Tuesday, 17 January 2012 (10.00 am)2 MR JAY: Sir, the first witness today is Mr Ian Hislop, 4 please. 5 LORD JUSTICE LEVESON: Thank you. 6 MR IAN DAVID HISLOP (sworn) 7 Questions by MR JAY MR JAY: Good morning, Mr Hislop. Your full name, please? 8 A. Ian David Hislop. Q. Thank you. There's now a signed version of your witness 10 11 statement with a statement of truth dated 16 January 12 2012. Is that your true evidence? 13 A. It is. 14 Q. You have been editor of Private Eye since 1986; is that 15 right? 16 A. That's right. 17 Q. We're going to take your statement as read, but if I may 18 alight on a number of discrete themes and then weave 19 them together. Paragraph 10, please, first of all. You 20 give us a thumbnail sketch, do you not, of the course of 21 libel actions against Private Eye since the beginning of 22 the year 2000. Is this right: there have been 40 in 23 all, 26 withdrawn. 11 have been settled. There's been 24 one hearing -- sorry, one hung jury, I should say, and 25 two victories.

- Page 1
- A. Two victories, yes.
- LORD JUSTICE LEVESON: Do claims not pursued represent 2
- 3 victories?
- A. I haven't counted them as such but they probably are.
- MR JAY: Mr Hislop, sources.
- 6 A. Yes.
- 7 Q. Without identifying any individuals, are you able,
- 8 please, to give us an indication of the nature and range
- 9 of sources who come to Private Eye with information,
- particularly in the context of your Street of Shame 10
- 11
- 12 A. Overall, the best sources are our readers. Private Eye
- 13 operates as a sort of club where people not only buy the
- 14 magazine, they write a lot of it, which is the principle
- 15 we work on. Broadly, the sources come from people
- 16 inside their professions, so the medical column, the
- 17 column about energy, the pieces in the back, a lot of
- 18 those are given by people directly involved. A lot of
- 19 whistle-blowers -- and again, I've referred to that
- 20 quite a lot in my evidence, a lot of people inside who
- 21 feel they have a story to report.
- 22 Street of Shame, which is, as its title suggests,
- 23 two pages devoted to the malpractice of journalists in
- 24 the old Fleet Street and beyond, nearly all those
- 25 stories are given to us by other journalists, it being Page 2

- 1 a loyal profession.
- 2 Q. Thank you. Would you publish a story on the basis of 3 only one source, Mr Hislop?
- 4 A. It depends who that one source was. In a lot of the
- 5 whistle-blowing cases, for example, in the bigger
- 6 hospital cases and in some of the financial cases, one
- 7 source is what you have because there's only one person
- 8 brave enough to tell you anything. That doesn't mean
- 9 you just put it all in. We do make as thorough and as
- 10 comprehensive checks as we can. But sometimes you will
- 11 only have one person telling you something and in those
- 12 circumstances, I would say it is legitimate to put it
- 13
- 14 Q. You've given us a flavour there of the steps you take to
- 15 ascertain whether a source is reliable. Can you tell us
- 16 more about that, please?
- 17 A. Yes, well, essentially as editor, you trust your
- 18 journalists and the people who work for me, I trust them
- 19 to check out stories, to make sure they are accurate,
- 20 not to be given stories that are pure grudge, that are
- 21 not -- rubbish, that do stand up, and then with any very
- 22 contentious stories, I'm sure all editors will say you
- 23 will talk to them, you will talk to your lawyers, and
- 24
- you will say, "This is absolutely right, isn't it? The
- 25 source is reliable. We will be able to stand this up."
 - Page 3
- 1 Q. How do you filter out, if that's the right way of 2 putting it, whistle-blowers, for example, who come to
- 3 you because they have a grudge or a malicious animus
- 4 towards the person they're whistle-blowing on?
- 5 A. That is the skill of the journalist involved, to talk to
- 6 these people to find out. Just because someone has
- 7 a grudge doesn't mean it isn't true. They may well give
- 8 you stories for the worst possible motives but the story
- 9 may be true. What you have to do is separate the grudge
- 10 from the story.
- 11 Q. Now, Street of Shame. It may be a difficult question
- 12 but are you able to give us some flavour of the type of 13
 - stories you've published over the last ten years or so?
- 14 A. Street of Shame tends to be full of stories about
- 15 journalists misbehaving. It tends to be anything from
- 16 making up stories, drunkenness, stealing stories from
- 17 each other, printing things that are totally and utterly
- 18 untrue, promoting each other for reasons that aren't
- 19 terribly ethical, sucking up to their proprietors, being
- 20 told what to do by their proprietors, running stories 21
- because their proprietors insist on it, marshalling the
- 22 facts towards a conclusion that they've already decided
- 23 on. I'm sure I can think of some others, but I mean,
- 24 that sort of thing.
- 25 Q. In relation to such stories, obviously you have what the Page 4

- 1 journalist, the source, might tell you and of course
- 2 you're able to check that out, very often against what
- 3 the newspaper has published; is that right?
- 4 A. Indeed. A lot of the stories in Street of Shame are
- 5 simply on the basis of reading what a published story
- says and thinking: "That can't possibly be true." 6
- 7 Q. So if you're dealing with an issue such as plagiarism,
- 8 you'll want to see the piece which was plagiarised?
- 9 A. Yes.
- 10 Q. And then the underlying piece, to satisfy yourself?
- 11 A. Absolutely.
- 12 Q. Did Private Eye cover the phone hacking story beyond
- noting what Nick Davies of the Guardian was writing? 13
- A. No, I don't think we can claim that that story was ours. 14
- 15 We've covered it a lot since, in terms of the mechanics
- 16 of the case and how the police have reacted to it and
- 17 who sued and -- so I think we've done some good work
- 18 there, but that story was broken by the Guardian.
- 19 Q. The Inquiry has received a fair amount of evidence in
- 20 relation to the Information Commissioner's
- 21 investigation, Operation Motorman, into blagging. Has
- 22 Private Eye covered that issue at all and what position
- 23 did it take on it?
- 24 A. Two points there. Motorman we covered partly because 24
- 25 I was involved in it. I was one of the names that --Page 5

- A. No. On the whole, we rely on people telling us things straight. That is Paul Foot's view of the secret of
- 2
- 3 investigative journalism, is people ring you up and tell
- 4 you things.
- 5 Q. The practice of binnology, have you covered that?
- 6 A. Binnology?
- 7 Q. Yes.

- 8 A. Yes. Again, partly because Benjy did my bins outside
 - the offices of Private Eye. I wrote quite a stiff note
- 10 to one of my staff and decided no, I wouldn't send that,
- that was a bit much, so I threw it away, and then it 11
- 12 appeared and I thought: "That's very odd." Then we put
- 13 a camera up and found out Benjy was going through our
- 14 bins. Mr Fayed was looking for things to print about
- 15 Private Eye at the time.
- 16 Q. Have you any evidence of that or is that surmise?
- 17 A. Oh ... I think the fact that it appeared in Punch, which
- 18 he owned, was a give-away.
- 19 Q. Thank you. I know that you've written, or Private Eye
- 20 has written, pieces about the Piers Morgan diaries,
- 21 about which there's been some evidence.
- 22 A. Yes.

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- 23 Q. Are you able to give us a flavour of some of those
- pieces, please?
- 25 A. I think on the whole the Eye's view is that Piers' Page 7
- 1 someone had paid the detective, Whittamore, to find out
- 2 all my phone numbers, and they came to see me and they
- 3 said -- I mean, it's very, very good, that particular
- 4 set of detective's notes, because he put who paid for it
- 5 and what the numbers were. So he got my friend and
- 6 family and my bank manager, which must have been dull,
- 7 if they were listening to that, and I think that was it.
- 8 That was the basic BT there. And they said this is
 - going to be included in the report, but nothing came of
- 10 it, no one was prosecuted, nothing happened. So I knew
- 11 about that.

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- 12 In terms of blagging, I don't throw my hands up at
- 13 blagging. There have been some very effective blags.
- 14 For example, the Channel 4 programme where someone
- 15 pretended to be a lobbyist and a number of greedy MPs
- 16 and members of the House of Lords came and offered to
- 17 offer their services for free. That was good. The
- 18 Sunday Times cases with FIFA or with the whaling 19
- 20 the baby with the bathwater in terms of how journalism

inquiry -- I think you can get a bit sot of throwing out

- 21 operates.
- 22 Q. Yes, the Data Protection Act, of course, recognises
- 23 a public interest defence, as you're aware. But
- 24 blagging I don't think is a practice which Private Eye
- 25 indulges in; is that right?

Page 6

- memory is quite selective and that he is capable of
- 2 remembering things that didn't happen and that perhaps
- 3 his diaries weren't written contemporaneously. There
- 4 are a number of fairly glaring errors in the diaries.
- 5 He has tea with the wrong Prime Minister, that sort of 6
- 7 As to the overall veracity of them ...
- 8 Q. That may be for the Inquiry to assess.
- 9 A. Indeed, absolutely. Not for me.
- 10 Q. If we move on to a separate theme, public interest. You
- 11 make it clear that Private Eye has not signed up on the
- 12 PCC, is not signed up to the code. But do you, in
- 13 general terms, apply the principles which we see
- 14 embedded in the Editors' Code?
- 15 A. Yes, I think they should be self-evident, and a lot of
- 16 the evidence given to this Inquiry by people quibbling
- 17 about whether it's in the code or not -- it seems to me
- 18 all of the things that you have focused on are quite
- 19 self-evidently against any sort of ethical practice.
- 20 Q. One witness told us last week that he didn't understand
- 21 what the term "ethics" means and you're telling us that
- 22 ethics is self-evident. There may be some sort of
- 23 mid-position here where certain things we grasp 24 intuitively but other things in grey areas we need
- 25 a system of principles and then perhaps a system of Page 8

2 (Pages 5 to 8)

- 1 rules, always subject to exceptions, to tell us what to
- 2 do. Would you not accept that?
- 3 A. The person who didn't understand what ethics was was
- 4 Mr Desmond, I gather, which again, I think you shouldn't
- 5 use that as a rule of thumb for everyone else. It
- 6 seemed to totally bewilder him, the idea that this could
- 7 have occurred to anyone. So no, I'm not in that camp,
- 8 but I do think that statutory regulation is not
- 9 required, and most of the heinous crimes that came up
- 10 and have made such a splash in front of this Inquiry
- 11 have already been illegal. Contempt of court is
- 12 illegal. Phone tapping is illegal. Taking money
- 13 from -- policemen taking money is illegal. All of these
- 14 things don't need a code. We already have laws for
- 15 them. The fact that these laws were not rigorously
- 16 enforced is, again, due to the behaviour of the police,
- 17 the interaction of the police and News International,
- 18 and -- I mean, let's be honest about this -- the fact
- 19 that our politicians have been very, very involved, in
- 20 ways that I think are not sensible, with senior
- 21 News International people, and I hope you'll be calling
- 22 the Prime Minister and Tony Blair and Gordon Brown to
- 23 explain how that comes down from the top.
- 24 Q. Are you saying, Mr Hislop, that the existence of legal
- 25 rules, whether it's the criminal law or the civil law, Page 9
- 2 regulatory system?
- 3
- 4 my view is that we have quite a lot of regulation and
- 5 most of the offences that have come up and have been so
- 6 shocking -- the contempt in the murder case, the
- 7 Milly Dowler, all of these things that the public have
- 8 felt this is absolutely unacceptable -- well, it is
- 9 unacceptable. It's illegal. It's not for me to tell
- 10 you what to do, but I think any Inquiry needs to find
- out why none of these things were enforced. 11
- 12 Q. Thank you?
- LORD JUSTICE LEVESON: They're not all criminal, but they 13
- 14 may be tortious. They may give rise to civil
- 15 liabilities.
- 16

- 17 LORD JUSTICE LEVESON: But that gives rise to the very
- 18 interesting question, which I'm sure we'll come onto,
- 19 about the extent to which people who don't have a lot of
- 20 money can afford to pursue their remedies if they are
- 21 traduced or the subject of adverse articles in the
- 22
- 23 A. Yes. Again, I think justice should be cheaper and
- 25

- 1 far quicker than you currently get in the court. There
- 2 are plenty of ways to speed up justice through the
- 3 courts if you think the courts is the right way.
- 4 LORD JUSTICE LEVESON: That's itself a question.
- A. Indeed.
- LORD JUSTICE LEVESON: Because if one had some other
- 7 arbitral system -- and we'll come onto it -- that could
- 8 deal with those issues perhaps inquisitorially rather
- 9 than the sort of jousting that we have at the moment,
- 10 then that might be better for everybody.
- 11 A. It might be, but my feeling is that the Leveson
- 12 Inquiry -- they didn't appoint a former editor. They
- 13 didn't appoint an MP. They appointed a judge, and we
- 14 end up in a courtroom talking about it. You tend to end
- 15 up in court anyway.
- 16 MR JAY: You've helped us with the public interest issue.
- 17 There's also the issue of intersection between public
- 18 interest and private rights, which is neatly
- 19 summarised -- if you look at tab 5, Mr Hislop, evidence
- 20 you gave to a Select Committee on 11 October last year,
- 21 page 9.
- 22 A. Yes.
- 23 Q. We can summarise what you're saying there. You want to
- 24 avoid the situation you perceive to exist in France,
- 25 with what you describe as a very draconian privacy law.

Page 11

- is a reason for there being no need for a better 1
- A. It is possible to have a better regulatory system, but

- A. Right.

- 24 faster. I think there should be early resolution.
- I think you should be able to have a judgment on meaning Page 10

- A. Yes.
- 2 Q. Very little about what their rulers were up to was
- 3 discovered by anyone for about a decade. Then you say:
- 4 "There are situations where sex does influence how
- 5 people behave, how contracts are awarded, how promotions
- are made, and we may not like having to do it very much 6
- 7 but it does sometimes have a bearing."
- 8 So you're carving out exceptions, are you, where
 - there is a genuine public interest in people's private
- 10 lives, particularly in the realm of intimate
- 11 relationships?

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- 12 A. Yes. Not particularly in the realm, but I give that as
- an example because that's the one that always comes up 13
- 14 and makes the most headlines. Finance was the other.
- 15 The problem in France was that the contents of your own
- 16 bank account were considered to be private in all
- 17 situations at all times and there were cases in France
- 18 where -- I mean, the minister in charge of raising taxes 19 was paying no taxes, and one of the newspapers --
- 20 I think it was Le Canard Enchaine -- published details
- 21 of his bank account and he said, "This is private. How
- 22 dare you say I don't pay any tax? It's between me and 23 the taxman." That doesn't strike me as being in the
- 24 public interest.
- 25 I mean, seriously -- I mean, the French situation is Page 12

- 1 terrible. They are now catching up with about two
- 2 decades of news about their -- "My goodness, he had
- 3 a flat with his mistress in it." "Did he?" "He was
- 4 corrupt. Let's put him on trial." "He's nearly dead!"
- 5 They are incredibly slow because of this extraordinarily
- 6 reluctance to look at the private lives of the people
- 7 who ran them. So I think you have to look at other
- 8 countries.
- 9 Q. Yes. It's often difficult to look at the detail of what
- 10 happens in other countries without knowing precisely
- 11 what their privacy law is. Plainly, there may need to
- 12 be research.
- A. Well, I'm -- yes. 13
- Q. It's slightly out of sequence, but there's one other 14
- 15 answer you gave to the Select Committee under tab 5
- 16 which I wish to ask you about. Page 20. Question 70 at
- 17 the bottom of the page. Do you see that?
- 18 A. Yes.
- 19 Q. The chairman asked:
- 20 "Do you buy the Richard Peppiatt argument at the
- 21 Leveson seminar last week about newsrooms, particularly
- 22 in tabloids, with journalists being told: 'Here is the
- 23 agenda; find the story'?"
- 24 Mr Rusbridger gave his answer, which was along the
- 25 lines that it depends, but it's your answer on the next
 - Page 13
- page when you say: 1
- 2 "It sounded pretty right to me."
- 3 Why were you able to give the Select Committee that
- 4

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- 5 A. I think anybody who reads newspapers and a lot of
- 6 newspapers after a while begins to see that the stories
- 7 have an agenda and that that agenda must be dictated by
- 8 someone. Most famously, Private Eye finds that if the
- 9 Daily Mail runs a story, at some point there will be
- 10 a reference to house prices in it and whether they're
- 11 going to collapse spectacularly or rise. That's
- 12 the joke, but it is an observation that most of the
- 13 time, if you read papers carefully, you think: "Who
- 14 decided the headline and the way that story is going to
- 15 go?" The editor, you would guess. In some cases, the
- 16 proprietor. That is why the story has been fed in that
- 17 particular way. Mr Desmond is the worst example,
- obviously, and he's been in court about this and he's 19
- had libel actions with Tom Bower about whether he uses
- 20 his newspaper in order to pursue certain agendas and
- 21 certain claims. But the Murdoch press is pretty clear,
- 22 I think, in a lot of its manifestations, on what the
- 23 agenda is going to be and the paper follows it.
- 24 Q. Might it be said that it could sometimes be a little bit
- 25 more nuanced than that, that the editor doesn't have to Page 14

- 1 respond to any imposition of agenda from above because
- 2 the editor intuitively understands what his or her
 - readers want to read. They're plugged in to the mindset
- 4 and viewpoint, as it were, of the readership, and it's
- 5 that --
- A. Yes, they're also plugged in to a phone where the 6
- 7 proprietor shouts down it.
- 8 Q. Yes, but if I could just complete the thought.
- A. Certainly.
- 10 Q. It's that, whether you're looking at the Daily Mail or
- 11 any newspaper, which dictates the way the newspaper is
- 12 going to formulate and express its story. Is that not
- a possibility? 13
- A. That's certainly a possibility, but I'm not saying 14
- it's -- you know, every page of every newspaper is 15
- 16 constantly following an agenda, but there are certain
- 17 stories where they will think: "What do we want to read
- 18 when this story comes up?" Look at the coverage of this
- 19 Inquiry. If you read it fairly closely, you look at the
 - papers and you think: "Why have they missed out the bits
- 21 that were critical of them?" Is that being in tune with
- 22 the readers, or is that because the editor is
- 23 embarrassed or because the proprietor doesn't want to
- 24

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- 25 Q. I go back to the PCC. Paragraph 11 of your statement, Page 15
- 1 where you say -- the gist of it -- that there's no need
- 2 for the PCC to act as intermediary or mediator. Would
- 3 you not accept that acting as mediator is something the
- 4 PCC does rather well?
- 5 A. I have no direct knowledge of that at all. I am told by
- 6 people and people have given evidence that it works
- 7 well. I haven't seen that. It hasn't worked in our
- 8 cases. We either settle, think about arbitration
- 9 through another way or go to court.
- 10 Q. Can I just ask you about arbitration through another
- 11 way.
- 12 A. Yes.
- 13 Q. How does that work?
- 14 A. You agree to -- if the two parties agree, you can agree
- 15 to appoint an arbitrator and go through the courts and
- 16 they decide, and you say you will stick by that
- 17 decision.
- 18 Q. How often does that happen with Private Eye?
- 19 A. Never.
- 20 Q. Because, you think?
- 21 A. Two people have to agree to the settlement, and often
- 22
- 23 Q. Because you trust the courts more? Is that it?
- 24 A. I would rather end up in the court because I think
- 25 that's where you end up anyway.

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- 1 Q. I think your primary reason for not being part of the
- 2 PCC is paragraph 12, that you don't believe it's an
- 3 independent and impartial tribunal; is that fair?
- 4 A. Yes. I don't think the PCC has been that. I don't
- 5 think it's been effective, I don't think it's been
- 6 independent. There are plans to change it and
- 7 Alan Rusbridger's come up with a lot of suggestions and
- 8 obviously if it changes then one would have to
- 9 reconsider, but essentially Private Eye spends two pages
- 10 a week attacking individuals and newspapers, then to go
- 11 to the PCC and find all those people are deciding on
- 12 your case. You tend to think you won't get
- 13 a particularly fair hearing.
- 14 Q. Is it just a question of editors being heavily
- 15 represented on the PCC or is it a question of editors
- 16 from particular papers being represented on the PCC?
- 17 A. Over the years, Private Eye has had some issues with the
- 18 number of tabloid editors on there, with particular
- 19 agenda, and also the amount of influence that
- 20 News International has had on the PCC.
- 21 Q. I ask you this question: what would bring you back into
- 22 the fold? What would have to happen to the PCC, whether

Page 17

- 23 it kept that name or changed its name altogether?
- 24 A. Obviously it is quite embarrassing that the only other
- 25 person not in the PCC is Richard Desmond.

detail about what stories came from where." That has

- other and we don't go into that sort of nit-picking 6
- 7 tended to be what the Eye has ended up doing.
- LORD JUSTICE LEVESON: But doesn't that contain within it 8

LORD JUSTICE LEVESON: The Guardian in relation to --

tended to operate a code of: "We don't write about each

A. Indeed, in relation to this, and all credit to them for

doing it. But on the whole, the bigger groups have

- a problem, because if nobody is keeping the nose of the
- 10 press to the grindstone in that way, then people might
- 11 get away with rather more than they otherwise would?
- 12 A. Again, I go back -- I mean, I believe in a free press
- 13 and I don't believe in a regulated press, and I think
- 14 that the press should obey the law, and I think that's
- 15 what the law is for. So that is where we would
- 16 disagree.
- 17 Yes, I think the press should be kept to account.
- 18 It should be kept to account by the law. It should be
- 19 kept to account by the people who buy the papers. I do
- 20 hope you're going to call some members of the public and
- 21 ask them why the bought the News of the World, what they
- 22 thought they were getting.
- 23 LORD JUSTICE LEVESON: I don't think we'll necessarily do it
- 24 in quite that way, but there are some ways of looking at
- 25 that.

