7 <b>Spectator</b> 105:20 <b>spectrum</b> 37:12 <b>speculating</b> 63:8 <b>speculation</b> 63:19 <b>speech</b> 22:3 <b>speed</b> 31:21 <b>spell</b> 20:16 <b>spite</b> 81:5 <b>spiteful</b> 68:22,23 <b>split</b> 64:25 <b>spoken</b> 100:9 <b>spokesman</b> 91:3 <b>spokesperson</b> 43:24 <b>spread</b> 52:9 88:2 99:4 <b>sprung</b> 91:21 <b>stage</b> 32:1 36:14 55:18 76:12 <b>stake</b> 18:11 <b>stamping</b> 88:2 <b>stance</b> 1:15 42:5 <b>stand</b> 82:2 <b>standard</b> 15:1 53:1 68:24 <b>standing</b> 40:20 <b>stands</b> 28:13 <b>Star</b> 86:13 <b>starry</b> 67:8 <b>start</b> 37:8,20 65:6,7 109:17 <b>started</b> 29:5 77:22 <b>starting</b> 49:2	<b>starts</b> 26:16 74:18 <b>state</b> 47:15 48:19 82:8 100:5 <b>stated</b> 21:8 34:1 46:3 60:13 <b>statement</b> 1:4 6:8,25 14:5 21:3 26:16 33:13 35:18,21 37:1,19 42:11 43:17 44:1,15 46:12 47:25 50:14 57:5 62:21 67:24 69:7 70:15,22 76:24 83:12 96:24,25 97:3 101:3,24 102:3 102:15,16,17 104:1,4 105:17 105:21 108:11 <b>statements</b> 28:23 47:20 97:25 101:2 <b>States</b> 30:13 <b>Statesman</b> 104:7 <b>stating</b> 49:1 <b>staying</b> 49:13 <b>step</b> 46:5 56:7 68:2 79:14 <b>steps</b> 59:18 72:20 106:15 <b>stolen</b> 79:6 81:18 <b>stomach</b> 48:16 <b>stop</b> 8:24,25 12:18 27:5 28:15 64:5 87:24 <b>store</b> 34:21 <b>stories</b> 27:9 63:9 107:7,10 <b>story</b> 4:18 5:18 27:10 28:11 48:13 77:13,13 79:11,13 86:17 88:1,12 <b>story's</b> 27:14 <b>straight</b> 16:19 <b>straightforward</b> 53:19 81:1 108:10 <b>strange</b> 19:19 22:12 <b>Strasbourg</b> 20:11 <b>strategy</b> 40:14 63:11 <b>street</b> 39:2,5,9 58:16 64:3,3 66:18 74:14 <b>stress</b> 62:9 <b>strikes</b> 19:8 <b>strong</b> 55:24 56:2 97:22 <b>strongly</b> 33:23 37:6 41:13	44:4 71:3 98:6 <b>struck</b> 55:19 72:1 <b>struggling</b> 4:17 <b>students</b> 62:25 <b>study</b> 34:18 98:3 <b>stuff</b> 87:18 <b>subject</b> 18:6 19:6 21:24 27:24 <b>subjective</b> 21:10 <b>submission</b> 15:15 16:13 101:8,12 104:22 106:13 <b>submissions</b> 16:3 <b>submit</b> 28:18 32:7,22 33:1,4 <b>subparagraph</b> 62:11 63:22 <b>subparagraphs</b> 57:20 <b>subsequent</b> 47:4 80:7 <b>subsequently</b> 18:7,12 49:11 54:23 78:14 <b>substantive</b> 75:19 <b>succed</b> 61:18 <b>succeeded</b> 6:16 <b>success</b> 27:8 <b>successfully</b> 27:12 <b>succinctly</b> 8:18 17:8 <b>suddenly</b> 14:12 64:24 <b>sue</b> 9:19 <b>sued</b> 6:1 <b>suffered</b> 4:11 44:2 <b>sufficient</b> 18:11 71:12 73:2 <b>sufficiently</b> 71:18 72:13 <b>suggest</b> 1:5 18:14 102:8 <b>suggested</b> 12:6 27:20,23 109:1 <b>suggestion</b> 90:16 108:8 <b>suggestions</b> 99:19 <b>suicide</b> 5:1 <b>suing</b> 