Page 19

- O. Mm-hm. 1
- A. That's not a position that's obviously very comfortable, 2
- 3 but I do stick with -- there are plenty of other
- 4 regulatory bodies and codes that could have stopped that
- 5 particular ownership, and indeed a lot of that conduct,
- 6 so I'm not wanting to be tarred with the same brush
- 7 there. I'm not saying it's not possible, and we didn't
- 8 flounce out of the PCC after we'd lost, you know, vast
- 9 amounts of damages or had rulings against us. It was
- 10 a decision I took a long time ago in order to be
- separate, because I think what Private Eye does is 11
- 12 unique and therefore I don't think we are in the same
- 13 camp as them.
- 14 Sorry, what was the question?
- 15 LORD JUSTICE LEVESON: No, that's quite a big word, which 15
- 16 I think may be right. One of my concerns I've expressed
- 17 is that the press will look at doctors, they'll look at
- 18 lawyers, they'll look at judges, they will keep to
- 19 account politicians, government, everybody, but is there
- 20 any organ of the press other than Private Eye that
- 21 actually has a go at other newspapers?
- 22 A. I think it would be arrogant to say no other
- 23 newspaper -- there are media sections in other
- 24 newspapers, they do report about each other, but there
- 25 has been a tendency --

- 1 A. Right.
- 2 MR JAY: Can I ask you about the future of press regulation
- 3 and just look at some of the ideas which come through
- 4 paragraph 16 and following, please, of your witness
- 5 statement. The last sentence: for you, state regulation
- 6 is anathema. That is right, isn't it?
- 7 A. Yes. I think if the state regulates the press, then the
- 8 press no longer regulates the state, and that is
- 9 an unfortunate state of affairs.
- 10 O. You see this as somewhat binary, but --
- 11 A. Are we on tab 5, sorry?
- 12 Q. No, we're back to paragraph 16 of your witness
- 13 statement. The last four lines:
- 14 "If a form of voluntary self-regulation is to be
- contemplated, then it would have to be one to which the
- 16 major newspaper publishers would be willing to
- 17 subscribe ..."
- 18 That in one sense is a tautology, isn't it,
- 19 Mr Hislop?
- 20 A. Um ...
- 21 Q. If it's entirely voluntary, that would have to be the
- 22 case?
- 23 A. Yes.
- 24 Q. How do you bring in those who do not wish to subscribe?
- A. Again, that is my problem, and that's probably why I've Page 20

1 1 saying, "Well, there's a policeman there and they can ended up writing a tautology. I don't think you can 2 2 prosecute", because there isn't a policeman on every have mandatory involvement because that becomes 3 3 difficult. It's like forcing people to apologise or street corner. 4 4 A. No, but there were a lot of police involved in the forcing people to arbitrate. You get into areas where hacking story right the way along the line who didn't do 5 you're basically dictating what the press can do and 5 6 6 anything, who decided nothing had happened. My view then it no longer becomes free. 7 7 is -- I mean, we've had, what, four enquiries into press Q. But all one may be doing is compelling the press to 8 behaviour? Someone thinks it's important and is 8 participate in the system, which, once set up, has all 9 9 spending millions of pounds on it. That money could be the attributes you would approve of, such as it is 10 10 used to speed things up -independent, it is impartial and it is able to arbitrate 11 LORD JUSTICE LEVESON: There's absolutely no doubt that nov 11 speedily and cheaply on the sort of matters which 12 12 trouble your newspaper. Would you accept that? there is a great deal of reaction to what happened last A. If that's what happens, then obviously I shall have to 13 year. 13 14 14 A. Yes. either eat my words or go along with it. LORD JUSTICE LEVESON: And one of the things that I will 15 Q. It depends what you mean by "statutory regulation" in 15 16 paragraph 17. Could you define that for us, please? 16 have to look at is why it is only now rather than years 17 17 A. Oh, I think that's when the state decides what you can 18 and can't publish. Then that's dangerous. Which is 18 A. And I don't think that is lack of money. I mean, 19 19 I think there are reasons the police -- and you will be where we come to prior notification and those other 20 issues, which I don't agree with a lot of the --20 looking at this -- did not investigate, reasons that 21 21 News International thought it could get away with Q. Let us agree that no one wants a system where the state 22 22 whatever it liked, because the Murdoch family was deeply decides what the press might publish, because that, of 23 23 course, would put us back in the middle ages or put us embedded in our political top class. Those are the 24 24 back in the position which unfortunately exists in many questions. I mean, if you're the editor of a Murdoch 25 countries around the world. But you could have a system 25 paper and you see, oh, the Prime Minister's organising Page 21 Page 23 1 where a statute sets up a body, which defines what the 1 a slumber party for the proprietor's wife at Chequers. 2 body can done, but the body, once set up, has complete 2 Oh! Presumably that gives you unbounded confidence to 3 freedom to lay down standards, arbitrate on complaints, 3 do whatever you like. Or if the Prime Minister appoints 4 all those matters, without any question of the state 4 an ex-News of the World editor to be his communications 5 entering into the operational activities of that body. 5 director, you must think: "Well, we're top of the pile. 6 Would you see that? 6 What could stop us?" I mean, that's probably more likely 7 A. I do see that and again, that would have to be 7 than questions that we don't have enough money to fight 8 voluntary. You could not say, "You must go to 8 this through. 9 arbitration here"; you can say, "You must go to court." 9 LORD JUSTICE LEVESON: It's not a question of money. 10 I have a problem with that. 10 I think it might be rather more nuanced than that. Q. Because? 11 11 A. Mm. 12 A. Because I think it should be the law. 12 LORD JUSTICE LEVESON: Anyway --13 LORD JUSTICE LEVESON: It may be the law. The problem is in 13 MR JAY: I'll just ask you about paragraph 18: 14 one sense you're right -- that's not a problem. In one 14 "One important question [you say] is whether 15 sense you are right: there are critical laws, there are 15 adjudication by such a regulator would be instead of 16 civil remedies. But in the world that we occupy, the 16 adjudication through the court process." 17 police and all the authorities that are responsible for 17 You take that up three lines from the top of the 18 maintaining our regulatory regime, 18 next page: 19 Information Commissioners and everything, are inundated 19 "However, if the press are to be made subject to 20 with work and there is an argument that there are rather 20 a new form of regulator (particularly if it has power to 21 more egregious breaches of the law that require to be 21 impose sanctions), then there should be a corresponding 22 22 investigated before one gets to the press, and that protection from additional court sanctions." 23 shouldn't necessarily permit a free run for those that 23 Which court sanctions are you referring to there, 24 want to table stories unethically, inappropriately, 24 the additional court sanctions? 25 illegally. That's the concern that I have about simply 25 A. I just mean you shouldn't be tried twice, as it were, Page 22 Page 24

- 1 for the same offence. So if this body is set up and it
- 2 says, "You must pay this fine, you must do that", then
- 3 they can't sue you again, and then you go to the other
- 4 courts and you have to pay another fine and then repeat
- 5 it. That's all.
- 6 LORD JUSTICE LEVESON: You couldn't possibly be fined twice
- 7 but any other regulator or profession might very well
- 8 face disciplinary proceedings within their body and be
- 9 sued.
- 10 A. Right.
- 11 LORD JUSTICE LEVESON: That's what happens to the rest of
- the world.
- 13 A. Right. Well, how very unfair. I hope it won't happen
- 14 to us.
- 15 MR JAY: Paragraphs 19 to 21, you deal with the challenges
- 16 to investigative journalism. You point out, as is
- obvious, in paragraph 20 that investigative journalism
- is extremely costly of time and money, which is
- 19 difficult in the current climate. Then you say in
- 20 paragraph 20:
- 21 "Though, of course, generally speaking, printing the
- truth sells newspapers and a big story can result in
- 23 increased circulation ..."
- Is it really the case that printing the truth sells
- 25 newspapers, Mr Hislop?

- 1 A. What I mean by that is if you print things that people
- don't believe or turn out to be lies, then people don't
- 3 buy you any more because they don't think you're
- 4 credible.
- 5 Q. So it's a question of tarnishing the brand, which is
- 6 a risk all newspapers will be aware of; is that right?
- 7 A. Yes. Tarnishing the brand is putting it a bit low. You
- 8 want to be the paper that people believe.
- 9 Q. But if your thesis is right, many papers have thrived by
- 10 not following that principle.
- 11 A. Yes, and again, you'd have to question the readers very
- 12 carefully when you invite them in.
- 13 Q. In order to do that and get a representative sample, you
- would obviously have to ask questions of a large number
- of readers to get any sensible steer on where the
- problem lies, but why do you think there's a problem
- 17 here?
- 18 A. Um...
- 19 Q. With the readers in particular?
- 20 A. Well, did they think everything they read was true?
- When they read subsequent reports saying, "Oh, no, this
- is rubbish", did they feel embarrassed? Did they think:
- 23 "I shouldn't have bought the News of the World? Why did
- I read that bit? Did I enjoy that?"
- 25 Q. One possible answer -- I only float this as

- 1 a possibility -- is that many people bought the
- 2 News of the World because it was informative, in the
- 3 sense of which they might define the term, and
- 4 entertaining, and that would be sufficient. Would you
- 5 agree?
- 6 A. Well, that may well have been it.
- 7 Q. May I move off that theme to is a separate theme, which
- 8 is paragraph 22, the public interest. I think what
- 9 you're arguing for here, in line perhaps with what
- 10 Mr Justice Tugendhat said in one case, is the range of
- permissible editorial judgments is a broad and flexible
- public interest test which reflects a range of
- reasonable permissible views; is that right?
- 14 A. Yes. I mean, I know that that isn't law because he lost
- subsequently, but it's in the appeal court, isn't it?
- So it may turn out to be that what he said is accepted.
- 17 Is that right?
- 18 Q. Well, we can deal precisely with the state of that
- 19 particular case on appeal, but my concern is perhaps the
- 20 more general one, that if you give too much weight to
- 21 editorial judgment within the framework of what's
- reasonable and what is not, that might be said to
- 23 justify the publication of almost anything, because
- reasonable people might reasonably disagree on
- a particular issue. Would you accept that?
 - Page 27
- 1 A. Yes, but I think what he's talking about in a range of
- definitions -- what he means is that it shouldn't be so
- anarrow that it's impossible to justify things in grey
- 4 areas. The classic case, the grey area that keeps
- 5 coming up is the Sir Fred Goodwin injunction. He was
- 6 having an affair with someone who was on the board of
- 7 RBS. Is that his private life or is it permissible to
- 8 write about that on the grounds that perhaps when you're
- 9 taking major decisions involving risky financial
- manoeuvres, someone you're sleeping with doesn't say
- 11 harshly: "You're mad" at set times. You can see
- 12 I believe that there is a defence there. Other people
- would not. But if what he says is the range, it means
- that would be acceptable. It would be reasonable to
- make that case; it's not completely wrong. That's what
- 16 I'm arguing for.
- 17 LORD JUSTICE LEVESON: What you're really saying, if I put
- it into language that fits, is that the judge isn't an
- 19 editor; the judge should decide whether a reasonable
- 20 editor could reasonably reach the judgment that he or
- 21 she did.
- 22 A. Yes. And in a lot of the other -- the contempt and the
- phone hacking, I mean, a reasonable editor would not
- 24 have thought: "I must hack into a murdered girl's
- 25 phone", or: "I must run a story about someone about whom Page 28

- 1 there appears to be no evidence and say he's the
- 2 murderer before we've started the case." Those things
- 3 seem to me self-evidently unreasonable.
- 4 MR JAY: The judge, although charged with the decision as to
- 5 whether it's within the judgment of the editor, can give
- 6 some deference to the view of the editor in reaching the
- 7 decision. That's another possibility, would you agree?
- 8 A. Yeah.
- 9 Q. Can I ask you about 22.5 in your witness statement. You
- 10 don't think there that the behaviour of the journalist
- 11 is a relevant consideration. Your concern is more what
- 12 is being printed, although the behaviour of the
- 13 journalist may be relevant because of the means the
- 14 journalist has deployed in order to obtain the
- 15 information which is then printed. Would you accept
- 16
- A. Yes. I was just trying to argue that saying, "Well, did 17
- 18 you ring three times in advance, did you notify him
- 19 there?" -- that sort of procedural "letter of" is less
- 20 important than whether that's printed is true or not.
- 21 Q. May I move to a different topic, that of prior
- 22 notification, which you pick up in particular at
- 23 paragraph 22.11.
- 24 A. Yes.
- 25 Q. You give the example here of a practical difficulty Page 29

- 1 was in the public interest.
- LORD JUSTICE LEVESON: Mr Hislop, aren't you there proving
- 3 the point that I was trying to make to you before:
- 4 inevitably, there are many, many calls upon the time of
- 5 the court, and even when something is urgent, there are
- 6 many, many urgent appeals, too, so it takes a long time.
- 7 A. Mm.
- 8 LORD JUSTICE LEVESON: Therefore, is there not a value in
- having a mechanism to resolve that sort of issue 9
- 10 definitively -- in other words, binding on everybody --
- 11 but very quickly, so that you don't risk all that money
- 12 and all that time and run the risk that you've just been
- 13 talking about?
- 14 A. In that case I'm complaining about the privacy
- 15 injunction in the first place, and I think that created
- 16 a delay and a racking up of cost that is due to the
- 17 mechanism of privacy injunctions. So you're -- what I'm
- 18 saying is it was slow and it was expensive, but I'm
- 19 saying the principle in the first place was wrong. He
- 20 should not have been allowed to get a privacy injunction
- 21 stopping us printing it.
- LORD JUSTICE LEVESON: Yes, and the Court of Appeal agree 22
- 23 with you.
- 24 A. It did. It did eventually, but we might well have not
- have got to the Court of Appeal. If you're suggesting 25 Page 31
- which arose, namely you did give prior notification to 1
- 2 Mr Napier, he applied for an injunction, the judge
- 3 refused the application but granted a temporary
- 4 injunction pending an appeal, and not withstanding that
- 5 appeal was expedited, it all was extremely expensive and
- 6 effectively scotched the story; is that right?
- 7 A. Well, it would have scotched the story but we went with
- 8 it. This was a man called Napier, who was president of
- 9 the Law Society. He was reprimanded by the Law Society,
- 10 his own society. That seemed to me a reasonable story
- 11 to put in. He said this was confidential, it was
- 12 between him and his professional organisation, the fact
- 13 that he'd been reprimanded while being president. We
- 14 went to a court, quite expensive, and won. They said:
- 15 "No, I'm not going to grant the application but he can 16 have a temporary injunction while we appeal." The
- 17
- appeal -- that was in January and the appeal didn't come 18

350,000 by this point. If we'd lost, £350,000 just to

recover all other costs, because you never do, but we

- on until May, so it was five months delay. We have 19 a story. We're not allowed to run it for five months.
- 20
- The total joint costs of both of the parties were
- 22 try and put in a story. As it happens, we didn't
- 24 won finally an appeal. So six months later we're
- 25 allowed to print a story which I thought self-evidently Page 30

- a mechanism where that can be decided earlier -- but I 1
- 2 don't see that Mr Napier would have said, "Yes, I'll
- 3 agree to arbitration."
- LORD JUSTICE LEVESON: But it's not necessarily a matter of 4
- 5 agreeing. If there is, at the background of a system,
- 6 a requirement that that is the way you stop that sort of
- 7 story, if you want to, you can't simply spin out a long
- 8 set of legal proceedings in the hope that it will just
- 9 go away --
- 10 A. Which it might well do.
- LORD JUSTICE LEVESON: I'm not suggesting Mr Napier was 11
- 12 doing that. It's a question of speedy resolution so
- 13 there it is an arbitral mechanism that people are bound
- 14 by -- in other words, people have to do it -- but that
- 15 it's inquisitorial and done very quickly.
- 16 A. In that case, if it had worked, obviously I'd have been
- 17 for it.
- 18 LORD JUSTICE LEVESON: But it's not just this case. It
- 19 might be every single case where you feel: "Well, you
- 20 know, I will give a prior notification", but then you
- 21 run the risk of somebody trying to stop it. You need
- 22 some mechanism to resolve that very quickly.
- 23 A. I can see that's an argument. The lesson I learned from
- 24 that was not to give prior notification.
- 25 LORD JUSTICE LEVESON: Yes, but that runs other potential Page 32

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- 1 risks, not perhaps in the case where you were very clear 1 2 and the Court of Appeal agreed with you, but there may 2 3 be cases where the balance is perhaps slightly 3 4 4 different. 5 A. But mandatory prior notification, it was thrown out by 5 6 Europe and it's generally assumed that this is not 6 7 7 a runner, this will not --8 LORD JUSTICE LEVESON: I'm not suggesting mandatory prior 8 9 notification, but every single time you have a story, 9 10 you have to decide: "Am I going to prior notify or not?" 10 11 A. Yes. 11 12 LORD JUSTICE LEVESON: One of the issues is purely the 12 13 delaying factor of potential litigation. There could be 13 14 good reasons not to prior notify, because the story 14 15 might be destroyed or something might happen to it, but 15 16 it's not necessarily the very best reason that: "Well, 16 17 the court system there just kill it in any event." 17 18 That's the point I'm making. 18 19 A. Yes, and that's quite right. The same would apply to 19 20 when we had a threatening letter from Schillings 20 doing? 21 immediately -- we'd put a question to the man who ran 21 22 the NHS IT system about his next employment, and he'd 22 23 said, "This is a private matter", then immediately we 23 A. Yes. 24 get a threatening letter. You're saying that's 24 25 a practical legal reason. The other reason is witnesses 25 it publish? Page 33 1 get lent on in the ensuing time. With prior 1 2 notification, they disappear, documents disappear. 2 3 3 Alan Rusbridger has given you a lot of that evidence. ramifications. 4 LORD JUSTICE LEVESON: Yes, but that's why I am thinking 4 5 about some sort of mechanism that copes with the problem 5 the committee. 6 which you're talking about. 6 7 A. Yes, I appreciate that. 7 I thought. 8 LORD JUSTICE LEVESON: But, of course, doing that -- and you 8 9 may have heard Mr Barber, actually he was quite 9 10 interested in the concept, not least because of the 10 11 concern that very, very wealthy people might be able to 11 12 put a lot of money into undermining a story. 12 13 A. Yes. 13 LORD JUSTICE LEVESON: But that requires some sort of 14 14 15 framework in the background to require people to 15 16 participate. Otherwise most people would, but those who 16 17 really have a lot of money and really have a real 17 18 interest in stopping something won't. 18 19 A. No, and they will just fight it on through the court. 19 20 Yes, okay. 20 A. Sorry, one moment. 21 MR JAY: You gave evidence to a Select Committee, Mr Hislop, 21 22 about the NHS IT project. That was Mr Granger, wasn't 22 A. Alan Rusbridger? No. 23 it? 23 Q. Right-hand side. 24 A. Yes. 24 A. 197, yes. Q. And Schillings was his solicitors. Can you just remind 25
 - us what happened there?
 - A. The journalist in question put a number of questions to
 - Mr Granger, and then, rather than reply to them, we had
 - a threatening letter from his lawyers saying, "These are
 - private and confidential matters", and again, this was
 - the man who -- under whose -- on whose watch, under
 - whose directorship, a vast amount of public money had
 - been effectively wasted, something like £12 billion.
 - You can take whatever the last estimate is on this
 - utterly useless system which we'd been writing about for
 - quite a long time. So we thought it was a reasonable
 - question to find out what he was doing next: is he going
 - back into public employ? Is he a consultant? Where has
 - he ended up? But he said, "This is private, this is
 - none of your business", and his lawyers sent that
 - letter, and when they send that letter, the immediate
 - question is: how much -- is it worth fighting this? Is
 - it worth going on with this? How much is this going to
 - cost? Do we need this as well as whatever else we're
 - Q. The letter itself from Schillings I think was put in
 - evidence before the Select Committee.
 - Q. What did Private Eye do in response to that letter? Did

- A. Well, I read it out under privilege in that committee,
- so I didn't have to worry about any further
- LORD JUSTICE LEVESON: That's not actually the purpose of
- A. It's something useful the committee could do for us,
- MR JAY: Is this a common phenomenon, you receiving letters
 - of this sort which are designed obviously to have either
- a terrorising or a chilling effect, however you'd like
- A. Yes. Privacy has become more of a problem than libel,
- or had become more of a problem than libel before the
- sort of explosion over this -- the previous summer.
- Q. May I ask you some different questions now. Under
- tab 2, you deal with the problem of the Internet under
- the page which says, at the top left, "evidence 197".
- This is the question of the blogosphere, the right-hand
- column. Are you with me?
- Q. A third of the way down.
- Q. Quarter of the way down, where you say:

Page 36

- 1 "My own views on blogs is their stories become
- 2 useful when they go into what they call dead wood."
- What do you mean by that? 3
- 4 A. I mean stories tend to get going still in Britain when
- 5 they hit the newspapers rather than when they've been on
- 6 the blog, when they're taken from the blogosphere and
- 7 put in newspapers, because at that point they are
- 8 tested, supposedly. But I think that's a good
- 9 principle.
- 10 Q. The point you're making is that at the moment when
- they're just in the blogosphere or elsewhere on the 11
- 12 Internet, they're not tested; it's just an assertion?
- 13 A. No, it's just stuff.
- 14 Q. But the very fact that a story enters a newspaper gives
- 15 it a level of credence, a level of imprimatur. Would
- 16 you accept that?
- 17 A. Yes.
- 18 Q. Can I ask you about your relationship with politicians?
- 19 I've asked this question of other editors, of course.
- 20 Do you have social interactions with politicians?
- 21 A. Yes, I occasionally meet them.
- 22 Q. In a nutshell, what do you think the purpose of such
- 23 interactions is, apart from social pleasure or however
- 24 you want to put it?
- 25 A. Sorry, I think I've slightly misunderstood the question. Page 37

- tab 13. 1
- A. Yes.
- 3 Q. Some pieces about you. The first one is in the
- 4 Guardian, published in September of last year. The last
- 5 page, page 5 of 5. He says, two lines down from the top 6
 - of the page, about you:
- 7 "He has a strong sense of what constitutes ethical
- 8 behaviour in a good society and is not slow to castigate
- 9 those in public life who fall short. It's not that he
- 10 despises politicians that make him so severe on them but
- 11 he holds in such high esteem what they can be at their
- 12
- 13 I appreciate that's quite flattering of you.
- 14 A. It is.
- Q. But is it reasonably on point? 15
- 16 A. I'm not likely to say no.
- 17 O. Okay.

1 A. Yes.

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- A. I think it's an extraordinarily perceptive piece. 18
- 19 Q. Fair enough. The third paragraph, about the future of
- 20 Private Eye in the context the Internet -- you don't
- 21 foresee Private Eye embracing the digital future? At
- 22 the moment you have a rudimentary website, but you keep
- 23 your key content for the magazine. Then he says:
- 24 "He gives me [that's obviously the writer here]
- 25 a brief lecture on the dangerous culture of free."

Q. Can you remember what that was about?

Page 39

A. I think I'd probably said something along the lines of:

meant it's very difficult to make films, it's difficult

I disagree with a number of my colleagues here, but

a terrifically noble craft, should be given away, and

entertainingly, informatively, should have everything

they do just taken from them. I mean, if we're looking

I cannot see why journalism, which, at its best, is

people who can analyse information, write well,

at other countries, I was hugely heartened to see

Le Canard Enchaine has a website which just says

literally: "Go and buy the paper." They're doing very

Q. For those who don't know, they're your sort of analogue

have: in tab 13, the third page, I think there you do

for free", and I think we should try and resist it.

a generation that wants everything for free has already

to make records and now it's saying, "I want journalism

- I have social interaction in that I go to lunches or 1
- 2 I meet them at parties or I see them occasionally.
- 3 Q. Is it because the politicians are trying to get one over
- 4 you in terms of what you might say about them, or do you
- 5 have some sort of motive towards the politicians or is
- 6 it simply you're meeting them socially?
- A. No. I mean, I'm sure there's an agenda on both sides. 7
- 8 I'm hoping to find out information that will be useful
- 9 to me and a world -- insight into the world that they're
- 10 operating in. I think they're trying to the do the
- 11 same. There are -- it's a two-way trade. But I think
- 12 arm's length is what you need with politicians, and that
- 13 is -- I mean, they come -- we invite MPs to Private Eye
- 14 lunches, I see MPs at events. I haven't been to any
- 15 slumber parties with any, with my children or wife.
- 17

I haven't appointed any to be on the staff of the Eye.

- I think a certain amount of distance is probably a good 18
- 19 Q. Yes. I imagine I know the answer to this question: is
- 20 the agenda of Private Eye set or do you have any
- 21 perception that it's set by the wishes of the
- 22 proprietor?

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- 23 A. We don't have a proprietor.
- 24 Q. So the answer then is self-evident. Can I ask you
- 25 finally about a couple of points in tab 11 and then Page 38
- 21 Q. The final point, subject to points the chairman might 22
 - 23 accept the mistake, if that's the right way of putting 24
 - it, in the context of the MMR scare. Is that right,
 - 25 Mr Hislop?

well.

A. Yes.

in France?

- 1 A. Yes. Yes, absolutely. We ran a mea culpa. Phil
- 2 Hammond, who is our MD, who didn't write any of the MMR
- 3 material and who I should have listened to earlier,
- 4 wrote a piece saying, "Private Eye got this wrong and
- 5 should have stopped running it long before it did."
- 6 Q. I haven't been asked to put any questions to you
- directly by core participants, although I have
- 8 considered other material that's been put to me and I've
- 9 decided not to pursue it.
- 10 A. Anything else in the bundle? No.
- 11 MR JAY: There's nothing else I'd like to ask you about but
- there may be some further questions.
- 13 LORD JUSTICE LEVESON: There's only one rather general
- question: the area which is the subject of the Inquiry
- is clearly one which you, in your capacity as the editor
- of Private Eye, have been interested in for very many
- 17 years. Is there anything that has happened in the
- course of the Inquiry, or indeed in the course of what's
- been generated over the last six months, that causes you
- 20 to have any new views or any insights that you would
- 21 like to share as to what should come out of the Inquiry?
- 22 A. My overall feeling -- after about the first two weeks of
- the Inquiry, I thought, well, that might be it for the
- 24 press. The level of distaste from the public for the
- 25 whole business of journalism seemed to be ratcheting up.

Page 41

- The celebrities got a very good coverage, as they would
- do, but got a very good chance to put their side of the
- 3 case, and I was very worried that for X weeks there
- 4 would be nothing to say except, you know: "Why don't you
- 5 just close down the lot of them? They're all utterly
- 6 revolting?" And I just wanted to put in a plea for
- 7 journalism and for the concept of a free press, that it
- 8 is important, it isn't always very pretty, and there are
- 9 things that go wrong, but I really hope that this
- Inquiry doesn't throw out the baby with the bathwater.
- 11 LORD JUSTICE LEVESON: Yes, well, I hope you'll feel that
- we've given titles the opportunity to celebrate what is
- good about each of the titles that have come to give
- evidence and tried to provide some context for
- everybody. That is part of the reason for considering
- it very important that you, who have had the Street of
- 17 Shame, in other words have been prepared to talk about
- these stories in ways that others haven't always --
- sometimes have, but haven't always -- was so important.
- sometimes have, but haven't aiways -- was so important
- 20 A. Yes.

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- 21 LORD JUSTICE LEVESON: All right, thank you very much.
- 22 A. Thank you.
- 23 MR JAY: May we press on with the next witness. It's
- 24 Mr Thomas Mockridge.

Page 42

MR THOMAS MOCKRIDGE (sworn)

- 2 Questions by MR JAY
- 3 MR JAY: Mr Mockridge, please make yourself comfortable.
- 4 I am going to ask that you be provided with one file,
- 5 which I see is not in front of you. It's file 1, which
- 6 is entitled "Bundle for News International", which will
- 7 contain your two, if not three, witness statements.
- 8 They're to your right. Thank you very much. First of
- 9 all, your full name.
- 10 A. Thomas Mockridge.
- 11 Q. Thank you.
- 12 LORD JUSTICE LEVESON: Mr Mockridge, I've said this to each
- of the titles that I visited: I spent some time at
- 14 News International before the Inquiry started and I saw
- a number of the editorial floors on which you operate
- and I'm grateful for the courtesy you've extended to me.
- 17 A. Thank you.
- 18 MR JAY: Mr Mockridge, your first statement is dated
- 19 14 October of last year and has a statement of truth; is
- 20 that right?
- 21 A. That's correct.
- 22 O. That's under our tab 6 and it bears the number 07774.
- 23 Your second statement is dated 16 December of last year
- and updates the position on two matters. Again, it has
- a statement of truth. Your third statement, for which

Page 43

- 1 you wish to apply in due course for protection under
- 2 Section 19 of the Inquiries Act, qualifies paragraph 6.6
- 3 of your first statement in a way in which I understand
- 4 you do not wish to raise publicly. Is that so?
- 5 A. That is correct.
- 6 Q. So we won't go further into that, but subject to that
- 7 specific matter, this is your truthful evidence?
- 8 A. Yes.
- 9 Q. Mr Mockridge, we've carefully read your statements. The
- purpose of your giving evidence is just for me to draw
- out a number of discrete points in relation to what is
- currently happening at News International, because you
- are the chief executive officer of the company. Is that
- 14 so?
- 15 A. I am.
- 16 Q. You have been since the departure of Rebekah Brooks
- in July of last year. Is that so?
- 18 A. Yes.
- 19 Q. For those who are not fully aware of the relationship
- 20 between the various companies within News Corporation,
- 21 there is a helpful family tree which we see under our
- tab 2 and bears the number 53570.
- 23 A. Which I have, yes.
- 24 Q. Thank you. This, of course, will be deeply familiar to
- you but not to all those who are following the Inquiry.

- 1 The ultimate parent company is incorporated in the US,
- 2 News Corporation, and there are various regulatory
- 3 provisions, particularly in 2002, I think, which apply
- 4 to that. NI Group Limited is a wholly owned subsidiary
- 5 of News Corporation?
- 6 A. That's correct.
- 7 Q. Then it bifurcates, if I can so describe it: News Group
- Newspapers Limited, which formerly included the 8
- 9 News of the World but now just is the Sun, and then we
- 10 have Times Newspapers Holdings Limited, which ultimately
- 11 divide into the Times and the Sunday Times; is that
- 12 right?
- 13 A. That's correct.
- 14 Q. We can see -- and we'll be hearing evidence of this in
- 15 a moment -- the position of the independent national
- 16 directors who, as it were, are above TNHL. Is that so?
- 17 A. That is correct.
- 18 Q. You give us your employment history in your statement.
- 19 I'm not going to cover that in any detail, save to point
- 20 out that you've been involved with News International
- 21 for some considerable time now before you became chief
- 22 executive officer; is that correct?
- 23 A. I've been involved with News Corporation and its
- 24 subsidiaries, but not News International.
- 25 Q. Thank you. May I ask you, please, generally about your Page 45

- 1 please, since July of last year in the area of
- 2 compliance?
- 3 A. I think in particular what we have sought to do is to
- 4 update/refresh the whole range of compliance policies
- 5 and in particular improve the communications of the
- 6 compliance policies. My observation has been that even
- 7 where an existing policy is completely thorough and
- 8 appropriate, if it's not well communicated, then it's
- much more difficult to expect people to comply with it.
- 10 So I think a lot of that just goes to the language, the
- 11 drafting, the way it is presented to employees.
- 12 Sometimes that might mean the distribution of a hard
- 13 copy document, as we did with the News Corporation
- 14 standards of conduct. The mere device of that reminds 15
 - people of the issues in that document.
- 16 Sometimes it might mean using the intranet and the
- 17 Internet devices to refresh. I think it's
- 18 a broad-ranging objective to make sure that policies
- 19 which were generally required before are correctly
- 20 up-to-date and communicated.
- 21 Q. Thank you. At paragraph 2.6, you remind us of the
- 22 position of the independent national directors following
- 23 undertakings given to the Secretary of State for trade
- 24 and industry, as he then was, in 1981. We're going to
- 25 hear a bit more about that in a moment. As for the Page 47
- dealings with Mr Rupert Murdoch. How frequent are 1
- 2 those?
- A. In this role? 3
- O. Yes.

- 5 A. It will vary week to week. In some weeks, I will speak
- 6 to simultaneous several times via the phone. In some
- 7 weeks, I might not speak to him at all.
- 8 Q. It may be a difficult question put at this level of
 - generality, but what sort of things is he interested in?
- 10 A. I should say first of all it's not necessarily relating
- 11 to News International, because I continue to have
- 12 responsibilities in other parts of the company. He is
- 13 interested fundamentally in the business. Frequently
- 14 our discussion would be how our advertising revenue is
- 15 progressing. He's interested in the news in general
- 16 terms and will be interested in observations about what
- 17 is current in British society and what issues we might 18 be reporting. He's also interested in the progress of
- 19 this Inquiry and the progress we're making in the
- 20 company in updating and changing compliance and these
- 21 issues. So a broad range of issues.
- 22 Q. You tell us in paragraph 2.5 that the NI board is now
- 23 meeting monthly to accommodate the work being performed 23
- 24 in the area of compliance. Again, in general terms, are
- 25 you able to give us a thumbnail sketch of that work,
 - Page 46

- policies which, as at the time of writing of this 1
- 2 statement, were in the process of being approved and
- 3 implemented, that's paragraph 2.8(iv), is that right, at
- 4 page 07777?
- 5 A. 2.8(iv) on page 5, as I have it, yes.
- 6 Q. We do have those policies in separate bundles. At that
- 7 stage, some of the policies were in the process of being
- 8 approved, but am I right in saying that policies (i) to
- 9 (iv) have been rolled out since the date this statement
- 10 was signed off?

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- 11 A. It's correct the first four have been rolled out and the
 - fifth is actually available on the intranet in a draft
- 13 form, but has to be finalised.
- 14 Q. Thank you. The payments policy is going to be covered
 - in some more detail by the next witness. What
- 16 responsibility, if any, do NI board members have for the
- 17 ethics of the newspapers?
- 18 A. I believe the board members have a general
- 19 responsibility to contribute to ethics. I would think
- 20 ethics itself, as other witnesses have described, is
- 21 a subjective term, not an objective one, but I think the
- 22 standards that the board sets, the way the board itself behaves, contributes to the overall ethics of any
- 24 company, equally ours.
- Q. In what way, do you think, Mr Mockridge? Page 48

- A. I think if the board shows an interest to apply itself
- 2 to, as we are doing now, set clear and well-communicated
- 3 policies, that itself is a message to the employees of
- 4 the company of the manner they're expected to behave.
- 5 Q. Thank you. I'm going to pass over, if I may, taking
- 6 them as read, a significant number of paragraphs, and
- 7 ask you, please, to look at paragraph 12.4, our
- 8 page 07785. You are careful to define your terms, the
- 9 difference between a "private investigator" on the one
- 10 hand and a "search agency" on the other. You're clear
- 11 about who a private investigator is: someone who holds
- 12 himself or itself out as being skilled in sourcing
- 13 information which is not otherwise publicly available,
- 14 on the one hand, and the search agency only looks at
- 15 publicly available records. Do you know that from your
- 16 own knowledge, that that is what a search agency
- 17 confines itself to?
- 18 A. This is what I've been advised by my colleagues, and 19 particularly editorial staff.
- 20 Q. Have you asked editorial staff closely about --
- 21 (Alarm sounds)
- 22 The search agency, what they do, or their modus 23
 - operandi, was something you've been told about by the
- 24 editorial department. Is that so?
- 25 A. Yes.

- A. I think it requires positive control. I think it's fair to say people are particularly sensitive to this issue
- 2
- 3 at this time, given recent history. I'm confident that
- 4 at this time there is no leakage in the policy and it
- 5 would require ongoing attention to ensure that's the
- 6

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- 7 Q. In relation to private investigators, as you've defined
- 8 them, the policy now is that editors need to seek your
 - approval before engaging any private investigators. Up
- 10 to now, you've never given your approval. Under what
- 11 circumstances might you give your approval?
- 12 A. I would await a request and consider it at the time.
- 13 Q. You point out under paragraph 14.1 that you're actively
- 14 developing a policy in that regard. Is that so?
- 15 A. That is correct.
- 16 O. Your second statement now, Mr Mockridge. I'm not going
- 17 to ask about paragraph 2.4, but you rightly update the
- 18 Inquiry as to the position and the arrest of one
- 19 individual. Can I ask you to clarify paragraph 5. This
- 20 is the access to a computer by a reporter at the Times.
- 21 Are we talking about an internal computer or are we
- 22 talking about a third party's computer?
- 23 A. I believe it was a third-party computer.
- 24 Q. Are there any specific issues which have caused you
- 25 concern since you took over as chief executive officer

Page 51

- Q. Are you aware of evidence in relation to Mr Whittamore, 1
- 2 who might have described himself quite accurately as
- 3 a search agency, but deploying methods which were
- 4 illegal methods?
- 5 A. I'm aware in general terms of that evidence and I'm
- 6 aware that this was an issue in the past, although
- 7 I think these definitions are relevant today.
- 8 Q. It's not so much the definitions, I think, Mr Mockridge.
- 9 It's more what goes on by search agents and whether
- 10 you've undertaken steps to satisfy yourself that the
- 11 search agents News International employs are deploying
- 12 lawful as opposed to unlawful methods. What have you
- 13 done about that?
- 14 A. What -- I'm completely confident that they are. I have
- 15 required of the editors and the managing editors that --
- 16 as it's stated here, first of all, we don't at this time
- 17 employ private investigators and secondly that search
- 18 agents, like other suppliers to the company, are subject
- 19 to the general governance of the company, so they cannot
- 20 operate in ways differently from what employees would.
- 21 Q. Is that right, necessarily, Mr Mockridge, in relation to
- 22 an independent contractor? Unless enquiry is made of
- 23 the independent contractor as to how he or it is 24 operating, you won't know? It is merely aspirational
- 25 that the search agency is comporting itself legally?

Page 50

- 1 outside the ambit of phone hacking, issues which you've
- 2 discovered which you would like to draw to the Inquiry's
- 3 attention?
- 4 A. I don't think there's anything I would draw to the
- 5 Inquiry's attention separately from the investigations
- 6 which are progressing and which I think in time results
- 7 of which will be notified to the authority -- to the
- 8 Inquiry.
- 9 Q. This is the internal investigation --
- 10 A. The internal investigation.
- 11 LORD JUSTICE LEVESON: This is the one chaired by
- 12 Lord Grabiner?
- 13 A. Correct.

15

- 14 Q. Do you feel that there has been a change in culture
 - since your arrival as regards cash payments in
- 16 particular, whether to sources, on the one hand, or to
- 17 staff in relation to their expenses on the other?
- 18 A. There's certainly been a change or a more clear
- 19 definition of policy rather than a change. I think in 20
- terms of culture it's a question of -- I've been there 21
- six months. I think any culture in any organisation is 22 something that evolves over time. It will obviously
- 23 change more quickly with change of personnel, so I think
- 24 it might be overambitious to say culture entirely has
- 25 changed in six months, but I think there has been Page 52

13 (Pages 49 to 52)

- Day 27 AM Leveson Inquiry 1 a change in the governing structure. It's well 1 Again, we'll see how that evolves. I'd be very 2 understood through the business, the policies have been 2 surprised if it changed the fundamental self-regulation 3 rolled out with training and information, and I believe 3 position. 4 4 the individuals are rigorously applying the policy. I would point out that both Australia and New 5 Q. Do you have a policy for risk management? 5 Zealand share the principle of the United Kingdom that there is no constitutional requirement of free speech, A. News Corporation has a risk management policy. NI, as 6 6 7 7 a subdivision of the company, doesn't have a separate but I think all three societies would regard that as 8 8 risk management policy. a fundamental element of the way they operate, and 9 9 Q. So it applies the news corporation policies; is that how I share the view of many of your other witnesses that in 10 10 it works? this society, where there is not a constitutional 11 11 A. That is correct. guarantee of free speech, for the government to make 12 Q. Is catastrophic editorial error, however you like to put 12 laws which intervene in the press would contravene that 13 13 basic principle and undermine the principle of a free it, one such risk? 14 14 A. It's not defined as a separate -- to my knowledge, it's 15 15 not defined as a separate item in the risk management I think in the other markets I've worked in --16 policy, no. 16 I don't think there is much to learn from Hong Kong, due 17 Q. Of course, you have oversight -- and this is my final 17 to the particular constitutional circumstances of Hong 18 18 Kong, although I should point out it does have a vibrant question -- over two subsidiary companies, one of which, 19 NGN, is responsible for the Sun. The other, TNHL, is 19 press -- Chinese-language press. 20 responsible for the Times and the Sunday Times. In 20 In Italy, the press is not directly regulated by the 21 21 terms of compliance, is there any difference between government, but it is subject to influence in several 22 those two separate companies and the newspapers they 22 ways, in particular by very extensive state subsidies 23 23 for newspapers, and also by a requirement that to be 24 24 A. In terms of compliance, no. The policies of NI apply a journalist you must pass a state-sponsored exam. 25 25 equally to all three title or the two companies which LORD JUSTICE LEVESON: That's an exciting proposition. Page 53 Page 55 encompass the three titles. A. It's an exciting concept. It was actually implemented 1 1 2 MR JAY: Thank you, Mr Mockridge. Those are all the 2 in the 1930s by a prime minister who was legally 3 3 specific questions I have for you, having taken the rest appointed in Italy and who was legally removed from 4 of your statement as read. 4 office, but I don't know that this structure from Italy LORD JUSTICE LEVESON: I have a couple. Mr Mockridge, you 5 6 arrived in this country six months ago. Your work has 6 is that state intervention in the press diminishes the 7 taken you to various parts of the world. I'm not asking 7 free press.

 - 8 you to foreshadow what Lord Grabiner might say or
 - 9 recommend, but I am asking if you are prepared to share

 - 10 with us, from your bird's eye perspective and experience
 - 11 in the business of journalism over many years, your view
- 12 of where we've got to in this country and where you
- 13 believe we should be going.
- A. Thank you for a broad question. I would maybe make the 14
- 15 caveat that as a newcomer to this country, clearly my
- 16 observations are relying on a relatively short period of
- 17 time, and that I've worked in four significant separate
- 18 markets: firstly, New Zealand and Australia, both of
- 19 which are broadly derivative of the United Kingdom.
- 20 I would note in both these countries there are
- 21 self-regulatory mechanisms for the press which appear to
- 22 be working effectively.
- LORD JUSTICE LEVESON: Although there are reviews, at least 23 23

- 24 in one of the countries, I think possibly both.
- A. There's certainly a review in Australia at this time.

- is much to learn from. But I think the general lesson

- 8 LORD JUSTICE LEVESON: But there is a difference, isn't
- 9 there, between state intervention and the state
- 10 provision of a mechanism which permits independent
- 11 regulation?
- 12 A. I don't accept that.
- LORD JUSTICE LEVESON: Why not? 13
- 14 A. Because once the state intervenes, the state intervenes.
- 15 I think I would go to the principle of the
- 16 United States, where the congress could not pass a law
- 17 to have that effect, and --
- 18 LORD JUSTICE LEVESON: Yes, but we have to be a bit careful
- 19 about that, because Parliament can pass a law about
- 20 anything. It might be said it's the thin end of the
- 21 wedge but the fact is that if a government were brought
- 22 into office that wanted to change the system, whether
- they're amending a statute or passing a new statute
- 24 makes not the slightest difference.
- 25 A. I would argue in the end this gives an extra

- 1 responsibility to the United Kingdom, without a written
- 2 constitution, without these guarantees, with guarantees
- 3 which I find, coming here, are relying on a 1998
- 4 European Act -- there is an even greater responsibility
- 5 for the state to limit its intervention.
- 6 LORD JUSTICE LEVESON: I'm not sure that's entirely fair.
- 7 The European Convention, as you probably know, was
- 8 drafted in large part by British constitution lawyers at
- 9 the end of the war, and has been part of the law but
- only enforceable in this country directly since the
- 11 Human Rights Act.
- 12 A. I don't -- I'm not actually familiar with the full
- 13 detail.
- 14 LORD JUSTICE LEVESON: I understand. That's why I felt it
- 15 appropriate.
- My question, which was deliberately broad, as you
- say, was also to get your view about what your reaction,
- 18 coming into this maelstrom, has been of the way in which
- 19 the press operates in this country.
- 20 A. If I can, again, make a general honest remark. I think
- 21 there are many people outside the United Kingdom who
- look at the British press with jealousy, due to the
- 23 extent of competition and choice in this marketplace,
- and due to the ability of the press in general terms in
- 25 the United Kingdom to examine stories, issues, to report Page 57

- $1 \qquad look \ up \ to. \ I \ think \ that \ 's \ a \ balancing \ thing \ that \ needs$
- 2 to be very seriously considered.
- 3 LORD JUSTICE LEVESON: I hope you'll agree that that's
- 4 something that I've been trying to do, but that doesn't
- 5 necessarily remove the responsibility of coping with
- 6 those parts of the way in which the press operate that
- 7 could not be described as either precious or perfect.
- 8 A. Certainly I agree.
- 9 LORD JUSTICE LEVESON: All right. Thank you. Thank you
- 10 very much.
- 11 A. Thank you.
- 12 MR JAY: Sir, Mr Pennant-Rea needs to be away before noon.
- 13 He'll only be about ten minutes. May we hear from him
- now and then break?
- 15 LORD JUSTICE LEVESON: Certainly. Certainly.
- 16 MR RUPERT LASCELLES PENNANT-REA (sworn)
 - Questions by MR JAY
- 18 MR JAY: First of all, Mr Pennant-Rea, if you would kindly
- 19 give us your first name.
- 20 A. Rupert Lascelles Pennant-Rea.
- 21 Q. I'm going to ask that the second of our files be
- 22 provided to you from the pile to your right, because
- 23 under tab 6A we will find located there your witness
- 24 statement.

- 25 LORD JUSTICE LEVESON: Mr Pennant-Rea, you provided from the Page 59
- 1 with a freedom and holding to account that is not
- evident in other markets, which is a combination of the
- 3 resources available to the press here, and the fact
- 4 that -- and those resources essentially flow from the
- 5 fact that there is a much greater readership of
- 6 newspapers in the United Kingdom than certainly other
- 7 European countries, with the exception of, I think,
- 8 Germany -- and due to the history of the free press
- 9 here. So everything might not be perfect but if we look
- at the great array of stories published in this country
- over the last decade, there is only a minute fraction of
- them which have been of particular interest to this
- 13 Inquiry.
- I think that point of balance needs to be
- 15 considered.
- 16 LORD JUSTICE LEVESON: I'm not sure "minute fraction" is
- 17 right and I'm not sure I would necessarily agree with
- the characterisation of the situation that everything
- 19 may not be perfect, and I wonder whether that's really
- 20 how you intend to put it, given what you came into and
- what you must have heard over the last six months.
- 22 A. I'm talking about the situation today, not the
- 23 circumstance, clearly, of five years ago, but I think in
- 24 general this country enjoys something precious, and
- 25 something which I say many people in other countries Page 58

- 1 independent national directors of Times Newspaper
- 2 Holdings Limited a submission which I think was
- 3 unsolicited and helpful and I'm grateful to you and your
- 4 colleagues for doing so.
- 5 A. Thank you. I should emphasise this isn't my statement
- 6 so much as on behalf of all of us.
- 7 MR JAY: Thank you. You're one of six independent national
- 8 directors of the Times, but in terms of your own CV, you
- 9 describe yourself succinctly as the chairman of the
- 10 Economist group?
- 11 A. Yes.