10:5 <b>sum</b> 96:12 99:13 <b>summarise</b> 17:8 <b>summarised</b> 57:4 <b>summarising</b> 57:19 <b>summary</b> 7:16 7:18 19:1,2 <b>Sun</b> 48:19 62:12 79:5,25 81:11 86:12 <b>Sunday</b> 69:17	70:5 86:11 88:7,13 89:6 89:16,19,21 90:1 96:23 97:8 <b>suntan</b> 22:11 <b>superqualified</b> 13:10 <b>support</b> 43:1 <b>suppose</b> 13:20 37:11 43:7 82:2,6 94:24 <b>sure</b> 3:23 21:25 22:24 25:13 30:5 49:20 52:23 61:24 68:3 81:22 85:18 89:14 101:16 108:3 108:22,23,25 109:12 <b>surely</b> 21:21 <b>surprise</b> 1:14 63:12 106:22 <b>surprised</b> 23:13 <b>surprising</b> 1:19 19:9 53:10 <b>surreal</b> 23:18 <b>surrounding</b> 45:12 <b>surveillance</b> 48:12 <b>survives</b> 63:17 <b>suspect</b> 5:23 <b>swimsuit</b> 46:17 52:5,10 61:2 61:16 <b>swimsuits</b> 44:25 <b>swimwear</b> 52:17 <b>sworn</b> 35:14 <b>sympathy</b> 44:10
					<b>T</b>	
					<b>tab</b> 35:19 50:3 57:2 70:25 72:11 <b>tabloid</b> 15:4 48:4 79:16 <b>take</b> 1:3,15 6:3 13:24 19:16 32:11 39:15 41:7,23 42:13 42:24 46:13 47:19 50:23 57:18 59:2,18 65:2 72:20 82:2 103:19,20 103:22,22 105:22 106:15 106:18 107:9 <b>taken</b> 12:12 26:14 40:22 46:5,9,14 51:3 51:22 55:11 59:6 63:25 67:15 68:2,8 79:14 80:4,13	

83:13 95:11 98:1 <b>takes</b> 33:8 76:16 78:5 <b>talk</b> 27:24 43:13 43:21 70:23 89:9 93:1 <b>talked</b> 13:4 44:1 107:12 <b>talking</b> 36:3,6 37:10 43:21 44:9,14 66:3 73:1 85:5 <b>tape</b> 104:16,19 105:13 106:5,9 <b>taped</b> 102:20 <b>target</b> 67:4 74:22 74:25 <b>taste</b> 25:6 <b>taught</b> 42:20 <b>tax</b> 78:1,2,3,5,15 <b>Taylor</b> 8:6,12 <b>team</b> 31:8 104:18 108:10 <b>technology</b> 32:5 <b>teeth</b> 27:17 100:7 <b>telephone</b> 77:5 <b>telephoned</b> 94:11 <b>tell</b> 4:5 9:13 10:12 22:22 27:1 28:17 39:24 40:2 49:7 54:10 75:4,15 79:9 81:11,21 83:24 85:20,21 88:10 94:16,17 95:9 97:13 99:10 <b>tempting</b> 32:11 <b>ten</b> 38:3 97:25 <b>tend</b> 85:16 90:25 <b>ten-year</b> 36:23 <b>terms</b> 10:22 75:3 <b>terrible</b> 5:16 94:24 <b>territory</b> 3:22 <b>test</b> 14:24 <b>thank</b> 6:6 21:3 27:17 29:19 31:12,16 32:8 35:2,3,4,8,24 36:5,13,18,19 39:13 45:2 62:3 74:17 75:18 76:18 80:16 82:16 86:10 88:6 89:13,24 93:4 97:14 99:12 100:17,19 106:17 108:3 108:15 109:12 109:17 <b>theme</b> 69:16 72:9 90:4 <b>themes</b> 44:6	<b>thereabouts</b> 82:18 <b>they'd</b> 1:24 38:2 73:8,17 83:22 <b>thing</b> 13:5 22:3 22:16 24:5 25:10 26:3 37:17 43:25 52:4 54:21 83:6 95:15 <b>things</b> 12:11 22:21 23:24 24:20 28:8,25 29:4,17 36:3 42:1 43:13 44:7,24 46:20 102:18 105:2 <b>think</b> 2:2 3:11 5:21,23,24 7:18 8:6,12 11:8 12:3 13:21 14:14 15:2,7,23 16:3 19:2,19 20:17 20:20 