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- 12 Q. We can see the qualifications, and they're very
- 13 distinguished, of your colleagues.
- 14 Can I ask you about the circumstances in which the
 - independent directors were set up. This was
 - inextricably bound up, was it not, with undertakings
- given to the Secretary of State in 1981 when
- 18 Mr Rupert Murdoch took over the Times. Is that so?
- 19 A. That's correct. The circumstances at the time were very
- 20 much focused on editorial protection. The public
- 21 view -- certainly the political view as expressed in the
- 22 debate in the House of Commons -- was that if
- 23 Rupert Murdoch got control of these two very important
- 24 titles, there was a risk that their cherished
- 25 independence would be lost, and the arrangement which Page 60

- 1 was proposed by the government, accepted by Mr Murdoch,
- 2 and which calmed the fears of many people in Parliament
- 3 was the creation of independent national directors,
- 4 whose specific role is there to protect the independence
- 5 of the two editors.
- 6 Q. Thank you. You have been an independent director since
- 7 when, Mr Pennant-Rea?
- 8 A. 2006, 2005.
- 9 Q. So you can tell us about what's happened over the last
- 10 six or seven years. In your view, have the independent
- 11 directors been able to accord that measure of protection
- 12 to the editors from proprietorial influence or not?
- 13 A. The specific powers, responsibilities, that we were
- 14 allocated in 1981 highlight the approval of any
- 15 candidate for the editorship. So we have had one
- 16 instance since I've been a director, in the case of the
- 17 Times, where the editor was leaving to go to New York
- 18 and a new editor was appointed. The proposal for his
- 19 appointment was put to us. We interviewed him, we spent
- 20 a couple of hours satisfying ourselves that he was
- 21 indeed the person who should take on the responsibility
- 22 of editing the Times. So that was one very specific
- 23 occasion.

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- 24 By the same token, if ever there was a proposal to
- 25 dismiss an editor, that would have to be put to the

Page 61

- national directors for their approval, or if they chose,
- 2 they would say, "No, we don't think that those are
- 3 reasonable grounds to dismiss them."
 - Beyond that specific occasion, we've had a number of
 - meetings, formal and informal, with the editors. We
 - attend quarterly board meetings of Times newspapers
- 7 Holdings Limited and we are constantly having to ask
- 8 ourselves: have the editors got (a) the budget to do the
- 9 job that they need, and (b) the culture of freedom that
- 10 gives them the right to edit the newspapers in the way
- 11 they want?
- 12 I think the best test of all has been the coverage
- 13 of the phone hacking scandal, and here I'm not just
- 14 giving my own view but the views of a lot of people who
- 15 we have asked. Do they think that the coverage in the
- 16 Times and the Sunday Times of the phone hacking scandal
- 17 has been comprehensive and objective and fearless? And
- 18 people like Anthony Lester have, on the record, said
- 19 they think it has been.
- 20 Q. Can I just ask a number of follow-up questions. I think
- 21 it's implicit from the first part of your answer that
- 22 when consideration has been given to a new editor -- and
- 23 that was Mr James Harding, in or about December 2007 --
- 24 the proposal was put to you by the proprietor; is that
- 25 right?

Page 62

- A. It was put to us -- I mean, we heard about the proposed
- 2 appointment from Les Hinton, who at the time was the
- 3 chief executive of News International.
- 4 Q. Was there a shortlist or was there one candidate who you
- 5 would either accept or reject?
- 6 A. One candidate.
- 7 Q. Did that cause you any concern, that you weren't being
- 8 offered a choice? That presumably wasn't your
- 9 expectation under the terms of the Secretary of State's
- 10 undertaking?

12

- 11 A. It wasn't our expectation, but I should also perhaps add
 - a more personal note here. I was editor of the
- 13 Economist. The Economist has a system of trustees whose
- 14 role is not dissimilar to that of the national directors
- 15 of the Times and the Sunday Times, and in the case of my
- 16 appointment, there was only one candidate put up by the
- 17 board to the trustees for their consideration. I was
- 18 interviewed by the trustees, who followed a very similar
- 19 process. I found that perfectly satisfactory then and
- 20 I found it satisfactory in the case of James Harding.
- 21 Q. Thank you. Would you expect either of your editors to
- 22 draw to your attention matters of concern -- this is
- 23 outside matters of budgetary stringency -- by which
- 24 I mean in particular excessive proprietorial influence?
- 25 A. Absolutely.

Page 63

- Q. I think I know the answer to this question: have either 1
- 2 of them done so?
- 3 A. No, they haven't. But we ask them the question from
- 4 time to time to make quite sure that on particular
- 5 issues and more generally there is any sense in which
- 6 they feel subjected to pressure, and that is a very
- 7 important part of what we're trying to do.
- 8 Q. You make it clear at page 3 -- on the internal
 - numbering, 23515, you see your presence as the editorial
- 10 equivalent of a nuclear weapon which you have the button
- 11 of, on which you haven't been required ever to press.
- 12 A. Yes.

9

- 13 Q. Thank you. Further on in this page, you consider
- 14 whether the Times model is or might be seen as an
- 15 appropriate model elsewhere. You point to the
- 16 particular circumstances which gave rise to the creation
- 17 of independent national directors in 1981; is that
- 18 right?
- 19 A. Yes. To that extent, of course, it's not a model, but
- 20 the idea of trustees for particular titles, the sort
- 21 that exist at the Guardian, at the Economist, I think
- 22 that that could well be a model.
- 23 Q. Can I ask you about one particular aspect of this, and
- 24 this is (d) on page 23516, level with the lower hole
- 25 punch, where you say -- and I paraphrase:

- 1 "Financial constraints are already restricting the
- 2 freedom of editors."
- 3 I just wanted to explore with you why you say that.
- 4 A. Well, I think all editorial budgets are under some
- 5 pressure, at the same time as the world is becoming
- 6 a more interesting and complicated place, and if you
- 7 asked any editor what their ideal configuration of their
- 8 editorial staff and particularly of their overseas
- 9 offices would be, they would probably give you an answer
- 10 that added up to rather more than the budgets they are
- 11 actually having to operate under.
- 12 O. Mm.
- A. And that is ever thus, I'm afraid.
- Q. The last page, two lines from the top: 14
- 15 "Without wishing to exaggerate the importance of our 16 role, we suspect that editors welcome protection against
- 17 arbitrary pressure, whether that pressure comes from
- 18 a powerful proprietor [well, that possibility you've
- 19 already told us about], the commercial interests of
- 20 advertisers, an overheated public, disgruntled
- 21 colleagues or a knee-jerk government."
- 22 I'm just wondering how, in practical terms, you're
- 23 able to furnish any degree of protection to your editors
- 24 from the last four factors you list there.
- 25 A. Well, in our case the answer is that's not our job, and Page 65

- (11.39 am) 1
- 2 (A short break)
- 3 MR JAY: Sir, the next witness is Susan Panuccio.
- 4 MS SUSAN LEE PANUCCIO (sworn)
- 5 Questions by MR JAY
- MR JAY: First of all, make your comfortable and your full 6
- 7
- 8 A. Susan Lee Panuccio.
- 9 Q. In file 1, under tab 8, you'll find a copy of your
- 10 witness statement from 14 October last year.
- 11 A. That's correct.
- 12 Q. There's a statement of truth and your signature at the
- 13 end. Is this your truthful evidence?
- 14 A. Yes, it is.
- Q. Most of this, Ms Panuccio, we're taking as read. I'm 15
- 16 just going to alight on a few points. You identify
- 17 yourself as the chief finance officer of
- 18 News International, in which post you were appointed in
- 19 late June, 2008; is that right?
- 20 A. That's correct.
- 21 Q. You obviously had a career as an accountant and you
- 22 started working for News International in 2004; is that
- 23 right?
- 24 A. That's correct.
- 25 Q. Can I ask you about the payment system to third parties, Page 67
- 1 I think it's quite important that we stick to what we
- 2 were asked to do by the Secretary of State and I don't
- 3 think anybody would welcome it if we were to extend or
- 4 hope to -- try to extend our role. But I can see, in
- 5 circumstances where you started from a different clean
- 6 sheet of paper, how you could write the role of
- 7 a trustee that would cover some of these points.
- 8 Q. In relation to the Economist, can you just help us with
- 9 that? The role of the trustees, do they cover these
- 10 areas or not?
- 11 A. Well, they are there to ensure that the editor has
- 12 complete independence over his recruitment policy,
- 13 promotion policy and, above all then, what is put in the
- 14 paper week after week. And the editor can go to the 15 trustees on any point if he felt that there was some
- 16
- undue pressure being exercised on him, and not purely
- 17 a proprietorial pressure. In that sense, they are
- 18 a sort of sounding board, a comfort.
- 19 MR JAY: Thank you very much, Mr Pennant-Rea for your
- 20 evidence. We've read the rest of your statement, of
- 21 course. I just wanted to alight, as I have done, on
- 22 a number of specific matters.
- 23 LORD JUSTICE LEVESON: Thank you very much indeed.
- 24 A. Thank you.
- 25 LORD JUSTICE LEVESON: We'll take just seven minutes. Page 66

- which is clause 5.1 of your statement, at our 1
- 2 page 07794. The editorial commissioning system which
- 3 requires authorisation by the relevant desk head and by
- 4 the managing editor's office, is that up to a threshold
- 5 of £50,000?
- 6 A. Yes. I think you'll note in here the only exception was
- 7 on News of the World where certain desk heads could
- 8 approve up to £2,000 without the managing editor's
- 9 approval, but yes, up to £50,000.
- 10 Q. Thank you. Is this a system which was in place or has
- 11 been in place at all material times since 2008?
- 12 A. Yes.
- 13 Q. I'm going to ask you next about cash payments. 5.1.3 on
- 14 the next page:
- 15 "Interim policy came into effect on 5 September
- 16 2011. I believe from documents I've seen that that
- 17 policy is now in force."
- 18 Is that right?
- 19 A. Yes, correct.
- 20 Q. What, in a nutshell, are the differences if any between
- 21 this policy and the previous policy?
- 22 A. I think essentially there's a couple of differences.
- 23 One, we now require the journalist to sign when they
- 24 collect the cash. So before, we did allow
- 25 administrative members of the team or runners to come Page 68

- 1 and collect the cash. So the journalist actually has to
- 2 collect the cash and sign. It also requires the
- 3 editor's signature -- editor or deputy editor, as well
- 4 as the managing editor or deputy managing editor's
- 5 signature. It also covers elements of the Bribery Act,
- 6 so it goes into a few more examples than it did before.
- $7 \quad Q. \ \ So \ is \ this \ right: you've \ considerably \ tightened \ up \ on$
- 8 the controls and protections within this system?
- 9 A. We had the fundamental controls in place previously, and
- 10 my understanding was that the editors were aware of the
- 11 majority of cash payments that were made, but we didn't
- 12 physically get them to sign, so there was no evidence
- that they had done that review.
- 14 Q. Is there an audit trail as to why the cash payment is
- being made and for what?
- 16 A. It depends on the type of cash payment. So we would
- expect that there is paperwork, obviously, in relation
- to any of the cash payments, but exactly what it is
- being used for depends on whether it's confidential or
- 20 non-confidential. So for the non-confidential ones, we
- would have the name and the details on there. For the
- confidential ones, they wouldn't name the source but
- 23 there may be a generic description about what the
- payment relates to.
- 25 Q. So would it just say "confidential enquiry" or would it Page 69

- $1\quad Q. \;\; \mbox{Have there been other examples that high, or is that an}$
- 2 exception?
- 3 A. That it is an exception. Certainly whilst I've been CFO
- 4 there's been no other cash payments in excess of
- 5 £50,000. There have been a couple that sort of are in
- 6 the 30 to 40,000 range and we would pick them up via
- 7 finance, because obviously we have to facilitate the
- 8 cash, but it gets approved within editorial.
- 9 Q. In relation to the Pakistani cricket story, what steps,
- if any, did you taking to satisfy yourself that (a) the
- payment was appropriate, and (b) you were getting value
- 12 for money?
- 13 A. So the way it would typically work, obviously a story of
- that nature is very confidential and very sensitive, and
- 15 the editor would have a conversation with the CEO in
- relation to that story. I then had a courtesy call from
- the editor to say that he required the cash. We
- obviously had to facilitate the cash payment. I spoke
- 19 to the CEO to ensure that they were comfortable with the
- story and the provenance of it and we facilitated the
- 21 cash payment following that.
- 22 Q. You cover staff expenses, paragraph 5.2.2, page 07798.
- 23 A. Yes.
- 24 Q. Has there been any change of practice or policy in
- 25 relation to these expenses?

- 1 say more about the story to which it related?
- 2 A. It could say "football story" or "showbiz story",
- 3 something like that.
- 4 Q. How often does the source insist on a cash payment? Is
- 5 this frequent or rare?
- 6 A. No, I think it's probably useful to have a bit of
- 7 context on -- the Times and the Sunday Times, I think --
- 8 you know, the Times has not made any confidential cash
- 9 payments since I've been there as CFO. I think the
- 10 Sunday Times less than 10 in three and a half years. So
- it predominantly relates to the tabloid model. I think
- in relation to overall cash payments, they would make up 12
- certainly less than 1 per cent of the editorial budget.
- 14~ Q. You say at the very end of 5.1.3, three-quarters of the
- way down page 7796, Ms Panuccio:
 - "There are no limits on the amount of cash that can
- be requested, providing the request is appropriately
- authorised in line with the approved signatory list and
- so there's a threshold of £50,000."
- 20 A. That's correct. If any payments came to light that were
- above that, then I would expect they would either be
- 22 approved by the CEO or myself. The Pakistani cricket
- story would be a good example.
- 24 Q. I think the amount was £150,000?
- 25 A. That's correct.

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Page 70

- 1 A. In March 2010, or around that time, we automated our
- 2 expense system, so we -- it used to be a paper-based
- 3 system and it went online and in conjunction with that,
- 4 we did do a tightening up of the editorial expense
- 5 policy. That was more in relation to the fact that we
- 6 were doing cost cuts across the titles and the managing
- 7 editors, together with my finance team, worked on a new
- 8 policy just outlining what was appropriate and what was
 - not in relation to claiming expenses.
- 10 Q. Since the demise of the News of the World in July of
- last year, and the media and other explosions which
- 12 attended that, have you detected any change in attitude
- or culture or practice in the Sun in particular, I think
- 14 I can ask the question, in the context of either staff
- 15 expenses on the one hand or payment to sources on the
- 16 other hand?

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- 17 A. So we have definitely seen that the usage of cash
- payments has gone down considerably. So I think up
- 19 until December -- so we run over a financial year ending
- 20 30 June, so up until December, so six months, our cash
- payments were less than £50,000, which was significantly
- less than what they had been in the past. So I think,
- you know, the journalists, certainly within that first six months, were very nervous in relation to cash
- payments and obviously we were doing a lot of training Page 72

18 (Pages 69 to 72)

1 and reinforcing a lot of policies. So I think there's 1 Page 2 -- this is 7822 -- where you explain you don't 2 just a lot more awareness of cash payments and the fact 2 have a readers' editor as such, but of course you have 3 3 that we always have stipulated that where possible, we a Letters to the Editor column which has probably been 4 4 should use non-cash payments as a general practice. So there for a couple of hundred years, and a feedback 5 I would say that yes, we have seen a reduction to that. 5 editor who serves as an ombudsman. How does he or she 6 In relation to staff expenses, I think staff 6 operate? 7 7 expenses, certainly over the last few years and since we A. She is -- I suppose she serves much as a readers' editor 8 implemented the new policy in March 2010, have been 8 does in other newspapers. We happen to call her the 9 pretty consistent. feedback editor. She receives letters and emails and 10 MR JAY: Yes, thank you very much. 10 comments about the papers and the papers online, and she 11 LORD JUSTICE LEVESON: If you take a story like the cricket 11 will respond to those either directly -- but she also 12 scandal, presumably there's a lot more money involved in 12 runs a weekly column that we run in Saturday's paper 13 that than the cash payment for the story? 13 alongside our leading columnist. 14 A. That's correct. 14 Q. Is she expected to operate in a quasi-independent 15 LORD JUSTICE LEVESON: And all that money is paid through 15 manner? 16 with an audit trail associated with it? 16 A. Yes, she is. So if there is concern about a piece of 17 A. Yes. So there would be expenses incurred in getting the 17 reporting or a question from a reader, she will 18 story -- travel expenses, accommodation expenses, 18 regularly go and speak to the relevant journalist or the 19 depending on where the story is, and yes, all of that 19 relevant head of department to understand our thinking 20 would be auditable, have an audit trail. 20 and our processes in that reporting. 21 LORD JUSTICE LEVESON: Thank you. 21 Q. Presumably, her remit is to provide a balanced response 22 MR JAY: Thank you very much, Ms Panuccio. 22 to any opinion piece or perhaps even a factual piece 23 The next witness is Mr James Harding. 23 which is in the paper, so that we get a sense of the 24 MR JAMES PAUL HARDING (sworn) 24 calibration of readers' views in reaction to anything 25 Questions by MR JAY 25 you might have printed; is that right? Page 73 Page 75 MR JAY: Please make yourself comfortable, Mr Harding. Your 1 A. Yes, that's right, and one of the other things we've 1 2 full name. done is we introduced a few years ago just a little 3 3 A. Is James Paul Harding. column called "You the editor", which runs beneath the 4 Q. Thank you. Might I ask you to bring to hand file 2, 4 daily letters page, and the purpose of that is to allow 5 entitled, "Bundle for News International, the Times and 5 people not just to comment on what they think is right 6 Sunday Times". You're under tab 1. That is a witness 6 or wrong with the paper in a factual sense, but in terms 7 statement you gave and it is signed under a statement of 7 of emphasis, in terms of the way in which the paper's 8 truth on 14 October of last year. Is that your truthful 8 been edited, precisely, as you say, to make sure the 9 evidence? 9 readers feel as though they can comment on the paper 10 A. Yes, it is. 10 they get every day. 11 O. You probably want to incorporate into that statement --11 LORD JUSTICE LEVESON: And that's not the subject of 12 I don't know whether you have it to hand -- a leader in 12 editorial modification? 13 the Times this morning. I have a spare copy for you. 13 A. No. 14 A. Thank you. 14 MR JAY: Thank you. Your evidence also covers the position 15 Q. Which, it's fair to say, gives us advance notice of some 15 of the Times independent directors. Obviously we've 16 of the issues your evidence covers, but there are just 16 just heard from one of them. Is there anything you'd 17 some isolated questions, if I may, on your witness 17 like to add or subtract from the evidence Mr Pennant-Rea 18 statement before I delve into the leader. You, of 18 gave us, particularly in his dealings with you? 19 course, are the editor of the Times and have been, is 19 A. I thought he gave a very good account of the role of the 20 this right, since December of 2007. Before then, you 20 independent national directors, and clearly within the

23 A. Yes, that's correct.

had a career primarily at the Financial Times for 11

Q. Thank you very much. Some specific points on your

statement, which of course we've looked at carefully.

Page 74

years, between 1994 and 2005; is that correct?

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context of this Inquiry and thinking about the potential

Q. Thank you. On the next page, 07823, under paragraph 3,

you say in the middle of that paragraph you seek to set

the culture of the paper. First of all, what do you

Page 76

role of trustees, I'd endorse what he said.

3

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1

- 1 mean by that, and secondly, how do you seek to set the 2 culture of the paper?
- 3 A. Can I answer both in a sort of practical and a principle
- 4 sense? The practical fact is that a newspaper's day is
- 5 quite clearly structured. We have a news conference 6
 - mid-morning and a leader conference that follows that,
- 7 then an afternoon conference and then we're on the back
- 8 bench reviewing the paper that we're putting out. The
- 9 most important job of the editor is to make sure that he
- 10 or she has an eye on creating the best possible --
- 11 getting the best possible paper out the following day,
- 12 and that's with a view to breaking news on the front
- 13 page, serving the readers in terms of the full range of
- 14 news coverage, and providing, again, a range of opinions
- 15 on the opinion pages and a strong view in the editorial
- 16 column, in the leader column of the paper. So that's,
- 17 in the very practical sense, the way in which you set
- 18 the culture of the paper and the way in which you direct
- 19 it on a daily basis. 20

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- Of course, it's also set in terms of what you choose to do and what you choose not to do, and in that news conference, which generally is attended by heads of
- 23 department or their deputies, that's where you discuss
- 24 what stories you're looking into and sometimes it will
- 25 also be the way you're looking into those stories. So Page 77
- 1 the culture of the paper is set through those meetings,
- 2 as well as, of course, the private conversations and the
- 3 other conversations that happen through the day.
- 4 Q. Since your arrival in December 2007, what changes, if
- 5 any, have you perceived in the culture of the paper?
- 6 A. Well, of course, the largest by far has been: how do you 7
- take a newspaper which, for 225 years, was printed 8
- entirely on paper, and say how do you produce editions 9
- of the Times that live up to what our readers expect of 10 the Times but -- not in print but on screen? So one of
- 11 the very big changes has been moving to a 24-hour
- 12
- newsroom, moving to a whole range of different devices
- 13 and journalistically that, of course, has meant that we
- 14 can do things very differently, the incorporation of 15 videos and interactive graphics and all that.
- 16 So that means that our journalism is changing very
- 17 rapidly, as is the way that our readers are consuming
- 18 the Times.
- 19 Q. Thank you. The question of sources you cover in
- 20 paragraph 6 in a manner which I think is now quite 21 familiar to us, but one straightforward question: do you
- 22 ever print stories on the basis of one source alone?
- 23 A. Very, very rarely. But, yes, you would if that source
- 24 was -- most likely if that source was pivotal in the
- 25 story. There are, of course, stories where there is Page 78

- only one source. So you will try to get multiple
- 2 sourcing for any story but you wouldn't close the door
 - on a story simply because it only had one source. You
- 4 would just have to interrogate properly what the motives
- 5 of that person were and what their role in that story
- 6 was.
- 7 Q. The key to the reputation and, as you say, the
- 8 commercial viability of the Times is your relationship
- 9 with your readers, both current readers and, you hope,
- 10 prospective readers. But how do you, as it were, log in
- 11 to the aspirations, reactions and view points of your
- 12 readers to what you're producing so as better to improve
- 13 your product?
- A. Firstly, as you say, I think there's long been a view 14
- 15 held by the readers of the Times, and certainly by
- 16 editors of the Times, that the most important page in
- 17 the paper is the letters page, that you understand the
- 18 range of interests, the depths of the passions and also
- 19 the extent of the knowledge of the people that you're
- 20 writing for, that at the root of the paper is a respect
- 21 for the intelligence of our readers.
- 22 In the modern world, of course, that comes at you
- 23 every which way, so I will receive not just those
- 24 letters every day, but emails directly to me, or I'll
 - get telephone calls directly to the office. There's
 - Page 79
 - a running commentary, of course, on what the paper does
- 2 and says on Twitter, not to mention in the pages of
- 3 other papers or on other blogs, so I do feel as though
- 4 we're keenly aware of what is being said about the
- 5 paper, good and bad.
- Q. On the issue of sources, paragraph 17 -- I think this
- 7 chimes with the evidence of the previous witnesses, that
- 8 aside from freelancers, it isn't the practice of the
- 9 Times to pay sources for stories; is that right?
- 10 A. That's right.
- 11 Q. On the issue of collision between private rights and
- 12 public interest, again, it may not be an issue which
- 13 often affects what the Times is writing about, but how
- 14 do you weigh up in general terms the public interest in
- 15 publishing a story against the private rights of
- 16 individuals? Where do you see the line falling?
- A. Well, this is at the heart of the work of this Inquiry, 17
- 18 I suppose. There is clearly no absolute right of
- 19 privacy and there's no absolute right of freedom of
- 20 expression, and I think that what you're always doing is
- 21 addressing what is a sliding scale. The question you
- 22 have to ask yourself is, when you authorise a level of
- 23 intrusion or when a story is going to have a certain
- 24 impact as a consequence of the exposure of the person or 25 the institution involved: what is the merit of that

1	story? What is the nature and the importance of the	1	to pay for was the right to look at what you could look
2	public interest? And it is a judgment, and it is	2	at. So there was a fee, as I remember it, for looking
3	a judgment that editors make.	3	at the at a selection of the disks before you
4	LORD JUSTICE LEVESON: Can you give any example of your		actually acquired them.
5	having to make that sort of judgment? I appreciate	5	It may be the case you know, hindsight is
6	you're not doing certain types of the stories that we've	6	a wonderful thing. You look back there may have been
7	particularly focused on.	7	a public interest defence in that case. There was
8	A. Well, I guess I'll give a recent example. In the	8	undoubtedly a public interest in the publication of that
9	pursuit of the story about the nature of the former	9	story, and going back to the point you just made, if
10	defence secretary's relationship with his friend Adam	10	there's a lesson there and I certainly this is
11	Werritty, clearly we were seeking to understand how it	11	certainly the lesson that I drew, it was that you have
12	was that Dr Liam Fox was finding himself in foreign	12	to have a set of rules in a newsroom, you have to have
13 14	capitals accompanied by this person who had no official role, and there was a line of inquiry which seemed to be	13	a set of standards and a culture, but you also have to
15	pursued which was about the nature of that personal	14	be willing to break them in the event that you're
16		15	presented with a story that is overwhelmingly in the
	relationship. You could have held off reporting on the	16	public interest.
17 18	grounds that you were concerned about treading on those toes. It seemed clear to us that there was a public	17 18	LORD JUSTICE LEVESON: That's quite a hard call before
19	interest in understanding the nature of that	19	you've got to the four corners of the story. A. It is.
20	relationship, and the line that we pursued was to	20	LORD JUSTICE LEVESON: Does that require some structure
21	understand how Adam Werritty's travels were financed.	21	around it for you or you're happy to say, "Well, that's
22	We then were it then was made available to the paper	22	my call, that's what I get paid for and I don't need any
23	the bank accounts of Adam Werritty's company, which	23	help to do that; I just need to be able to think about
24	exposed not only the way in which he spent that money	24	it"?
25	but the people who had funded him and his work.	25	A. Well, it I think there are two issues there. How do
23	Page 81	23	Page 83
	<u> </u>		
1	Clearly, that was an intrusion in terms of his life	1	you pursue a story when you don't know exactly where
2	and in terms of the individuals that had funded him.	2	it's going? That was the point about the Liam Fox/Adam
2 3	and in terms of the individuals that had funded him. I took the judgment that this was clearly in the public	2 3	it's going? That was the point about the Liam Fox/Adam Werritty example. You didn't know where you would end
2 3 4	and in terms of the individuals that had funded him. I took the judgment that this was clearly in the public interest and the nature of external influence on the	2 3 4	it's going? That was the point about the Liam Fox/Adam Werritty example. You didn't know where you would end up. In that, I think the issue is you should be able to
2 3 4 5	and in terms of the individuals that had funded him. I took the judgment that this was clearly in the public interest and the nature of external influence on the Secretary of State for defence was something the public	2 3 4 5	it's going? That was the point about the Liam Fox/Adam Werritty example. You didn't know where you would end up. In that, I think the issue is you should be able to pursue a shareholder when you're acting in the
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1	UTL:::	1	MD IAV. Many off
1	a complaint, you could say, "This isn't retrospective	1	MR JAY: Move off expenses onto a different story. There is
2	thinking; this is actually what I was thinking about at the time and there it is"?	2	a conception I'm not saying a preconception that
3		3	the Times and perhaps even the Sunday Times but I'm
4 5	A. Yes. I think one of the things that we've learnt watching this Inquiry is that there is a real value in	4 5	only asking you about the Times was rather slow to pick up the phone hacking story, possibly because of
6	having an audit trail at the very simple at the	6	external pressures. Is that fair, Mr Harding?
7	simplest level is to show that there is a process,	7	A. If you look back at the coverage of phone hacking, look,
8	because sometimes it's unclear to people outside the	8	it's clearly the case that the Guardian broke that
9	paper that we have run a very thorough process in that	9	original story in the summer of 2009. We followed that
10	investigation.	10	story immediately the following day. We had a story up
11	This comes with one caveat: I don't want a newsroom	11	online by lunchtime, another story in the paper the
12	to spend more time reporting on its own activities than	12	following day. Through the course of the months that
13	what's happening elsewhere, so I think our view is	13	followed, we covered it too, and occasionally on the
14	that and what we're putting in place is an audit	14	front page.
15	trail which is clear that when there are issues of	15	What changed, of course, was when it emerged that
16	concern, that we log those meetings and we can trace	16	the News of the World appeared to have hacked into the
17	back that	17	voicemails of Milly Dowler. Then the way in which we
18	LORD JUSTICE LEVESON: There must be a level below which:		thought about what was happening or what had happened at
19	becomes unduly bureaucratic but above which it is	19	the News of the World fundamentally changed, and that
20	appropriate to do something. The trick is going to be	20	was not just about how widespread it was, but about the
21	to find out where the level is, and that's a judgment	21	nature of the journalistic inquiry there. And after
22	call in itself.	22	that, what you saw is that we covered that story on the
23	A. I think so. I think actually, I'm not sure that the	23	front page every day, day in and day out, for the better
24	issue is at much the level as the mechanism. So in	24	part of three weeks.
25	our because sometimes it can be a very small issue	25	We not only did that in the pages of the paper; we
23	Page 85	23	Page 87
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1	that actually grows into something much bigger.	1	also ran leaders that criticised the News of the World
2	LORD JUSTICE LEVESON: Yes.	2	for not just its methods but whether or not it had lost
3	A. So I think the simplest mechanism, at least in terms of	3	its moral bearings. We criticised News International
4	the newsroom of the Times, is to be clear that when one	4	for its catastrophic handling of it and we criticised
5	of our journalists is consulting a lawyer, that we log	5	Rupert Murdoch and James Murdoch for overseeing an
6	the fact that that meeting has happened, because the	6	inadequate corporate culture that allowed this to
7	reality is that whenever there is an issue of concern to	7	happen.
8	a journalist is this going to raise concerns about	8	So I guess behind your question there is always
9	bribery, blagging, is this going to be a data protection	9	a question of whether or not we really address the
10	issue any of those, not to mention the big privacy	10	stories, whether we call it as we see it. I think in
11	issues, the first instinct is to say, "Let's consult our	11	this case what you saw was we did exactly that, and
12	lawyers."	12	I should say to the credit of the proprietors that they
13	LORD JUSTICE LEVESON: You have to be a bit careful about		never raised a finger to stop us doing so.
14	that, because if you're ever called upon to justify it,	14	Q. Might it not be said that you were a bit slow here?
15	you would want to know what somebody was thinking, and	15	I appreciate I think the timing of the Milly Dowler
16	the great snag about that, as I've seen in connection	16	story was 4 July of last year, but certainly for 18
17	with many of the statements that I've received, is	17	months before that, the Guardian was saying, "Look, this
18	people say, "Hang on, this is legal advice and I'm not	18	isn't confined to one rogue reporter; it was
19	prepared to waive privilege."	19	widespread." Wasn't it at that moment that the Times
20	A. You won't be surprised that that's what our lawyers also	20	ought to have had an interest in the importance of the
21	have told me. I think the issue here is to figure out	21	story, it might be argued?
22	a way that you log the fact of these meetings without	22	A. Yes, looking back I certainly wish that we'd got on the
23	necessarily, as I say, getting into a situation where	23	story harder earlier. The reality, of course, is that
24	you're endlessly reporting on yourselves.	24	both News International and the police poured cold water
25			
	LORD JUSTICE LEVESON: All right. Page 86	25	on it at the time, and we went to the sources that we Page 88

- 1 had to try and chase it up and ran off those. It was
- 2 only later that we could fully get to grips with it, but
- 3 of course it was and has proved a very important and
- 4 significant story.
- 5 Q. I can't expect you to start identifying the sources you
- 6 went to. Were they journalistic sources?
- 7 A. Sorry, I don't understand what you mean.
- 8 Q. You said that you went to the sources you had in order
- 9 to find out whether the
- 10 News International/News of the World line was correct:
- 11 one rogue reporter. My query was: did you go to
- 12 journalistic stories? What sort of source did you go
- 13 to?
- 14 A. I think the point that I'm making is that, looking back
- 15 on it, if you're trying to understand why was the
- 16 Guardian better sourced on this story than the Times,
- 17 I think the answer to that is self-evident: if you
- 18 wanted to bring this story, you would probably not
- 19 immediately bring it to a newspaper that was owned by
- 20 Rupert Murdoch, precisely because you had that
- 21 suspicion, even though I would take the view that that
- 22 suspicion is wrongly held.
- 23 Q. Thank you. Can I ask about the question of
- 24 proprietorial influence, if any. I suspect I know the
- 25 answer to this, but do you feel under any influence
 - Page 89

- Q. Can I ask you please about your dealings, if any, with politicians, socially or semi-socially. I've asked
- 2
- 3 similar questions of other editors. How often do you
- 4 meet politicians in the highest office or shadowing
- 5 those in the highest office?
- 6 A. I try to meet with them pretty regularly, by which
- 7 I mean once every few months, once every six months,
- 8 and -- I've noticed the fact that this has been an issue
- 9 that has come up regularly in the Inquiry and I think
- 10 I'd like to make the point that for journalists, access
- 11 is very important. It's important to speak to the
- 12 people that you write about to find out what's going on.
- 13 Sometimes it will be to make the case to them when it
- 14 comes to your criticisms of them, your questions of
- 15 them, your complaints about the way in which they're
- 16 handling things, and to give them a forum to answer to.
- 17 I have no doubt they have their own agenda when they see
- 18 us. I think I do, and I hope my journalists regularly
- speak to politicians and people of power and influence 19
- 20 and do so to pursue journalistic lines of inquiry.
- 21 Q. How often since May 2010 have you met with Mr Cameron?
- 22 A. Um --I don't have the number to hand, but he will now --
- 23 because -- do you remember since the summer they
- 24 announced a log of every time we'd met? Do you have the
- number? 25

- under pressure from the proprietor? 1
- 2 A. When I joined the paper -- I joined the paper just after
- 3 the Times had endorsed Labour at the general election
- 4 and the Sunday Times had endorsed the tories, and it
- 5 seemed quite clear to me that these were papers that
- 6 were free to express themselves, politically and in all
- 7 things, as they saw fit. In my experience, I should
- 8 say, Rupert Murdoch had a number of undertakings when he 9 bought the papers in 1981 and they are quite expressly
- 10 made that there should be no interference in the opinion
- 11 of the paper, in the political commentary of the paper,
- 12 and my experience of that is that he's always respected
- 13 that.
- 14 Q. Thank you. In terms of his contact with you, presumably
- 15 most of the time by phone, how frequent is it?
- A. It varies a great deal. So sometimes you won't hear 16
- 17 from him for weeks, then occasionally there will be
- 18 things that are happening and you'll get a couple of
- 19 calls in a week. And usually that is driven by the
- 20 news. So in the run-up to Christmas, we spoke quite
- 21 often because he was very interested, as was I, in what
- 22 was happening in the eurozone. He'd heard certain
- 23 things he wanted to talk about. He wanted to know how
- 24 I saw things. So in that context, he'll call and we'll
- 25 discuss that, as well as other things.

Page 90

- O. No, I think all we need is a broad sense of the number? 1
- A. Since May 2010, so in the last year and a half? I would
- 3 have thought around half a dozen times, maybe a bit
- 4 more, but I'm happy to go back and check and give you
- 5 the exact number.
- LORD JUSTICE LEVESON: I don't know that that's important, 6
- 7 but I just don't want you to miss the point that I think
- 8 is behind Mr Jay's question. It's entirely
- 9 understandable that journalists will want to pursue
- 10 stories with politicians, with generals, with bishops,
- 11 with judges, with whomsoever you like in our society on
- 12 a general level. The real question is whether, because
- 13 of the extent of the contact, it is possible for
- 14 newspapers overly to influence government policy. An
- 15 example could be the decision not to implement the
- amendments to the 1998 Act. 16
- 17 A. Oh, I see. (Pause)
- 18 All I can say to that is that's not been my
- 19 experience. My experience is that the subject of the
- 20 conversations that we've had are always the matters of
- 21 the day, that actually when we get in the room, the
- 22 conversation that you have with the prime minister or 23 the chancellor or the leader of the opposition is: what
- 24 direction are they taking the economy, what do they
- 25 think they should or shouldn't be doing on issues of

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1 policy. It's -- I'm just racking my brains, but I think 2 it's safe to say that that's never been the subject of 3 conversations that I've had with politicians. 4 LORD JUSTICE LEVESON: I'm not suggesting that it isn't 5 sometimes appropriate for people to be able to lobby 6 their causes. 7 A. Yes. 8 LORD JUSTICE LEVESON: But if journalists have particular 9 access and a particular megaphone, namely their 10 newspapers, I'm sure you understand the risk of the 11 perception that they may be used in some way that suits 12 the pair of them, both the journalists and the 13 politicians. 14 A. But actually, Lord Justice Leveson, I am concerned that 15 journalists would be able to walk into the offices of 16 a politician or a minister and be able to lobby their 17 own commercial causes, or their own interests. I think 18 that when people like me go into the offices of -- walk 19 down Downing Street or walk into the palace of 20 Westminster, we are there representing our readers, and 21 we should be there pursuing politicians to justify what 22 they're doing, to question them, not to be making the 23 case in the best interests of our newspaper. 24 LORD JUSTICE LEVESON: I happen to entirely agree with you, 24 25 which is why I said I'm not suggesting that it isn't Page 93 sometimes appropriate for people, and I did not 1 2 necessarily say journalists --3 A. Oh, I see, sir. 4 LORD JUSTICE LEVESON: -- to be able to lobby their causes. A. Yes. But I guess one of the reasons why we are -- and 6 I realise we're jumping ahead of ourselves, but one of

the reasons why I take and I think the paper takes such

a strong view on the issue of statutory regulation is

the one set of people that you want to trust to walk

into the offices of state and have nothing to gain or

lose by the nature of the conversation they have is

MR JAY: Do you ever get a sense, though, Mr Harding, that

equally importantly, your journalists, who are providing

A. Of course. There is a process in which politicians seek

to use the pages of the press to make their case, to win

their arguments, to secure reelection, and the job of

journalists and the job of reporters is to distinguish

between what is the official reality or the preferred

Q. It's been put to me by those who have been observing the

Page 94

political reality and what's really going on.

politicians are seeking to manipulate either you or,

13 LORD JUSTICE LEVESON: If one could.

if at all, does the Times seek to avoid that phenomenon? A. First, can I make a small defence of agenda-driven journalism? Q. Please do. A. Sometimes, a journalist or an editor will be gripped by Page 95 a particular issue or idea and will make a point of going after a particular line of reporting. So in the last year, the Times has reported again and again on, you might say, a campaigning footing about the scandal of adoption in this country and the failures of our adoption system. And similarly, we have sought, over a period of more than two years, to draw attention to the plight of a woman, Sakineh Ashtiani, who has been imprisoned and threatened with the death sentence and threatened with stoning, and you would say our coverage of that has been disproportionate. It has been in the service of an agenda. Of course it has, and that's what newspapers should do. So I make that small defence. I think that when people talk about agenda-driven reporting in terms of more broad news coverage and the service to our readers that we provide in telling them what's happening in their communities and countries, the point I'd make is that that really misunderstands the nature of a newsroom and the nature of journalists. We are a pretty independent-minded bunch of people, and we want to pursue the story and pursue it where it leads us. If you try to constrain journalists, what you'll often find is that you don't get the best people working

for you and you don't land the best stories, and

actually, more broadly, when it comes to issues of

Page 96

Times very closely that you don't like to splash on

a story that's been on the television the night before.

That's understandable these days. You therefore want

exclusives, very often from politicians, and therefore

politicians, often at short notice perhaps, to put in

A. That's an interesting -- I think quite a convoluted

observation. It's an interesting one. I would say that

my experience is that Downing Street and politicians in

general build programmes, build announcements, with

10 o'clock news. Actually, that is quite a managed and

choreographed way of dealing with the news. Actually

going out and trying to, as I say, report what's really

going on, find out what's possibly off the Downing

Street diary but nonetheless of sufficient significance

to our readers to be on the front page of the Times is

Q. We've heard a lot about agenda-driven journalism. How,

a serious way to conduct our journalism.

a view to landing them on the 6 o'clock news, on the

a particular story or spin on a story.

that exposes the risk that you might be manipulated by

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journalists.

A. If one could.

so-called exclusives?

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- 1 opinion, certainly in the case of the Times, if you're
- 2 not providing a broad range of opinion and you're not
- 3 surprising, sometimes challenging your readers, too,
- 4 you're disappointing them. So I don't feel as though
- 5 that's the nature of the Times.
- Q. Does this have something to do with your perception of 6
- 7 what your readers want, that they want to be challenged,
- 8 that they don't want to be fed a particular line on
- 9 a particular issue or a range?
- 10 A. Yes, I guess that gets back to the initial point you
- 11 made about: how do you go get a sense of where your
- 12 readers are? What's the nature of your contact with
- 13 them? You only need to read the letters page of the
- 14 Times to get a flavour of that, and as I say, I get much
- 15 more of that simply through emails and other forms of
- 16 communication.
- 17 Q. To take a non-political subject such as religion or the
- 18 conflict between religion and science, it might be said:
- 19 well, the Times is very even-handed here. It publishes
- 20 the Dawkins line and it has a range of religious
- 21 opinions which it is careful to give equal prominence to
- 22 over the course of a year. Is that right?
- 23 A. I think that absolutely is right. I remember when we
- 24 published Steven Hawkings' latest work, an excerpt from
- 25 his latest book, there was a phenomenal response. We Page 97

- also forced to think technically about some of the 8 possible responses that you will make to it.
- Q. In terms of the evidence the Inquiry received -- and of

A. It's been significantly influenced by what's been

happening here in this room. If you believe deeply in

is of enormous importance, and of course you've been

affected both emotionally by some of the evidence that

was given right at the beginning of this Inquiry but

a free press and free expression, what is happening here

- 10 course, Lord Justice Leveson will form his own view 11
- about it -- was that evidence a revelation to you or did
- 12 it merely chime with your own perception of where we
- 13 were with the press generally or certain quarters of it
- 14 in particular?
- 15 A. Both. At times, you were surprised and at times people
- 16 said things that you were familiar with. I think if you
- 17 talk about this leader and the way in which what's been
- 18 happening here has shaped it, some of the issues that we
- 19 wouldn't -- that I wouldn't previously have been quite
- 20 so exercised about I've become much more exercised
- 21 about, and some of the small -- not smaller but some of
- 22 the more technical questions have seemed to me -- have
- 23 loomed much larger. So -- I don't know whether you want
- 24 to go into it in any detail?
- 25 Q. Yes. Yes, please.

Page 99

- 1 also then heard the following day from the archbishops
- 2 of Canterbury and York, Westminster, the chief rabbi,
- 3 the leading imam in the country. I think it's important
- 4 that a newspaper like the Times is the place where
- 5 people come to debate some of the most strongly felt
- 6 issues that are alive in society.
- 7 Q. Thank you. May I come now, please, to your leader of
- 8 today.
- 9 A. Yes.
- 10 Q. Which I'm probably right in saying is largely, if not
- 11 wholly, your own work, is it?
- 12 A. I'm afraid to say it is largely my own work, but I am
- 13 lucky at the Times to have very clever people who
- 14 I consulted with. But all thoughts are mine.
- 15 LORD JUSTICE LEVESON: I certainly agree with the first 15
- 16 sentence.
- 17 A. Yes, and I could well understand if you couldn't get
- 18 further. I realise it's quite long.
- 19 LORD JUSTICE LEVESON: No, I've read it.
- 20 MR JAY: Standing back from it and before looking at the
- 21 detail, this general question: to what extent is the
- 22 leader a response to the evidence the Inquiry has heard?
- 23 In other words, would you have written the same thing on
- 24 14 November of last year, or expressed the same
- 25 opinions, rather?