21:9,16 22:3,17,17 23:1,13 25:21 26:14 27:10,11 27:25 28:2,3,7 28:21,24 29:1 30:22 31:22 32:1,5,12 33:13 34:21,25 37:8,10,15 38:7 41:1,12 41:13 42:4 43:5,22 44:2 44:20,23,25 46:6 47:22 48:2,17 49:4 50:20 53:23 54:3,5,20 56:4 59:16,17,24 61:7,14 62:4,5 63:23 65:17,20 65:21 66:14 67:12,17 68:7 68:9 69:15 70:25 72:3,6,7 73:15,16,18 76:1 77:14 79:4 80:6,9 82:10,13,22,22 83:5 84:1 87:7 87:23 89:6 90:18,25 92:20 95:20,21 96:11 96:25 99:8 100:5 103:3,23 107:16,17,22 108:13 109:14 <b>thinking</b> 14:4 20:20 65:7 76:10 103:11 103:16 105:24 <b>thinks</b> 11:13 <b>third</b> 54:14	68:10 74:17 93:23 94:2,6,8 95:8 <b>thought</b> 6:2 20:12 33:3 42:3,8 58:19 68:19,22 91:20 97:1 98:12 108:9 <b>thrall</b> 20:15 <b>threat</b> 90:7 <b>threatening</b> 48:17,18 <b>threats</b> 67:11 <b>three</b> 42:25 43:7 60:24 64:24 66:19 71:23 <b>thrilled</b> 42:16 <b>throw</b> 10:14 <b>throwing</b> 87:1 <b>thrown</b> 98:12 <b>throws</b> 87:17 <b>throw-away</b> 84:12 <b>thunderingly</b> 19:9 <b>Thurlbeck</b> 30:8 <b>Thursday</b> 34:21 <b>time</b> 5:12 23:14 24:6 31:9 32:9 33:9 36:1 42:2 43:12,18 48:5 54:16 57:18 58:13 59:2 61:1 63:19,23 66:14 83:17,21 84:17 87:4 93:16,23 95:23 98:1 99:6 103:11,12,14 107:2,23 <b>times</b> 39:19 61:3 87:20 88:7,13 89:16,21 90:1 107:9 <b>title</b> 2:24 65:19 68:24 <b>today</b> 37:10 98:20 <b>told</b> 2:12,19 5:24 6:13,19 59:17 63:6 85:14 88:17 94:7,8 94:18 99:21 106:4 <b>tomorrow</b> 102:14,14 <b>tongue</b> 3:21 <b>tool</b> 38:8 41:24 <b>toothless</b> 100:1 <b>top</b> 48:23 <b>topic</b> 65:12 100:25 <b>total</b> 24:16 96:13 <b>touch</b> 78:18 <b>touched</b> 6:6 27:21 31:17	45:3 <b>touches</b> 33:15 <b>touching</b> 4:3 <b>tour</b> 71:25 <b>town</b> 38:1 69:21 86:14 <b>track</b> 75:14 <b>traditional</b> 17:16 37:25 <b>transcript</b> 106:9 <b>trapped</b> 47:11 <b>treat</b> 44:17 <b>treatment</b> 40:6 60:1,2 74:18 82:10 <b>tree</b> 15:18 <b>trees</b> 71:23 88:10 88:23 90:17 <b>trial</b> 11:6 14:12 15:22,24 16:1 109:7 <b>tribunal</b> 12:1 14:19 20:23 27:25 <b>tried</b> 17:3 42:8 43:14 46:20,21 <b>trivial</b> 7:20 <b>true</b> 14:12 63:11 84:15 85:6 <b>truly</b> 37:10 85:24 90:20 105:9,11 <b>truth</b> 2:20 9:13 14:14 35:21 37:13 63:4 97:25 99:5 <b>try</b> 6:3,15 42:12 47:22 79:14 81:9 <b>trying</b> 27:5 28:25 32:21 36:9 42:3 44:10 75:14 81:11 82:23 109:7 <b>Tuesday</b> 101:17 102:3 103:5,18 108:11 <b>turn</b> 29:3 33:1 81:11 <b>twice</b> 34:25 56:4 61:2,3 <b>twist</b> 48:15 <b>two</b> 8:7 14:19 17:15 18:2,15 25:1 28:5 29:12 30:15 38:22 47:2 48:3 49:23 71:17 73:19 76:24 79:6 86:19 101:17 102:18 103:20 107:10 <b>type</b> 88:9 <b>typewriter</b> 