Page 98

- LORD JUSTICE LEVESON: Let me make it abundantly clear this
- 2 is very valuable, because instead of using the time we
- 3 have to elicit these views from you, we can use the
- 4 views and move it on a stage, so --
- 5 A. Good.
- LORD JUSTICE LEVESON: -- to that extent, it's very helpful. 6
- 7 MR JAY: It's clear that you're keen on independent
- 8 regulation, but you draw a bright line really between
- 9 that and statutory regulation, which you are entirely
- 10 opposed to. May we just understand why you are opposed
- 11 to statutory regulation and perhaps define your terms
- 12 again?
- 13 A. There has been a great deal of discussion about how this
- 14 Inquiry could respond to the task that it's been given,
- and I think it's been very clear from Lord Justice
- 16 Leveson and from everyone involved that we don't want
- 17 a country in which the government, the state, regulates
- 18 the press, that we don't want to be in a position where
- 19 the prime minister decides what goes in newspapers and
- 20 what doesn't, and everyone agrees with that.
- 21 Then there's a second order of conversation which
- 22 is: what happens if you introduced an independent
- 23 regulator but it had some kind of statutory backstop,
- 24 that there was something in law and that the state had 25 the capacity to oversee that independent regulator? And
 - Page 100

25 (Pages 97 to 100)

1	actually, the more I thought about that, the more deeply	1	that, notwithstanding that that system has its genesis
2	opposed I was to that, because either that backstop	2	in an Act of Parliament?
3	would have been meaningless, ineffectual, or what you	3	A. So the system that you talk about, ie having an
4	have is actual state regulation.	4	independent regulator which the press funds and the
5	LORD JUSTICE LEVESON: Now let me change the word "oversee"	, 5	press respects but does not appoint, does not set the
6	and let me say "provides only a framework".	6	rules, does not manage the adjudications, that seems to
7	A. Right, this is, I guess, the third element of it.	7	me to be entirely right. As we say in the leader, we
8	I have to confess in the recent weeks I was coming	8	have to move away from a system where we're seen to be
9	around to the idea that what could happen at the end of	9	marking our own homework. So an independent regulator
10	this Inquiry would be that Lord Justice Leveson, you	10	is essential.
11	would outline a new framework for regulation and it	11	What I don't like is the prospect of that being
12	would be recognised in an Act of Parliament, and the	12	enacted by Parliament, because my concern is that once
13	more I thought about that, the more uncomfortable I was	13	you have that legislation on the statute book, any
14	with it, and it's for this reason: instead of looking	14	future infringements by the press, any future failings
15	back at what's happened in terms of phone hacking over	15	by the press and there will be there will be
16	the recent years, if you look forward ten years' time,	16	whatever we come up with here, there will be
17	and a Leveson Act was in place, my concern is that you	17	shortcomings it gives politicians the opportunity to
18	would be a journalist walking down Downing Street or	18	say, "Well, Lord Justice Leveson's work was good but
19	walking into the Commons and be aware that if you were	19	we're going to just ratchet it up a little bit through
20	potentially too critical or possibly if you sought to	20	this amendment or through that small act of
21	curry favour, that could play out in terms of	21	legislation", and that's something I'd like to I hope
22	politicians using the Leveson Act and using making an	22	that this Inquiry will think about.
23	easy amendment to the Leveson Act to take that out on	23	LORD JUSTICE LEVESON: Well, we're thinking about everything
24	you.	24	but the whole point that Mr Jay is getting at is that
25	So I know there is some people take the view:	25	all one is doing is enabling the work of an independent
	Page 101		Page 103
1	well, actually, if the press behaved very badly in ten	1	regulator, the difficulty with it being: if you don't do
2	years' time, Parliament could anyway legislate against	2	that (a) you don't need to join the club, and that's
3	you. But I think that the creation of a I call it	3	a real issue, and (b) you can't have a mechanism, which
4	a Leveson Act would give a mechanism to politicians	4	has certainly attracted some of your colleagues, that
5	to loom over future coverage, to respond to the bad	5	provides for a swifter, more expeditious and cheaper
6	press they're getting by making an easy amendment to	6	resolution of the types of issues that bring members of
7	that legislation and that would have a chilling effect	7	the public into conflict with the press.
8	on press freedom.	8	A. But, sir, what are you saying there? Because if you're
9	So I end up in a very, very strong position, which	9	saying that it's only through recognition and an Act of
10	is: I would not like to see any form of statutory	10	Parliament that you're going to be able to bind people
11	regulation of the press.	11	into that regulator, what does that mean?
12	LORD JUSTICE LEVESON: Yes. You carry on and I'll bring it	12	LORD JUSTICE LEVESON: Well, the question is I'll put it
13	up again.	13	quite bluntly: how do you solve the problem of
14	MR JAY: Can I just test this a little bit, Mr Harding?	14	a substantial publisher of newspapers saying, "I'm not
15	First of all, let's imagine that we want to create	15	prepared to participate in your independent regulator,
16	a regulator, properly so-called, we want to give it	16	either (a) because I don't like any of them, or (b)
17	a name and we want to decide how it's going to be	17	because I spend all my time criticising them and I don't
18	comprised. We could have an Act of Parliament which	18	particularly want to give them a chance to have a go at
19	establishes the framework, but then does two things:	19	me; they wouldn't be very supportive"?
20	one, sets up an independent body to decide who's going	20	A. But does that mean that you think that you have to, in
21	to comprise the regulator, and secondly then, the	21	the end, have a system whereby you have where you
22	regulator will, by definition, have, one would hope, an	22	have compulsory compliance? Because then you have
23	independent and impartial group of people who could	23	a system of licensing of newspapers.
24	start regulating the press.	24	LORD JUSTICE LEVESON: I'm not thinking anything yet.
25	Is there any principled objection you would have to	25	A. I yes.
	Page 102		Page 104

1	LORD JUSTICE LEVESON: And I have to continually say this:	1	amendment.
2	I haven't made up my mind about anything. Watch my	2	LORD JUSTICE LEVESON: I understand that, but it won't do
3	lips: I haven't. I am simply trying to tease out what	3	that. This model that we're talking about isn't
4	are the real issues and how best to create a mechanism	4	intended to identify standards, isn't intended to
5	or recommend a mechanism it will be for others, in	5	identify who should decide whether there's been a breach
6	part the press and in part others, to decide what will	6	of standards. It is merely to give some authority to
7	happen that will work.	7	independent regulation; in other words to allow it to
8	A. Yes.	8	work across the piece on the basis that otherwise it
9	LORD JUSTICE LEVESON: The absolute priority I have is that	9	won't work across the piece because you can't make it.
10	it should work, because I am struck by the history of	10	Now, I'm not requiring you to the advantage of
11	this sort of exercise not quite, an Inquiry under	11	your leader is we've moved the debate on, and I'm not
12	this legislation the number of times it has happened	12	asking you instantly to respond to any of this because
13	since the war. I don't think it's very good for the	13	I'm not responding to it myself.
14	country, I don't think it's very good for the press, but	14	A. Mm.
15	whatever one does, then there's another Inquiry,	15	LORD JUSTICE LEVESON: I'm asking the questions I repeat
16	last-chance saloon, "We'll be better", then another one.	16	something I've said before: the reason I'm asking these
17	This is why I have postulated this graph of immediate	17	questions is because this is a problem for the press.
18	improvement after some disaster and gradual drift until	18	They have to solve it in a way which works for them but
19	the next disaster, and then a big story will happen, and	19	it does have to be work for the public as well, and it's
20	you've said it yourself: there will be trouble. So the	20	therefore not sufficient to say, "Actually, it will be
21	system has to be sufficiently robust to cope with the	21	better because in some way we'll get everybody into
22	trouble, so that in ten years' time we don't have to do	22	a club today because we have to respond today, and
23	the whole thing again.	23	things will be happier in the future" for the very
24	A. And I would say that it has to be sufficiently robust,	24	reason that you identify: that actually it's not all
25	but in the event that in a decade's time you had an	25	going to work forever.
	Page 105		Page 107
1	incident along the lines of the BBC's reporting of the	1	So that's the problem.
1 2	incident along the lines of the BBC's reporting of the run-up to war in Iraq but it happened not to be the BBC	1 2	•
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- 1 perhaps -- then you could begin to see the makings of an
- 2 objection because the state again would be determining
- 3 who would be doing the reporting?
- 4 A. Yes, you would have ripped up the principle of free
- 5 speech, yes.
- Q. But if we fall short of doing any of that and we keep to 6
- 7 a framework under which, although the state sets up the
- 8 regulatory body, the regulatory body itself or via
- 9 a different body -- whether we call it a press
- 10 commission, it doesn't matter -- decides who's going to
- 11 sit on the regulator but the state has no influence over
- 12 who sits on the regulator -- do you follow me?
- 13 A. Yes.
- 14 Q. -- then your principal objection falls away, because the
- 15 state has merely set up the framework, has put the baton
- 16 down and then allowed the regulatory body to get on with
- 17 it. Do you accept that?
- 18 A. I do. I guess my point was I was coming around to
- 19 seeing that as, if you like, the least-worst objection,
- 20 and when I thought about it with an eye to the future,
- 21 I thought: my concern here is that I do not want
- 22 journalists at the Times, years from now, walking into
- the offices of politicians talking about ourselves, 23
- 24 rather than the issues that face the country, and that
- 25 we have an interest in behaving in a certain way in
 - Page 109

- LORD JUSTICE LEVESON: I'm sure that's right, and one may be
- 2 looking at the least-worst possibility. That may be so.
- 3 But if I just pick up a couple of the other points you
- 4 suggested in your leader: have you done any work on
- 5 whether the VAT legislation would permit an exception to
- 6 be made, given that VAT tends not to be attracted on
- 7 printed matter, whether it be newspapers or book, but on
- 8 other matter? That's not just a question of national
- 9 law; it's a question of European law.
- 10 A. European law. As you noticed, at the start of the
- 11 leader we said it's an unenviable task. The answer that
- 12 we've had when we've looked into this issue has been
- 13 quite contradictory. Some people said it is possible to
- 14 do; others have said it's very difficult to deal with
- 15 similar products in different ways for tax purposes.
- 16 LORD JUSTICE LEVESON: Discriminatory.
- 17 A. But as I say, unfortunately we've had contradictory
- 18 responses to that from the same place, so we're -- as we
- 19 said in the leader, we realise that you need to have
- 20 a muscular and independent regulator and it needs to
- 21 bind in newspaper publishers and to do that we think it
- 22 needs to sound in the pocket of proprietors, and what
- 23 I hope we've listed here are a few ideas that are worth
- 24 exploring. I'm sure -- these may be good; there may
- 25 certainly be better ones out there.

- 1 those offices rather than behaving in the way that
- 2 journalists should, which is in pursuit of the story.
- 3 Q. The other key point I'd like to make is that: provided
- 4 that the state has absolutely no role in the standards
- 5 which the regulatory body sets itself -- and those
- 6 standards are purely for the body to decide, either in
- 7 consultation with the press or wholly independently, but
- 8 there's likely to be a consultation process -- then
- 9 again, the principled objection falls away because the
- 10 state has no hold over what journalists can do. Do you
- 11 accept that?
- 12 A. Actually, the practical objection falls away. I think
- 13 the principled objection stands and the concern would be
- 14 over time, again, that in the event that politicians
- 15 were unhappy with the press they were getting, they
- 16 would say, "You know what? We should just tighten one
- 17 thing up, and the thing we should tighten up is the
- 18 oversight of standards. It will be easy to do; we'll
- 19 just make an amendment to the Leveson Act."
- 20 That's my concern, and I'm sorry we're labouring the
- 21 point. Obviously, as you know, before the war, the
- 22 Times endorsed appeasement. There was a real concern
- 23 that a newspaper of influence and importance had got too
- 24 close to government. I think it's really important that
- 25 we avoid that.

Page 110

- LORD JUSTICE LEVESON: That's what you and your fellow 1
- 2 editors can carry on thinking about.
 - Yes, Mr Jay.

3

- 4 MR JAY: If we move on now to the Internet. Those who
- 5 publish on the Internet are subject to the general law
- 6 and to the law of tort. May there not be a difference
- 7 between what journalists do in your paper and more
- 8 generally and what happens on the Internet? The
- 9 Internet is merely an expression of an opinion by
- 10 a blogger or whoever. It carries no more or no less
- 11 weight than that. But that which appears in your
- 12 paper -- and we'd like to think everybody else's
- 13 paper -- carries with it a specific imprimatur, that an
- 14 editor has approved it, it has been carefully sourced,
- 15 et cetera, et cetera, and therefore that we see in the
- 16 press is, by definition or as a matter of practice, much
- 17 more weighty than that we read on the Internet and it's
- 18 because of that that it requires a measure of
- 19 regulation. Do you accept that?
- 20 A. I think that certainly was true. I think that may even
- 21 hold to be true now. I'm not sure that that view of
- 22 things will endure. If you look at the speed with which
- 23 individuals are gaining really huge followings on
- 24 Twitter, for example, or through Facebook or through
- 25 their blogs, you're seeing individuals have huge

- 1 readership, sometimes bigger than national newspapers,
- 2 and I think it will feel -- we'll very quickly feel as
- 3 though we're in a strange world, where there are
- 4 significant constraints on publishing in a newspaper or
- 5 beneath the masthead of a newspaper but those can easily
- 6 be circumvented through any digital means of
- 7 communication.

6

- 8 Q. The issue of prior notification, a separate issue. One
- 9 puts this forward not as an absolute requirement --
- 10 there is unlikely in this area to be any requirement
- 11 which is absolute -- but, as it were, a presumptive
- 12 requirement that generally speaking one should follow
- 13 the principle of prior notification unless you can
- 14 demonstrate exceptions to it. After all, you've heard
- 15 the Pandora's box point, that once privacy is invaded,
- 16 privacy is lost forever. With that refinement, would
- 17 you accept the good sense of prior notification?
- 18 A. Yes. I think I do. I hope what we've laid out here on
- 19 prior notification is essentially two points. One is:
- 20 of course it's right, where possible, to contact people
- 21 in advance and it's right for reasons of decency that
- 22 you mention it. For reasons of accuracy, you want to
- 23 make sure you hear their side of the story.
- 24 The concern that I have is simply: how do you
- 25 recognise that in the future? And I think there is Page 113
 - understandable concern amongst journalists that any
- 2 significant requirement or any significant obligation
- 3 to -- for prior notification will result in a surge of
- 4 injunctions, which even if they are -- if they go
- 5 through the courts and we take the time and the money to
 - deal with them, the correct outcome is one that we see
- 7 at the end. I'd be very concerned about that.
- 8 But there was a practical point I really wanted to 9 make about prior notification. I remember a fair few
- 10 years ago I was reporting a story for the FT. I was
- 11 covering media, and I got a tip-off that one big media
- 12 company was about to launch a bid for the other, and
- 13 I called the person I knew of that company and someone
- picked up the phone and said -- it was late in the 14
- 15 evening by now -- "I'm the cleaner, I can't help you."
- 16 So I called another number there; turned out I got the
- 17 cleaner. And I called a third and again I got another
- 18 cleaner. And it later emerged, many years later
- 19 I discovered that the person who ran the company had
- 20 heard that I'd been tipped off about it and informed
- 21 every single person in the office that if they picked up
- 22 the phone, they should say they were the cleaner.
- 23 This is a rather elaborate way of saying: if you
- 24 make a requirement of prior notification, you could very
- 25 quickly get yourself in a situation where, because the Page 114

- 1 journalist cannot deliver that notification, they cannot 2
- 3 LORD JUSTICE LEVESON: It can't work that way.
- 4 A. That's my one hope. I hope there's a simple way of
- 5 dealing with this, which is: if you look in the PCC
- 6 code, as things currently stand, editors have to justify
- 7 intrusion without consent. I think editors should have
- 8 to justify intrusion without consent or prior
- 9 notification.
- 10 MR JAY: Yes. The slightly odd feature about this is that
- 11 virtually all the editors we've heard from have said in
- 12 fact it is their practice, but not an invariable one, to
- 13 give prior notification to their targets.
- 14

1

- 15 Q. It's a bit of theoretical argument.
- 16 May I turn to the issue of public interest on the
- 17 right-hand column. I think what you're arguing for
- 18 there is a public interest defence which applies to all
- 19
- laws that affect information-gathering, and I suppose 20 that would also cover logically the laws which relate to
- 21 phone hacking, which are laid out in the Regulatory
- 22 Investigatory Powers Act 2000. Have I correctly
- 23 understood where you're coming from?
- 24 A. It would. We touched on this right at the beginning,
- 25 which is to say that if a story is of significant enough Page 115
 - public interest, you should be able to justify the
- 2 intrusion. The world we live in now is very odd,
- 3 because I fear that the public interest defence we have
- 4 is currently too narrow and not sufficiently robust, but
- 5 more than that, it's very uneven, so it applies to some
- 6 laws and not to others. So we're in the odd situation
- 7 that blagging -- you can impersonate your way to
- 8 securing a document, but you could not buy that
- 9 document, say, from the knowledge that you had a public
- 10 interest defence.
- 11 And I would say that if we are going to move to a
- 12 world, which I expect we will do, where we will have a
- 13 more muscular regulator and there will be expectations
- 14 that the press treat people better, press freedom will
- 15 be best defended by having a very strong and widely
- 16 enforceable public interest defence.
- LORD JUSTICE LEVESON: Possibly we could come back to that 17
- 18 at 2 o'clock, but let's just think about this on the
- 19 way: the effect of your leader, which is the response to
- 20 all that has happened and has led to the Inquiry, is
- 21 this right, is to recommend legislation to allow the
- 22 press to publish more?
- 23 A. The response is this, is to say: we recognise, the Times
- 24 recognise, that this Inquiry has a very difficult task,
- 25 that it will want to, and rightly should, ensure that

1	the press treats people better in the future, and that	
2	it does so by giving them meaningful terms of redress in	
3	terms of their corrections, by giving a greater	
4	expectation of prior notification and a regulator that	
5	has the power to investigate and to punish. But at the	
	same time, if you are going to ensure that there is	
6		
7	press freedom in this country, you should look to or	
8	I hope this Inquiry will look to a more robust and more	
9	widely enforceable public interest defence. That's our	
10	conclusion.	
11	LORD JUSTICE LEVESON: I'd like to test some ideas on that	
12	with you, but we'll do it at 2 o'clock. Thank you very	
13	much.	
14	(1.02 pm)	
15	(The luncheon adjournment)	
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	Page 117	

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A	85:12	Alan 17:7 34:3	applies 53:9	arrived 54:6	baby 6:20 42:10	11:10 79:12
	actual 101:4	36:22	115:18 116:5	arrogant 18:22	back 2:17 15:25	87:23 89:16
ability 57:24	Adam 81:10,21	Alarm 49:21	apply 8:13 33:19	articles 10:21	17:21 19:12	105:16 107:21
able 2:7 3:25	81:23	alight 1:18 66:21	44:1 45:3 49:1	articulates	20:12 21:23,24	111:25 116:14
4:12 5:2 7:23	add 63:11 76:17	67:16	53:24 108:15	106:23	35:13 77:7	117:1
10:25 14:3	added 65:10	alive 98:6	applying 53:4	ascertain 3:15	83:6,9 85:17	bewilder 9:6
21:10 34:11 46:25 61:11	additional 24:22	allocated 61:14	appoint 11:12,13	Ashtiani 96:8	87:7 88:22	beyond 2:24 5:12
65:23 83:23	24:24	allow 68:24 76:4	16:15 103:5	aside 80:8	89:14 92:4	62:4
84:4 93:5,15	address 88:9	84:16 107:7	appointed 11:13	asked 13:19	97:10 98:20	bid 114:12
93:16 94:4	addressing 80:21	116:21	38:16 56:3	37:19 41:6	101:15 116:17	bifurcates 45:7
104:10 108:7	adjournment	allowed 30:19,25	61:18 67:18	49:20 62:15	background	big 18:15 25:22
104.10 108.7	117:15	31:20 88:6	appointment	65:7 66:2 91:2	32:5 34:15	78:11 86:10
116:1	adjudication	109:16	61:19 63:2,16	asking 54:7,9	backstop 100:23	105:19 106:19
absolute 80:18	24:15,16	alongside 75:13	appoints 24:3	87:4 107:12,15	101:2	114:11
80:19 105:9	adjudications	altogether 17:23	appreciate 34:7	107:16	bad 80:5 102:5	bigger 3:5 19:3
113:9,11	103:6	ambit 52:1	39:13 81:5	aspect 64:23	badly 102:1	86:1 113:1
absolutely 3:24	administrative	amend 106:11	88:15	aspirational	balance 33:3	billion 35:8
5:11 8:9 10:8	68:25	amending 56:23	approached	50:24	58:14	binary 20:10
23:11 41:1	adoption 96:5,6	106:20	82:18	aspirations	balanced 75:21	bind 104:10
63:25 84:9	advance 29:18	amendment	appropriate 47:8	79:11	balancing 59:1	111:21
97:23 110:4	74:15 113:21	101:23 102:6	57:15 64:15	assertion 37:12	bank 6:6 12:16	binding 31:10
abundantly	advantage	103:20 107:1	71:11 72:8	assess 8:8	12:21 81:23	binnology 7:5,6
100:1	107:10	110:19	85:20 93:5	associated 73:16	Barber 34:9	bins 7:8,14
accept 9:2 16:3	adverse 10:21	amendments	94:1	106:16	basic 6:8 55:13	bird's 54:10
21:12 27:25	advertisers	92:16 106:6	appropriately	assumed 33:6	basically 21:5	bishops 92:10
29:15 37:16	65:20	amount 5:19	70:17	attacking 17:10	basis 3:2 5:5	bit 6:19 7:11
40:23 56:12	advertising	17:19 35:7	approval 51:9,10	attempt 108:2	77:19 78:22	14:24 26:7,24
63:5 109:17	46:14	38:17 70:16,24	51:11 61:14	attend 62:6	107:8 108:3	47:25 56:18
110:11 112:19	advice 86:18	amounts 18:9	62:1 68:9	attended 72:12	bathwater 6:20	70:6 86:13
113:17	advised 49:18	analogue 40:18	approve 21:9	77:22	42:10	88:14 92:3
acceptable 28:14	affair 28:6	analyse 40:11	68:8	attention 51:5	baton 109:15	102:14 103:19
accepted 27:16	affairs 20:9	anathema 20:6 animus 4:3	approved 48:2,8	52:3,5 63:22 96:7	BBC 106:2	115:15
61:1	affect 115:19 afford 10:20		70:18,22 71:8 112:14	attitude 72:12	BBC's 106:1 bearing 12:7	bits 15:20
access 51:20	afraid 65:13	announced 91:24	arbitral 11:7	attracted 104:4		blagging 5:21
91:10 93:9	98:12	announcements	32:13	111:6	bearings 88:3 bears 43:22	6:12,13,24 86:9 116:7
accommodate	afternoon 77:7	95:11	arbitrary 65:17	attributes 21:9	44:22	blags 6:13
46:23	agency 49:10,14	answer 13:15,24	arbitrate 21:4,10	audit 69:14	becoming 65:5	Blair 9:22
accommodation		13:25 14:4	22:3	73:16,20 84:19	beginning 1:21	blank 106:11
	49.16.22.50.3		22.3	,	50gg 1.21	
73:18	49:16,22 50:3 50:25		arbitration 16:8	I 85:6.14	99:6 115:24	
73:18 accompanied	50:25	26:25 38:19,24	arbitration 16:8 16:10 22:9	85:6,14 auditable 73:20	99:6 115:24 begins 14:6	blog 37:6
73:18 accompanied 81:13	50:25 agenda 13:23	26:25 38:19,24 62:21 64:1	16:10 22:9	auditable 73:20	99:6 115:24 begins 14:6 behalf 60:6	blog 37:6 blogger 112:10
73:18 accompanied 81:13 accord 61:11	50:25 agenda 13:23 14:7,7,23 15:1	26:25 38:19,24 62:21 64:1 65:9,25 77:3	16:10 22:9 32:3	auditable 73:20 Australia 54:18	begins 14:6 behalf 60:6	blog 37:6 blogger 112:10 blogosphere
73:18 accompanied 81:13 accord 61:11 account 12:16,21	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19	26:25 38:19,24 62:21 64:1	16:10 22:9 32:3 arbitrator 16:15	auditable 73:20	begins 14:6 behalf 60:6 behave 12:5 49:4	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18	50:25 agenda 13:23 14:7,7,23 15:1	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11	16:10 22:9 32:3	auditable 73:20 Australia 54:18 54:25 55:4	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1	blog 37:6 blogger 112:10 blogosphere
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16	16:10 22:9 32:3 arbitrator 16:15 archbishops	auditable 73:20 Australia 54:18 54:25 55:4 authorisation	begins 14:6 behalf 60:6 behave 12:5 49:4	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,5
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6 book 97:25
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22 101:23 102:4	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5 29:7 32:3	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6 appear 54:21	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23 115:15	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12 awarded 12:5	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2 bench 77:8	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6 book 97:25 103:13 106:21
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22 101:23 102:4 102:18 103:2	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5 29:7 32:3 58:17 59:3,8	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6 appear 54:21 appeared 7:12	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23 115:15 arguments 94:21	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12 awarded 12:5 aware 6:23 26:6	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2 bench 77:8 beneath 76:3	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6 book 97:25 103:13 106:21 111:7
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22 101:23 102:4 102:18 103:2 103:20 104:9	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5 29:7 32:3 58:17 59:3,8 84:16 93:24	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6 appear 54:21 appeared 7:12 7:17 87:16	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23 115:15 arguments 94:21 arm's 38:12	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12 awarded 12:5 aware 6:23 26:6 44:19 50:1,5,6	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2 bench 77:8 beneath 76:3 113:5	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6 book 97:25 103:13 106:21 111:7 bottom 13:17
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22 101:23 102:4 102:18 103:2 103:20 104:9 106:5,11,12	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5 29:7 32:3 58:17 59:3,8 84:16 93:24 98:15 108:8	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6 appear 54:21 appeared 7:12 7:17 87:16 appears 29:1	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23 115:15 arguments 94:21 arm's 38:12 arose 30:1	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12 awarded 12:5 aware 6:23 26:6 44:19 50:1,5,6 69:10 80:4	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2 bench 77:8 beneath 76:3 113:5 Benjy 7:8,13	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6 book 97:25 103:13 106:21 111:7 bottom 13:17 bought 19:21
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22 101:23 102:4 102:18 103:2 103:20 104:9 106:5,11,12 110:19 115:22	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5 29:7 32:3 58:17 59:3,8 84:16 93:24 98:15 108:8 agreed 31:22	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6 appear 54:21 appeared 7:12 7:17 87:16 appears 29:1 112:11	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23 115:15 arguments 94:21 arm's 38:12 arose 30:1 arrangement	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12 awarded 12:5 aware 6:23 26:6 44:19 50:1,5,6 69:10 80:4 101:19	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2 bench 77:8 beneath 76:3 113:5 Benjy 7:8,13 best 2:12 33:16	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6 book 97:25 103:13 106:21 111:7 bottom 13:17 bought 19:21 26:23 27:1
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22 101:23 102:4 102:18 103:2 103:20 104:9 106:5,11,12 110:19 115:22 acting 16:3 84:5	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5 29:7 32:3 58:17 59:3,8 84:16 93:24 98:15 108:8 agreed 31:22 33:2 108:11,13	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6 appear 54:21 appeared 7:12 7:17 87:16 appears 29:1 112:11 appeasement	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23 115:15 arguments 94:21 arm's 38:12 arose 30:1 arrangement 60:25	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12 awarded 12:5 aware 6:23 26:6 44:19 50:1,5,6 69:10 80:4	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2 bench 77:8 beneath 76:3 113:5 Benjy 7:8,13 best 2:12 33:16 39:12 40:9	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6 book 97:25 103:13 106:21 111:7 bottom 13:17 bought 19:21 26:23 27:1 90:9
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22 101:23 102:4 102:18 103:2 103:20 104:9 106:5,11,12 110:19 115:22 acting 16:3 84:5 actions 1:21	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5 29:7 32:3 58:17 59:3,8 84:16 93:24 98:15 108:8 agreed 31:22 33:2 108:11,13 108:18,21	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6 appear 54:21 appeared 7:12 7:17 87:16 appears 29:1 112:11 appeasement 110:22	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23 115:15 arguments 94:21 arm's 38:12 arose 30:1 arrangement 60:25 array 58:10	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12 awarded 12:5 aware 6:23 26:6 44:19 50:1,5,6 69:10 80:4 101:19 awareness 73:2	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2 bench 77:8 beneath 76:3 113:5 Benjy 7:8,13 best 2:12 33:16 39:12 40:9 62:12 77:10,11	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6 book 97:25 103:13 106:21 111:7 bottom 13:17 bought 19:21 26:23 27:1 90:9 bound 32:13
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22 101:23 102:4 102:18 103:2 103:20 104:9 106:5,11,12 110:19 115:22 acting 16:3 84:5 actions 1:21 14:19	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5 29:7 32:3 58:17 59:3,8 84:16 93:24 98:15 108:8 agreed 31:22 33:2 108:11,13 108:18,21 agreeing 32:5	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6 appear 54:21 appeared 7:12 7:17 87:16 appears 29:1 112:11 appeasement	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23 115:15 arguments 94:21 arm's 38:12 arose 30:1 arrangement 60:25 array 58:10 arrest 51:18	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12 awarded 12:5 aware 6:23 26:6 44:19 50:1,5,6 69:10 80:4 101:19 awareness 73:2	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2 bench 77:8 beneath 76:3 113:5 Benjy 7:8,13 best 2:12 33:16 39:12 40:9	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6 book 97:25 103:13 106:21 111:7 bottom 13:17 bought 19:21 26:23 27:1 90:9 bound 32:13 60:16
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22 101:23 102:4 102:18 103:2 103:20 104:9 106:5,11,12 110:19 115:22 acting 16:3 84:5 actions 1:21 14:19 actively 51:13	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5 29:7 32:3 58:17 59:3,8 84:16 93:24 98:15 108:8 agreed 31:22 33:2 108:11,13 108:18,21	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6 appear 54:21 appeared 7:12 7:17 87:16 appears 29:1 112:11 appeasement 110:22 application 30:3 30:15	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23 115:15 arguments 94:21 arm's 38:12 arose 30:1 arrangement 60:25 array 58:10	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12 awarded 12:5 aware 6:23 26:6 44:19 50:1,5,6 69:10 80:4 101:19 awareness 73:2	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2 bench 77:8 beneath 76:3 113:5 Benjy 7:8,13 best 2:12 33:16 39:12 40:9 62:12 77:10,11 93:23 96:23,24 105:4 116:15	blog 37:6 blogger 112:10 blogosphere
73:18 accompanied 81:13 accord 61:11 account 12:16,21 18:19 19:17,18 19:19 58:1 76:19 accountant 67:21 accounts 81:23 accuracy 113:22 accurate 3:19 accurately 50:2 acquired 83:4 act 6:22 16:2 44:2 57:4,11 69:5 92:16 101:12,17,22 101:23 102:4 102:18 103:2 103:20 104:9 106:5,11,12 110:19 115:22 acting 16:3 84:5 actions 1:21 14:19	50:25 agenda 13:23 14:7,7,23 15:1 15:16 17:19 38:7,20 91:17 96:12 agendas 14:20 agenda-driven 95:20,22 96:14 agents 50:9,11 50:18 ages 21:23 ago 18:10 54:6 58:23 76:2 114:10 agree 16:14,14 16:14,21 21:20 21:21 27:5 29:7 32:3 58:17 59:3,8 84:16 93:24 98:15 108:8 agreed 31:22 33:2 108:11,13 108:18,21 agreeing 32:5 agrees 100:20	26:25 38:19,24 62:21 64:1 65:9,25 77:3 89:17,25 91:16 111:11 Anthony 62:18 anybody 14:5 66:3 anyway 11:15 16:25 24:12 102:2 apart 37:23 apologise 21:3 appeal 27:15,19 30:4,5,16,17 30:17,24 31:22 31:25 33:2 appeals 31:6 appear 54:21 appeared 7:12 7:17 87:16 appears 29:1 112:11 appeasement 110:22 application 30:3	16:10 22:9 32:3 arbitrator 16:15 archbishops 98:1 area 28:4 41:14 46:24 47:1 113:10 areas 8:24 21:4 28:4 66:10 argue 29:17 56:25 argued 88:21 arguing 27:9 28:16 115:17 argument 13:20 22:20 32:23 115:15 arguments 94:21 arm's 38:12 arose 30:1 arrangement 60:25 array 58:10 arrest 51:18 arrival 52:15	auditable 73:20 Australia 54:18 54:25 55:4 authorisation 68:3 authorise 80:22 authorised 70:18 authorities 22:17 authority 52:7 107:6 automated 72:1 available 48:12 49:13,15 58:3 81:22 avoid 11:24 95:21 110:25 await 51:12 awarded 12:5 aware 6:23 26:6 44:19 50:1,5,6 69:10 80:4 101:19 awareness 73:2	begins 14:6 behalf 60:6 behave 12:5 49:4 behaved 102:1 behaves 48:23 behaving 109:25 110:1 behaviour 9:16 23:8 29:10,12 39:8 belief 84:6 believe 17:2 19:12,13 26:2 26:8 28:12 48:18 51:23 53:3 54:13 68:16 99:2 bench 77:8 beneath 76:3 113:5 Benjy 7:8,13 best 2:12 33:16 39:12 40:9 62:12 77:10,11 93:23 96:23,24	blog 37:6 blogger 112:10 blogosphere 36:18 37:6,11 blogs 37:1 80:3 112:25 bluntly 104:13 board 28:6 46:22 48:16,18,22,22 49:1 62:6 63:17 66:18 bodies 18:4 body 22:1,2,2,5 25:1,8 102:20 108:8 109:8,8 109:9,16 110:5 110:6 book 97:25 103:13 106:21 111:7 bottom 13:17 bought 19:21 26:23 27:1 90:9 bound 32:13 60:16

brains 93:1	calls 31:4 79:25	CEO 70:22	63:8	10:5,18 11:7	47:7 50:14	consider 51:12
brand 26:5.7	90:19	71:15.19	choose 77:20,21	17:7 20:3	complex 84:20	64:13
brave 3:8	calmed 61:2	certain 8:23	choreographed	21:19 30:17	compliance	considerable
breach 107:5	camera 7:13	14:20,21 15:16	95:14	38:13 41:21	46:20,24 47:2	45:21
breaches 22:21	Cameron 91:21	38:17 68:7	chose 62:1	42:13 68:25	47:4,6 53:21	considerably
break 59:14 67:2	camp 9:7 18:13	80:23 81:6	Christmas 90:20	91:9 98:5,7	53:24 104:22	69:7 72:18
83:14	campaigning	90:22 99:13	circulation 25:23	103:16 116:17	complicated	consideration
breaking 77:12	96:4	108:22 109:25	circumstance	comes 9:23 12:13	65:6	29:11 62:22
bribery 69:5	Canard 12:20	certainly 15:9,14	58:23	15:18 65:17	comply 47:9	63:17
86:9	40:15	52:18 54:25	circumstances	79:22 85:11	comporting	considered 12:16
brief 39:25	candidate 61:15	58:6 59:8,15	3:12 51:11	91:14 96:25	50:25	41:8 58:15
bright 100:8	63:4,6,16	59:15 60:21	55:17 60:14,19	comfort 66:18	comprehensive	59:2
bring 17:21 20:24 74:4	Canterbury 98:2	70:13 71:3 72:23 73:7	64:16 66:5 circumvented	comfortable 18:2 43:3 67:6	3:10 62:17 comprise 102:21	considering 42:15
89:18,19	capable 8:1 capacity 41:15	79:15 83:10,11	113:6	71:19 74:1	comprised	consistent 73:9
102:12 104:6	100:25	88:16,22 97:1	civil 9:25 10:14	coming 28:5 57:3	102:18	constantly 15:16
Britain 37:4	capitals 81:13	98:15 104:4	22:16	57:18 101:8	compromise	62:7
British 46:17	career 67:21	106:16 111:25	claim 5:14	109:18 115:23	84:11,13	constitutes 39:7
57:8,22	74:21	112:20	claiming 72:9	comment 76:5,9	compulsory	constitution 57:2
broad 27:11	careful 49:8	cetera 112:15,15	claims 2:2 14:21	commentary	104:22	57:8
46:21 54:14	56:18 86:13	CFO 70:9 71:3	clarify 51:19	80:1 90:11	computer 51:20	constitutional
57:16 92:1	97:21	chaired 52:11	class 23:23	comments 75:10	51:21,22,23	55:6,10,17
96:15 97:2	carefully 14:13	chairman 13:19	classic 28:4	commercial	concept 34:10	constrain 96:22
broadly 2:15	26:12 44:9	40:21 60:9	clause 68:1	65:19 79:8	42:7 56:1	constraints 65:1
54:19 96:25	74:25 112:14	challenged 97:7	clean 66:5	84:13 93:17	conception 87:2	113:4
broad-ranging 47:18	carries 112:10 112:13	challenges 25:15	cleaner 114:15	commission 109:10	concern 22:25 27:19 29:11	consult 86:11 consultant 35:13
47:18 broke 87:8	carry 102:12	challenging 97:3 chance 42:2	114:17,18,22 clear 8:11 14:21	Commissioners	34:11 51:25	consultation
broken 5:18	112:2	104:18	33:1 49:2,10	22:19	63:7,22 75:16	110:7,8
Brooks 44:16	carving 12:8	chancellor 92:23	52:18 64:8	Commissioner's	85:16 86:7	consulted 98:14
brought 56:21	case 5:16 10:6	change 17:6	81:18 85:15	5:20	101:17 103:12	consulting 86:5
Brown 9:22	17:12 20:22	52:14,18,19,23	86:4 90:5	commissioning	109:21 110:13	consuming 78:17
brush 18:6	25:24 27:10,19	52:23 53:1	100:1,7,15	68:2	110:20,22	contact 90:14
BT 6:8	28:4,15 29:2	56:22 71:24	clearly 41:15	committee 11:20	113:24 114:1	92:13 97:12
budget 62:8	31:14 32:16,18	72:12 101:5	54:15 58:23	13:15 14:3	concerned 81:17	113:20
70:13	32:19 33:1	changed 17:23	76:20 77:5	34:21 35:22	93:14 106:3	contain 19:8
budgetary 63:23	42:3 51:6	52:25 55:2	80:18 81:11	36:1,5,6	108:12,20	43:7
budgets 65:4,10	61:16 63:15,20	87:15,19	82:1,3 87:8	common 36:8	114:7	contemplated
build 95:11,11 bunch 96:20	65:25 82:25	changes 17:8 78:4,11	clever 98:13 climate 25:19	Commons 60:22 101:19	concerns 18:16 86:8	20:15
106:3	83:5,7 87:8 88:11 91:13	changing 46:20	close 42:5 79:2	communicated	conclusion 4:22	contemporane 8:3
bundle 41:10	93:23 94:20	78:16	110:24	47:8,20	84:23 117:10	contempt 9:11
43:6 74:5	97:1	Channel 6:14	closely 15:19	communication	conduct 18:5	10:6 28:22
bundles 48:6	cases 3:5,6,6	characterisation	49:20 95:1	97:16 113:7	47:14 95:19	content 39:23
bureaucratic	6:18 12:17	58:18	club 2:13 104:2	communications	conference 77:5	contentious 3:22
85:19	14:15 16:8	charge 12:18	107:22	24:4 47:5	77:6,7,22	contents 12:15
business 35:15	33:3	charged 29:4	code 8:12,14,17	communities	confess 101:8	context 2:10
41:25 46:13	cash 52:15 68:13	chase 89:1	9:14 19:4	96:17	confidence 24:2	39:20 40:24
53:2 54:11	68:24 69:1,2	cheaper 10:23	115:6	companies 44:20	confident 50:14	42:14 70:7
82:23	69:11,14,16,18	104:5	codes 18:4	53:18,22,25	51:3	72:14 76:21
button 64:10	70:4,8,12,16	cheaply 21:11	cold 88:24	company 44:13	confidential	90:24
buy 2:13 13:20	71:4,8,17,18	check 3:19 5:2 92:4	collapse 14:11 colleagues 40:8	45:1 46:12,20	30:11 35:5	continental 108:24
19:19 26:3 40:16 116:8	71:21 72:17,20 72:24 73:2,13	92:4 checks 3:10	49:18 60:4,13	48:24 49:4 50:18,19 53:7	69:19,22,25 70:8 71:14	continually
70.10 110.0	castigate 39:8	Chequers 24:1	65:21 104:4	81:23 114:12	configuration	105:1
	catastrophic	cherished 60:24	collect 68:24	114:13,19	65:7	continue 46:11
calibration	53:12 88:4	chief 44:13 45:21	69:1,2	compelling 21:7	confined 88:18	84:16
75:24	catching 13:1	51:25 63:3	collision 80:11	competition	confines 49:17	contractor 50:22
call 19:20 37:2	cause 63:7	67:17 98:2	column 2:11,16	57:23	conflict 97:18	50:23
71:16 75:8	caused 51:24	children 38:15	2:17 36:19	complaining	104:7	contracts 12:5
83:17,22 85:22	causes 41:19	chilling 36:10	75:3,12 76:3	31:14	congress 56:16	contradictory
88:10 90:24	93:6,17 94:4	102:7	77:16,16	complaint 85:1	conjunction 72:3	111:13,17
102:3 109:9	caveat 54:15	chime 99:12	115:17	complaints 22:3	connection 86:16	contravene
called 30:8 76:3	85:11	chimes 80:7	columnist 75:13	91:15	conscious 106:17	55:12
86:14 114:13	celebrate 42:12 celebrities 42:1	Chinese-langu 55:19	combination 58:2	complete 15:8 22:2 66:12	consent 115:7,8 consequence	contribute 48:19 contributes
114:16,17 calling 9:21	cent 70:13	choice 57:23	come 2:9,15 4:2	completely 28:15	80:24	48:23
Canning 7.21	Cont 70.13	choice 57.25	Come 2.7,13 7.2	completely 20.13	00.27	70.23
<u> </u>						

	77.20 79.2 (116.4	20.12.01.10	John officials C. 1	111.17	22.1 41.2
control 51:1	77:20 78:2,6	116:4 curry 101:21	28:12 81:10	detective's 6:4	111:16	earlier 32:1 41:3
60:23 controls 69:8,9	78:13,25 79:22 80:1 87:12,15	curry 101:21 cuts 72:6	82:5,24 83:7 95:22 96:13	determine 108:7 108:14,16	discuss 77:23 90:25	88:23 early 10:24
Convention 57:7	88:23 89:3	CV 60:8	115:18 116:3	determining	discussion 46:14	easily 113:5
conversation	94:19 96:12	C V 00.0	116:10,16	109:2	100:13	easy 101:23
71:15 92:22	97:22 99:4,10		117:9	developing 51:14	disgruntled	102:6 110:18
94:11 100:21	113:20	d 64:24	defended 116:15	device 47:14	65:20	eat 21:14
conversations	court 9:11 11:1	daily 14:9 15:10	deference 29:6	devices 47:17	disks 83:3	Economist 60:10
78:2,3 92:20	11:15 14:18	76:4 77:19	define 21:16 27:3	78:12	dismiss 61:25	63:13,13 64:21
93:3	16:9,24 22:9	damages 18:9	49:8 100:11	devoted 2:23	62:3	66:8
convoluted 95:8	24:16,22,23,24	dangerous 21:18	defined 51:7	diaries 7:20 8:3	disproportionate	economy 92:24
cope 105:21	27:15 30:14	39:25	53:14,15	8:4	96:11	edit 62:10
copes 34:5	31:5,22,25	dare 12:22	defines 22:1	diary 95:17	dissimilar 63:14	edited 76:8
coping 59:5	33:2,17 34:19	data 6:22 86:9	definitely 72:17	dictated 14:7	distance 38:17	editing 61:22
copy 47:13 67:9 74:13	courtesy 43:16 71:16	date 48:9	definition 52:19 102:22 112:16	dictates 15:11 dictating 21:5	distaste 41:24 distill 108:3	editions 78:8 editor 1:14 3:17
core 41:7	courtroom 11:14	dated 1:11 43:18 43:23	definitions 28:2	difference 49:9	distinguish	11:12 14:15,25
corner 23:3	courts 11:3,3	David 1:6,9	50:7,8	53:21 56:8,24	94:22	15:2,22 23:24
corners 83:18	16:15,23 25:4	Davies 5:13	definitively	106:9,19 112:6	distinguished	24:4 28:19,20
corporate 88:6	114:5	Dawkins 97:20	31:10	differences	60:13	28:23 29:5,6
corporation	cover 5:12 45:19	day 76:10 77:4	degree 65:23	68:20,22	distribution	41:15 61:17,18
44:20 45:2,5	66:7,9 71:22	77:11 78:3	108:15	different 29:21	47:12	61:25 62:22
45:23 47:13	78:19 115:20	79:24 87:10,12	delay 30:18	33:4 36:15	divide 45:11	63:12 65:7
53:6,9	coverage 15:18	87:23,23,23	31:16	66:5 78:12	doctors 18:17	66:11,14 69:3
correct 43:21	42:1 62:12,15	92:21 98:1	delaying 33:13	87:1 106:16,25	document 47:13	69:3,4 71:15
44:5 45:6,13	77:14 87:7	days 95:3	deliberately	109:9 111:15	47:15 116:8,9	71:17 74:19
45:17,22 48:11	96:10,15 102:5	dead 13:4 37:2	57:16	differently 50:20	documents 34:2	75:2,3,5,7,9
51:15 52:13	covered 5:15,22	deal 11:8 23:12	deliver 115:1	78:14	68:16	76:3 77:9 84:9
53:11 60:19 67:11,20,24	5:24 7:5 48:14 87:13,22	25:15 27:18	delve 74:18 demise 72:10	difficult 4:11 13:9 21:3	doing 19:3,7 21:7 32:12	84:10 95:25 112:14
68:19 70:20,25	covering 114:11	36:16 90:16 100:13 111:14	demonstrate	25:19 40:5,5	34:8 35:12,20	editorial 27:11
73:14 74:22,23	covers 69:5	114:6	84:21 113:14	46:8 47:9	40:16 49:2	27:21 43:15
89:10 114:6	74:16 76:14	dealing 5:7 95:14	department	106:10 111:14	60:4 72:6,25	49:19,20,24
corrections	craft 40:10	115:5	49:24 75:19	116:24	80:20 81:6	53:12 60:20
117:3	create 102:15	dealings 46:1	77:23	difficulty 29:25	88:13 92:25	64:9 65:4,8
correctly 47:19	105:4	76:18 91:1	departure 44:16	104:1	93:22 103:25	68:2 70:13
115:22	created 31:15	death 96:9	depending 73:19	digital 39:21	109:3,6	71:8 72:4
corresponding	creating 77:10	debate 60:22	depends 3:4	113:6	door 79:2	76:12 77:15
24:21	creation 61:3	98:5 107:11	13:25 21:15	diminishes 56:6	doubt 23:11	editors 3:22 8:14
corrupt 13:4	64:16 102:3 credence 37:15	decade 12:3	69:16,19	direct 16:5 77:18 direction 92:24	91:17 Dowler 10:7	17:14,15,18 37:19 50:15,15
cost 31:16 35:19 72:6	credible 26:4	58:11	deployed 29:14 deploying 50:3	directly 2:18	Dowler 10:7 87:17 88:15	51:8 61:5,12
costly 25:18	credit 19:2 88:12	decades 13:2 decade's 105:25	50:11	41:7 55:20	Downing 93:19	62:5,8 63:21
costs 30:20,23	cricket 70:22	December 43:23	depths 79:18	57:10 75:11	95:10,16	65:2,16,23
counted 2:4	71:9 73:11	62:23 72:19,20	deputies 77:23	79:24,25	101:18	69:10 72:7
countries 13:8	crimes 9:9	74:20 78:4	deputy 69:3,4	director 24:5	dozen 92:3	79:16 81:3
13:10 21:25	criminal 9:25	decency 113:21	derivative 54:19	61:6,16	Dr 81:12	91:3 112:2
40:14 54:20,24	10:13	decide 16:16	describe 11:25	directors 45:16	draconian 11:25	115:6,7,11
58:7,25 96:17	criteria 108:22	28:19 33:10	45:7 60:9	47:22 60:1,8	draft 48:12	editorship 61:15
country 54:6,12	critical 15:21	102:17,20	described 48:20	60:15 61:3,11	drafted 57:8	editor's 68:4,8
54:15 57:10,19	22:15 101:20 criticised 88:1,3	105:6 107:5	50:2 59:7	62:1 63:14	drafting 47:11 draftsman	69:3,4
58:10,24 96:5 98:3 100:17	88:4	110:6	description 69:23	64:17 76:15,20 directorship	106:10	effect 36:10 56:17 68:15
105:14 109:24	criticising	decided 4:22 7:10 14:14	designed 36:9	35:7	draw 44:10 52:2	102:7 116:19
117:7	104:17	23:6 32:1 41:9	desk 68:3,7	disagree 19:16	52:4 63:22	effective 6:13
couple 38:25	criticisms 91:14	decides 21:17,22	Desmond 9:4	27:24 40:8	96:7 100:8	17:5
54:5 61:20	culpa 41:1	100:19 109:10	14:17 17:25	disappear 34:2,2	drew 83:11	effectively 30:6
68:22 71:5	culture 39:25	deciding 17:11	despises 39:10	disappointing	drift 105:18	35:8 54:22
75:4 90:18	52:14,20,21,24	108:10	destroyed 33:15	97:4	driven 90:19	egregious 22:21
111:3	62:9 72:13	decision 16:17	detail 13:9 19:6	disaster 105:18	drunkenness	either 16:8 21:14
course 1:20 5:1	76:25 77:2,18	18:10 29:4,7	45:19 48:15	105:19	4:16	36:9 59:7 63:5
6:22 21:23	78:1,5 83:13	84:22 92:15	57:13 82:14	disciplinary 25:8	due 9:16 31:16	63:21 64:1
25:21 34:8	88:6	decisions 28:9	98:21 99:24	discovered 12:3	44:1 55:16	70:21 72:14
37:19 41:18,18 44:1,24 53:17	current 25:19 46:17 79:9	deeply 23:22 44:24 99:2	details 12:20 69:21	52:2 114:19 discrete 1:18	57:22,24 58:8 dull 6:6	75:11 84:11 94:16 101:2
64:19 66:21	currently 11:1	44:24 99:2 101:1	detected 72:12	44:11	duii 0.0	104:16 108:16
74:19,25 75:2	44:12 115:6	defence 6:23	detective 6:1	Discriminatory	E	110:6
		3333300 0.23				
L						