41:8 <b>typographical</b> 65:19	<hr/> <b>U</b> <hr/> <b>UK</b> 20:12 <b>unable</b> 64:21 <b>unacceptable</b> 50:22 <b>unanswerable</b> 20:20 21:2 <b>unaware</b> 48:5 87:9 <b>unbalanced</b> 67:4 <b>unclear</b> 103:21 <b>underline</b> 56:8 <b>underlying</b> 14:2 <b>undermine</b> 25:17 <b>understand</b> 7:2 14:7 16:23 29:24 32:24 36:4,7 50:20 70:21 73:24 76:6,7,13,17 77:18,21 79:23 88:15,21 96:11 96:15 99:10 102:12 103:15 105:12 108:3 108:19 109:9 <b>understanding</b> 1:9,10 2:10 7:4 32:20 55:15 85:8 93:11 95:18 104:17 <b>understood</b> 21:19 33:10 49:14 57:7 75:20 <b>undue</b> 32:13 <b>unemployed</b> 79:11 <b>unfamiliar</b> 26:18 <b>unimaginable</b> 22:5 <b>United</b> 6:9 30:13 <b>university</b> 24:6 <b>unjustifiably</b> 37:16 <b>unjustified</b> 18:2 <b>unknown</b> 79:19 <b>unnerving</b> 65:10 <b>unpleasant</b> 3:15 84:5 85:15 <b>unsure</b> 14:1 <b>unsurprisingly</b> 57:21 <b>untenable</b> 38:23 38:24 <b>unthinkable</b> 19:16 <b>untrue</b> 14:10 84:6 86:5,8,22 88:5,5 98:25 <b>untruth</b> 52:7 <b>unusual</b> 8:7 22:16 36:16 <b>unusually</b> 54:14 <b>unwanted</b> 51:16 <b>unwarrantable</b>	41:3 <b>unwritten</b> 42:3 <b>unzipped</b> 45:13 <b>update</b> 80:6 <b>updated</b> 80:18 <b>upheld</b> 50:5 70:24 71:10 72:12 <b>uphold</b> 53:9 <b>upping</b> 19:21 <b>upset</b> 63:1,3 64:16 <b>upshot</b> 69:6 <b>upsides</b> 43:22 <b>urban</b> 88:9 <b>use</b> 6:9 18:21 50:23 59:10 85:1 88:10 105:3 <b>users</b> 74:8 <b>uses</b> 87:9 <b>usual</b> 35:21 45:14 68:3 <b>utterly</b> 69:12 86:22,22 <hr/> <b>V</b> <hr/> <b>v</b> 28:23 <b>valuable</b> 76:15 <b>value</b> 87:9 <b>values</b> 23:19 <b>varieties</b> 90:11 <b>various</b> 26:21 28:14 29:9 93:14 <b>vary</b> 50:17 <b>vast</b> 86:19 <b>vehement</b> 97:15 <b>vehemently</b> 100:4 <b>vendetta</b> 37:2 <b>veracity</b> 97:24 <b>version</b> 87:12,13 97:2 102:24 <b>versus</b> 5:25 <b>vicinity</b> 65:5 98:10 <b>vicious</b> 98:24 <b>view</b> 2:7,8,9 21:11,13 37:11 40:18,21,22 42:6 56:19 72:8 102:18 103:16,25 107:4 <b>views</b> 3:1 21:4 37:5 <b>vigorously</b> 82:15 <b>vilify</b> 85:2 <b>vindictive</b> 85:1 <b>violated</b> 10:21 <b>virtually</b> 7:25 58:11 67:2 71:25 86:20 <b>virus</b> 52:9 <b>vital</b> 27:16 <b>vividly</b> 41:6	42:15 97:20 <b>volunteering</b> 36:2 108:21 <b>vulnerable</b> 72:4 <hr/> <b>W</b> <hr/> <b>wage</b> 90:2 <b>wait</b> 34:7 77:10 77:10 105:3 106:2,13 <b>walk</b> 54:19 <b>walked</b> 86:17 <b>want</b> 5:13 14:9 15:12 32:22 36:14 41:11 42:18,22 48:16 50:15 58:17 63:7 67:4 74:5 75:4 76:9,12 83:22 89:8 101:14 104:14 105:18 107:10 107:12 <b>wanted</b> 36:12 38:2 39:4 41:7 47:6,7 48:10 81:17 92:8 97:13 99:10 <b>wants</b> 15:5 33:5 106:23 <b>Wapping</b> 30:17 31:7 <b>war</b> 37:13 90:2 <b>wary</b> 63:8 82:3,6 <b>wasn't</b> 1:16 10:9 43:10 48:13 49:21 60:11 61:18 62:8 71:18,19 73:2 78:24 89:22 91:19 <b>watched</b> 65:10 <b>watching</b> 48:18 54:17 <b>way</b> 3:13 4:11,12 10:24 17:1 20:19,21 21:25 24:10,11 25:17 27:12 32:4 42:23 49:19 52:19 57:7 61:18 65:3,3 68:17 74:6 81:4 83:5,12 86:23 89:11 93:8 94:22 100:2 101:10 101:12 105:1 105:16 <b>ways</b> 29:9 62:18 68:3 <b>wealthy</b> 11:19,21 <b>wearing</b> 64:11 64:11 <b>web</b> 4:23 6:12 <b>website</b> 22:10 66:12 101:2
---	--	---	---	---	---	---

<p><b>websites</b> 52:14  <b>wedding</b> 46:19  <b>week</b> 30:1 34:8              47:4 58:11,13              101:5 102:6  <b>weeks</b> 87:20  <b>weigh</b> 15:4  <b>weighed</b> 53:13  <b>weight</b> 60:11              73:10  <b>welfare</b> 51:3  <b>well-known</b>              41:14,15 43:23  <b>went</b> 4:25 5:9              12:5 16:25              17:2 20:11              29:1 31:2              46:18 49:8              54:16 56:7              57:7 62:19              64:20 66:11              78:10 81:8  <b>weren't</b> 16:6              44:21 49:9,24              57:9 91:20              98:10  <b>we'll</b> 15:22 39:13              67:22 80:19              89:10,10,19              104:2 107:23              108:13,14  <b>we're</b> 3:19 12:17              21:5 30:1 37:9              60:2 66:2,15              70:9 71:9 72:4              78:5 79:4              88:22 92:18              96:11 102:14  <b>we've</b> 6:6 26:4              36:15 53:4              62:6 67:15              68:2 70:2 73:1              86:2 89:2,2              92:3,3,5              105:18 107:11  <b>whats</b> 106:19  <b>whereabouts</b>              67:13  <b>white</b> 54:4  <b>Whittamore</b>              34:2 74:23              75:1  <b>wholly</b> 11:17              84:6 98:25  <b>wide</b> 6:12 17:18  <b>wider</b> 16:11 21:4              26:15  <b>wide-ranging</b>              102:17  <b>width</b> 76:14  <b>wife</b> 4:24 97:21              99:8  <b>wild</b> 63:19  <b>wildlife</b> 90:7  <b>win</b> 6:10 7:4              10:22,23 11:10              11:13,15,15</p>	<p>57:10  <b>wish</b> 8:19 25:24              31:19 36:4,7              40:1 66:25              67:12 74:5,17              79:22 83:7              89:16 93:9              95:10 98:6,7              99:1 107:20  <b>wished</b> 34:24              86:21 88:14  <b>wishes</b> 109:4  <b>wishing</b> 59:22  <b>witness</b> 1:4 6:8              6:25 26:16              35:12,18 36:21              37:1,19 42:11              43:25 50:14              57:5 62:21              67:24 69:7              70:14,22 77:14              92:21 100:21              101:24 102:3              103:25 106:3              107:22,22  <b>witnesses</b> 35:25              101:18 103:10  <b>woman</b> 23:7  <b>women</b> 23:22              24:11,11,15  <b>women's</b> 41:6  <b>won</b> 6:24 50:11              53:20  <b>wonder</b> 37:16              48:16  <b>wonders</b> 60:14  <b>wood</b> 71:23  <b>woollen</b> 64:12  <b>word</b> 34:9 37:18              51:24 52:1              63:4 106:12  <b>words</b> 4:5 8:18              25:22 27:22              44:9 49:7              64:19  <b>work</b> 28:8 32:15              43:12 44:3,6,6              47:10 98:1,3              98:18 99:2,7  <b>worked</b> 28:17              98:13  <b>worked-up</b>              99:25  <b>working</b> 98:11              98:11,15  <b>works</b> 10:24 48:8              65:23  <b>world</b> 4:18 6:10              6:12,12 13:20              23:8 25:4 52:9              99:4 107:17  <b>worn</b> 64:12  <b>worried</b> 49:18  <b>worry</b> 80:19  <b>worrying</b> 3:10  <b>worse</b> 10:8 12:9              39:10</p>	<p><b>worth</b> 62:8  <b>worthwhile</b>              97:18  <b>wouldn't</b> 13:14              22:8 26:22              40:19 70:16              85:9 109:1  <b>wrist-slapping</b>              100:3  <b>write</b> 2:15 5:17              22:14  <b>writer</b> 35:6 44:4              61:14 95:5  <b>writing</b> 30:18              84:7 86:7  <b>written</b> 4:9              30:11 38:2              96:22 101:18              102:9  <b>wrong</b> 2:13 5:1              11:12 32:4              40:3 49:8 72:9              72:10 106:10  <b>wrongly</b> 3:3              49:10,14 61:9  <b>wrongs</b> 34:6  <b>wrote</b> 18:15 30:8              30:24 43:9              69:7 85:19              97:14</p> <hr/> <p style="text-align: center;"><b>X</b></p> <p><b>X</b> 22:11</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <p><b>Y</b> 22:11  <b>year</b> 2:2 30:12              45:13 87:5              90:1  <b>years</b> 38:4,22              88:20 93:5              98:1 107:9  <b>yesterday</b> 8:3  <b>York</b> 30:8  <b>Yorkshire</b> 23:21  <b>young</b> 23:3 38:6              44:16 73:18  <b>youngest</b> 63:25              64:7,16</p> <hr/> <p style="text-align: center;"><b>1</b></p> <p><b>1</b> 9:24 30:17              35:19  <b>10</b> 21:22 30:11              42:11 107:4              108:6  <b>10-year-old</b>              58:10  <b>100</b> 9:10 26:17              90:7 106:11  <b>105</b> 26:25  <b>106</b> 27:1  <b>12</b> 42:25 103:13  <b>12(3)</b> 11:9 15:17              15:17  <b>12.5</b> 93:5  <b>120</b> 17:9 29:20</p>	<p><b>121</b> 17:12  <b>122</b> 17:16  <b>124</b> 30:5  <b>126</b> 17:24  <b>13</b> 45:2  <b>131</b> 33:15  <b>14</b> 46:3 90:1  <b>15</b> 46:24  <b>16</b> 51:3 59:4  <b>17</b> 47:15 59:14  <b>18</b> 8:9  <b>19</b> 62:11  <b>1990s</b> 78:23  <b>1997</b> 37:25 38:21              93:13  <b>1998</b> 61:2  <b>1999</b> 38:22 93:17              93:22 94:1              95:8</p> <hr/> <p style="text-align: center;"><b>2</b></p> <p><b>2</b> 35:21 50:3  <b>2.00</b> 1:2  <b>2.52</b> 35:9  <b>20</b> 6:14  <b>20-something</b>              58:19  <b>2001</b> 49:3 58:4              82:17  <b>2003</b> 48:20 79:5              82:15 96:22  <b>2004</b> 54:11  <b>2005</b> 65:20 66:14              70:23  <b>2006</b> 60:23  <b>2007</b> 36:24,25              62:11 63:22              68:25 69:16              72:11  <b>2008</b> 16:6 21:10              30:7 56:23  <b>2009</b> 5:6 23:11  <b>2011</b> 33:25              109:19  <b>21</b> 49:2  <b>22</b> 16:5  <b>23</b> 23:11  <b>24</b> 30:7  <b>25</b> 48:20  <b>28</b> 57:5,20              109:19  <b>29</b> 57:25  <b>29(a)</b> 58:6</p> <hr/> <p style="text-align: center;"><b>3</b></p> <p><b>3</b> 37:1 51:23 53:4              53:11,12 70:25  <b>3.00</b> 35:11  <b>30</b> 60:18 62:10  <b>30,000</b> 8:10 10:3  <b>33</b> 35:19  <b>36</b> 16:5  <b>38-year-old</b>              48:22</p> <hr/> <p style="text-align: center;"><b>4</b></p> <p><b>4</b> 37:19 68:11</p>	<p>72:11 95:19  <b>4.53</b> 109:18  <b>41</b> 65:17  <b>410</b> 16:20  <b>412</b> 17:24  <b>42</b> 70:24  <b>43</b> 67:24  <b>48</b> 70:21</p> <hr/> <p style="text-align: center;"><b>5</b></p> <p><b>5</b> 11:5 38:12 57:2              79:4  <b>5,000</b> 88:20  <b>50</b> 39:20 74:19  <b>500,000</b> 6:21              11:19  <b>51</b> 74:20  <b>52</b> 75:18  <b>53</b> 1:4 76:19  <b>54</b> 2:23  <b>57</b> 4:4  <b>58</b> 5:9 79:4</p> <hr/> <p style="text-align: center;"><b>6</b></p> <p><b>6</b> 52:2 53:7 66:20              78:10  <b>60</b> 80:23 83:24  <b>60,000</b> 7:6  <b>61</b> 86:2  <b>62</b> 86:2  <b>63</b> 82:17 86:11  <b>64</b> 88:7  <b>655</b> 75:2</p> <hr/> <p style="text-align: center;"><b>7</b></p> <p><b>7</b> 39:14 56:23              63:6 103:4  <b>76</b> 6:25</p> <hr/> <p style="text-align: center;"><b>8</b></p> <p><b>8</b> 17:11,14 54:11  <b>82</b> 7:14</p> <hr/> <p style="text-align: center;"><b>9</b></p> <p><b>9</b> 16:6 40:9 93:17  <b>90</b> 103:19,20  <b>99</b> 9:9</p>
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