		-	-	-		
elaborate 114:23	100:9 103:7	examples 69:6	extended 43:16	feature 115:10	flat 13:3	21:6 22:23
election 90:3	entitled 43:6	71:1 106:14	extensive 55:22	features 84:22	flattering 39:13	39:25 40:4,7
element 55:8	74:5	108:4	extent 10:19	fed 14:16 97:8	flavour 3:14 4:12	42:7 55:6,11
101:7	equal 97:21	exception 58:7	57:23 64:19	fee 83:2	7:23 97:14	55:13 56:7
elements 69:5	equally 48:24	68:6 71:2,3	79:19 92:13	feedback 75:4,9	Fleet 2:24	58:8 90:6 99:3
elicit 100:3	53:25 94:17	111:5	98:21 100:6	feel 2:21 26:22	flexible 27:11	99:3 109:4
else's 112:12	equivalent 64:10	exceptions 9:1	external 82:4	32:19 42:11	float 26:25	freedom 22:3
emails 75:9	error 53:12	12:8 113:14	87:6	52:14 64:6	floors 43:15	58:1 62:9 65:2
79:24 97:15	errors 8:4	excerpt 97:24	extra 56:25	76:9 80:3	flounce 18:8	80:19 84:12
embarrassed	essential 103:10	excess 71:4	extraordinarily	89:25 97:4	flow 58:4	102:8 116:14
15:23 26:22	essentially 3:17	excessive 63:24	13:5 39:18	113:2,2	focused 8:18	117:7
embarrassing	17:9 58:4	exciting 55:25	extremely 25:18	feeling 11:11	60:20 81:7	freelancers 80:8
17:24	68:22 113:19	56:1	30:5	41:22	fold 17:22	French 12:25
embedded 8:14	establishes	exclusives 94:18	ex-News 24:4	fellow 112:1	follow 109:12	frequent 46:1
23:23	102:19	95:4	eye 1:14,21 2:9	felt 10:8 57:14	113:12	70:5 90:15
embracing 39:21	esteem 39:11	executive 44:13	2:12 5:12,22	66:15 98:5	followed 63:18	Frequently
emerged 87:15	estimate 35:9	45:22 51:25	6:24 7:9,15,19	FIFA 6:18	87:9,13	46:13
114:18	et 112:15,15	63:3 108:6,7,9	8:11 14:8	fifth 48:12	following 15:16	friend 6:5 81:10
emotionally 99:5	ethical 4:19 8:19	108:13	16:18 17:9,17	fight 24:7 34:19	20:4 26:10	front 9:10 43:5
emphasis 76:7	39:7	exercise 105:11	18:11,20 19:7	fighting 35:17	44:25 47:22	77:12 87:14,23
emphasise 60:5	ethics 8:21,22	exercised 66:16	35:24 38:13,16	figure 86:21	71:21 77:11	95:18
employ 35:13	9:3 48:17,19	99:20.20	38:20 39:20,21	file 43:4,5 67:9	87:10,12 98:1	FT 114:10
50:17	48:20,23	exist 11:24 64:21	41:4,16 54:10	74:4	followings	full 1:8 4:14 43:9
employees 47:11	Europe 33:6	existence 9:24	77:10 109:20	files 59:21	112:23	57:12 67:6
49:3 50:20	European 57:4,7	existing 47:7	Eye's 7:25	films 40:5	follows 14:23	74:2 77:13
employment	58:7 111:9,10	106:20		filter 4:1	77:6	fully 44:19 89:2
33:22 45:18	eurozone 90:22	exists 21:24	$\overline{\mathbf{F}}$	final 40:21 53:17	follow-up 62:20	fundamental
employs 50:11	evening 114:15	expect 47:9	face 25:8 109:24	finalised 48:13	football 70:2	55:2,8 69:9
enabling 103:25	event 33:17	63:21 69:17	Facebook 112:24	finally 30:24	footing 96:4	fundamentally
enacted 103:12	83:14 105:25	70:21 78:9	facilitate 71:7,18	38:25	Foot's 7:2	46:13 87:19
Enchaine 12:20	110:14	89:5 116:12	facilitated 71:20	finance 12:14	force 68:17	funded 81:25
40:15	events 38:14	expectation 63:9	fact 7:17 9:15,18	67:17 71:7	forced 99:7	82:2
encompass 54:1	eventually 31:24	63:11 117:4	30:12 37:14	72:7	forcing 21:3,4	funds 103:4
ended 19:7 21:1	even-handed	expectations	56:21 58:3,5	financed 81:21	foreign 81:12	furnish 65:23
35:14	97:19	116:13	72:5 73:2 77:4	financial 3:6	foresee 39:21	further 36:2
endlessly 86:24	everybody 11:10	expected 49:4	86:6,22 91:8	28:9 65:1	foreshadow 54:8	41:12 44:6
endorse 76:22	18:19 31:10	75:14	115:12	72:19 74:21	forever 107:25	64:13 98:18
endorsed 90:3,4	42:15 107:21	expedited 30:5	factor 33:13	find 4:6 6:1	113:16	future 20:2
110:22	112:12	expeditious	factors 65:24	10:10 13:23	form 20:14 24:20	39:19,21 82:14
endure 112:22	evidence 1:12	104:5	facts 4:22	17:11 35:12	48:13 99:10	102:5 103:14
energy 2:17	2:20 5:19 7:16	expense 72:2,4	factual 75:22	38:8 57:3	102:10	103:14 107:23
enforceable	7:21 8:16	expenses 52:17	76:6	59:23 67:9	formal 62:5	109:20 113:25
57:10 116:16	11:19 16:6	71:22,25 72:9	failings 103:14	85:21 89:9	former 11:12	117:1
117:9	29:1 34:3,21	72:15 73:6,7	failures 96:5	91:12 95:16	81:9	
enforced 9:16	35:22 36:17	73:17,18,18	fair 5:19 17:3,13	96:23	formerly 45:8	G
10:11	42:14 44:7,10	82:16 87:1	39:19 51:1	finding 81:12	forms 97:15	gain 94:10
engaging 51:9	45:14 50:1,5	expensive 30:5	57:6 74:15	finds 14:8	formulate 15:12	gaining 112:23
enjoy 26:24	66:20 67:13	30:14 31:18	87:6 114:9	fine 25:2,4	forum 91:16	gather 9:4
enjoys 58:24	69:12 74:9,16	experience 54:10	fairly 8:4 15:19	fined 25:6	forward 101:16	general 8:13
enormous 99:4	76:14,17 80:7	90:7,12 92:19	fall 39:9 109:6	finger 88:13	113:9	27:20 41:13
enquiries 23:7	98:22 99:5,9	92:19 95:10	0.334	first 1:3,19 31:15	found 7:13 63:19	
-			falling 80:16	· /		46:15,24 48:18
enquiry 50:22	99:11	explain 9:23 75:1	falls 109:14	31:19 39:3	63:20	50:5,19 56:5
enquiry 50:22 69:25	99:11 evident 58:2	explain 9:23 75:1 explore 65:3	falls 109:14 110:9,12	31:19 39:3 41:22 43:8,18	63:20 four 20:13 23:7	50:5,19 56:5 57:20,24 58:24
enquiry 50:22 69:25 ensuing 34:1	99:11 evident 58:2 evolves 52:22	explain 9:23 75:1 explore 65:3 exploring 111:24	falls 109:14 110:9,12 familiar 44:24	31:19 39:3 41:22 43:8,18 44:3 46:10	63:20 four 20:13 23:7 48:11 54:17	50:5,19 56:5
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5	99:11 evident 58:2 evolves 52:22 55:1	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14	falls 109:14 110:9,12 familiar 44:24 57:12 78:21	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5 enters 37:14	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11 exaggerate 65:15	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5 exposure 80:24	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21 famously 14:8	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15 86:11 95:22	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16 framework	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9 generally 25:21
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5 enters 37:14 entertaining	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11 exaggerate 65:15 exam 55:24	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5 exposure 80:24 express 15:12	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21 famously 14:8 far 11:1 78:6	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15 86:11 95:22 98:15 102:15	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16 framework 27:21 34:15	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9 generally 25:21 33:6 45:25
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5 enters 37:14 entertaining 27:4	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11 exaggerate 65:15 exam 55:24 examine 57:25	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5 exposure 80:24 express 15:12 90:6	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21 famously 14:8 far 11:1 78:6 farm 84:11	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15 86:11 95:22 98:15 102:15 106:22	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16 framework 27:21 34:15 101:6,11	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9 generally 25:21 33:6 45:25 47:19 64:5
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5 enters 37:14 entertaining 27:4 entertainingly	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11 exaggerate 65:15 exam 55:24 examine 57:25 example 3:5 4:2	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5 exposure 80:24 express 15:12 90:6 expressed 18:16	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21 famously 14:8 far 11:1 78:6 farm 84:11 faster 10:24	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15 86:11 95:22 98:15 102:15 106:22 firstly 54:18	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16 framework 27:21 34:15 101:6,11 102:19 109:7	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9 generally 25:21 33:6 45:25 47:19 64:5 77:22 82:21
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5 enters 37:14 entertaining 27:4 entertainingly 40:12	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11 exaggerate 65:15 exam 55:24 examine 57:25 example 3:5 4:2 6:14 12:13	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5 exposure 80:24 express 15:12 90:6 expressed 18:16 60:21 98:24	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21 famously 14:8 far 11:1 78:6 farm 84:11 faster 10:24 favour 101:21	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15 86:11 95:22 98:15 102:15 106:22 firstly 54:18 79:14	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16 framework 27:21 34:15 101:6,11 102:19 109:7 109:15	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9 generally 25:21 33:6 45:25 47:19 64:5 77:22 82:21 99:13 112:8
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5 enters 37:14 entertaining 27:4 entertainingly 40:12 entirely 20:21	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11 exaggerate 65:15 exam 55:24 examine 57:25 example 3:5 4:2 6:14 12:13 14:17 29:25	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5 exposure 80:24 express 15:12 90:6 expressed 18:16 60:21 98:24 expression 80:20	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21 famously 14:8 far 11:1 78:6 farm 84:11 faster 10:24 favour 101:21 Fayed 7:14	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15 86:11 95:22 98:15 102:15 106:22 firstly 54:18 79:14 fit 90:7	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16 framework 27:21 34:15 101:6,11 102:19 109:7 109:15 France 11:24	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9 generally 25:21 33:6 45:25 47:19 64:5 77:22 82:21 99:13 112:8 113:12
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5 enters 37:14 entertaining 27:4 entertainingly 40:12 entirely 20:21 52:24 57:6	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11 exaggerate 65:15 exam 55:24 examine 57:25 example 3:5 4:2 6:14 12:13 14:17 29:25 70:23 81:4,8	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5 exposure 80:24 express 15:12 90:6 expressed 18:16 60:21 98:24 expression 80:20 99:3 112:9	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21 famously 14:8 far 11:1 78:6 farm 84:11 faster 10:24 favour 101:21 Fayed 7:14 fear 116:3	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15 86:11 95:22 98:15 102:15 106:22 firstly 54:18 79:14 fit 90:7 fits 28:18	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16 framework 27:21 34:15 101:6,11 102:19 109:7 109:15 France 11:24 12:15,17 40:19	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9 generally 25:21 33:6 45:25 47:19 64:5 77:22 82:21 99:13 112:8 113:12 generals 92:10
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5 enters 37:14 entertaining 27:4 entertainingly 40:12 entirely 20:21 52:24 57:6 78:8 84:16	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11 exaggerate 65:15 exam 55:24 examine 57:25 example 3:5 4:2 6:14 12:13 14:17 29:25 70:23 81:4,8 84:3 92:15	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5 exposure 80:24 express 15:12 90:6 expressed 18:16 60:21 98:24 expression 80:20 99:3 112:9 expressly 90:9	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21 famously 14:8 far 11:1 78:6 farm 84:11 faster 10:24 favour 101:21 Fayed 7:14 fear 116:3 fearless 62:17	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15 86:11 95:22 98:15 102:15 106:22 firstly 54:18 79:14 fit 90:7 fits 28:18 five 30:18,19	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16 framework 27:21 34:15 101:6,11 102:19 109:7 109:15 France 11:24 12:15,17 40:19 Fred 28:5	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9 generally 25:21 33:6 45:25 47:19 64:5 77:22 82:21 99:13 112:8 113:12 generals 92:10 generated 41:19
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5 enters 37:14 entertaining 27:4 entertainingly 40:12 entirely 20:21 52:24 57:6	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11 exaggerate 65:15 exam 55:24 examine 57:25 example 3:5 4:2 6:14 12:13 14:17 29:25 70:23 81:4,8	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5 exposure 80:24 express 15:12 90:6 expressed 18:16 60:21 98:24 expression 80:20 99:3 112:9	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21 famously 14:8 far 11:1 78:6 farm 84:11 faster 10:24 favour 101:21 Fayed 7:14 fear 116:3	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15 86:11 95:22 98:15 102:15 106:22 firstly 54:18 79:14 fit 90:7 fits 28:18	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16 framework 27:21 34:15 101:6,11 102:19 109:7 109:15 France 11:24 12:15,17 40:19	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9 generally 25:21 33:6 45:25 47:19 64:5 77:22 82:21 99:13 112:8 113:12 generals 92:10
enquiry 50:22 69:25 ensuing 34:1 ensure 51:5 66:11 71:19 116:25 117:6 entering 22:5 enters 37:14 entertaining 27:4 entertainingly 40:12 entirely 20:21 52:24 57:6 78:8 84:16	99:11 evident 58:2 evolves 52:22 55:1 exact 92:5 exactly 69:18 84:1 88:11 exaggerate 65:15 exam 55:24 examine 57:25 example 3:5 4:2 6:14 12:13 14:17 29:25 70:23 81:4,8 84:3 92:15	explain 9:23 75:1 explore 65:3 exploring 111:24 explosion 36:14 explosions 72:11 exposed 81:24 exposes 95:5 exposure 80:24 express 15:12 90:6 expressed 18:16 60:21 98:24 expression 80:20 99:3 112:9 expressly 90:9	falls 109:14 110:9,12 familiar 44:24 57:12 78:21 99:16 family 6:6 23:22 44:21 famously 14:8 far 11:1 78:6 farm 84:11 faster 10:24 favour 101:21 Fayed 7:14 fear 116:3 fearless 62:17	31:19 39:3 41:22 43:8,18 44:3 46:10 48:11 50:16 59:18,19 62:21 67:6 72:23 76:25 84:15,15 86:11 95:22 98:15 102:15 106:22 firstly 54:18 79:14 fit 90:7 fits 28:18 five 30:18,19	63:20 four 20:13 23:7 48:11 54:17 65:24 83:18 Fox 81:12 Fox/Adam 84:2 fraction 58:11,16 framework 27:21 34:15 101:6,11 102:19 109:7 109:15 France 11:24 12:15,17 40:19 Fred 28:5	50:5,19 56:5 57:20,24 58:24 73:4 80:14 90:3 92:12 95:11 98:21 112:5 generality 46:9 generally 25:21 33:6 45:25 47:19 64:5 77:22 82:21 99:13 112:8 113:12 generals 92:10 generated 41:19

	04.0.17.04	(4.21.07.0	112 14 114 20	101.0	45.1	6 10 0 0 16
generic 69:23	84:2,17,24	64:21 87:8	113:14 114:20	101:9	45:1	6:19 8:8,16
genesis 103:1	85:20 86:8,9	88:17 89:16	115:11	ideal 65:7	incorporation	9:10 10:10
genuine 12:9	91:12 94:24	guess 14:15 81:8	hearing 1:24	ideas 20:3 82:13	78:14	11:12 15:19
Germany 58:8	95:15,16 96:2	88:8 94:5	17:13 45:14	111:23 117:11	increased 25:23	41:14,18,21,23
getting 19:22	102:17,20	97:10 101:7	heart 80:17	identify 67:16	incredibly 13:5	42:10 43:14
71:11 73:17	103:19 104:10	109:18	heartened 40:14	107:4,5,24	incurred 73:17	44:25 46:19
77:11 86:23	106:6,22		heavily 17:14	identifying 2:7	independence	51:18 52:8
102:6 103:24	107:25 108:10	H	heinous 9:9	89:5	60:25 61:4	58:13 76:21
110:15	109:10 116:11	hack 28:24	held 79:15 81:16	illegal 9:11,12,12	66:12 84:11	80:17 81:14
girl's 28:24	117:6	hacked 87:16	89:22	9:13 10:9 50:4	independent	85:5 87:21
gist 16:1	good 1:8 5:17 6:3	hacking 5:12	help 66:8 83:23	illegally 22:25	17:3,6 21:10	91:9,20 98:22
give 1:20 2:8 4:7	6:17 33:14	23:5 28:23	114:15	ill-sufficiently	45:15 47:22	99:6,9 100:14
4:12 7:23	37:8 38:17	52:1 62:13,16	helped 11:16	106:18	50:22,23 56:10	101:10 103:22
10:14 12:12	39:8 42:1,2,13	87:5,7 101:15	helpful 44:21	imagine 38:19	60:1,7,15 61:3	105:11,15
14:3 27:20	70:23 76:19	115:21	60:3 100:6	102:15 108:6	61:6,10 64:17	116:20,24
29:5,25 30:1	80:5 84:18	half 70:10 92:2,3	he'll 59:13 90:24	imam 98:3	76:15,20 100:7	117:8
32:20,24 42:13	100:5 103:18	Hammond 41:2	high 39:11 71:1	immediate 35:16	100:22,25	Inquiry's 52:2,5
45:18 46:25	105:13,14	hand 49:10,14	higher 82:8	105:17 106:14	102:20,23	inquisitorial
51:11 59:19	111:24 113:17	52:16 72:15,16	highest 91:4,5	immediately	103:4,9,25	32:15
65:9 81:4,8	goodness 13:2	74:4,12 91:22	highlight 61:14	33:21,23 87:10	104:15 107:7	inquisitorially
91:16 92:4	goods 82:23	handling 88:4	hindsight 83:5	89:19	111:20	11:8
97:21 102:4,16	Goodwin 28:5	91:16	Hinton 63:2	impact 80:24	independently	inside 2:16,20
104:18 107:6	Gordon 9:22	hands 6:12	Hislop 1:3,6,8,9	impartial 17:3	110:7	insight 38:9
108:4 115:13	governance	Hang 86:18	2:5 3:3 9:24	21:10 102:23	independent	insights 41:20
given 2:18,25	50:19	happen 8:2	11:19 20:19	impersonate	96:20	insist 4:21 70:4
3:14,20 8:16	governing 53:1	16:18 17:22	25:25 31:2	116:7	indication 2:8	instance 61:16
16:6 34:3	government	25:13 33:15	34:21 40:25	implement 92:15	individual 51:19	instantly 107:12
40:10 42:12	18:19 55:11,21	75:8 78:3 88:7	history 45:18	implemented	individuals 2:7	instinct 86:11
47:23 51:3,10	56:21 61:1	93:24 101:9	51:3 58:8	48:3 56:1 73:8	17:10 53:4	institution 80:25
58:20 60:17	65:21 92:14	105:7,19 106:7	105:10	implication	80:16 82:2	intelligence
62:22 99:6	100:17 106:13	happened 6:10	hit 37:5	82:19,20	84:14 112:23	79:21
100:14 111:6	110:24	23:6,12 35:1	hold 110:10	implicit 62:21	112:25	intend 58:20
gives 10:17 24:2	Grabiner 52:12	41:17 61:9	112:21	importance	indulges 6:25	intended 107:4,4
37:14 39:24	54:8	86:6 87:18	holding 58:1	65:15 81:1	industry 47:24	interaction 9:17
56:25 62:10	gradual 105:18	101:15 105:12	Holdings 45:10	88:20 99:4	ineffectual 101:3	38:1
74:15 103:17	Granger 34:22	106:2 116:20	60:2 62:7	110:23	inevitably 31:4	interactions
give-away 7:18	35:3	happening 44:12	holds 39:11	important 23:8	inextricably	37:20,23
giving 44:10	grant 30:15	85:13 87:18	49:11	24:14 29:20	60:16	interactive 78:15
62:14 117:2,3	granted 30:3	90:18,22 96:17	hole 64:24	42:8,16,19	influence 12:4	interest 6:23
glaring 8:4	graph 105:17	99:2,3,18	homework 103:9	60:23 64:7	17:19 55:21	8:10 11:16,18
go 14:15 15:25	graphics 78:15	happens 13:10	honest 9:18	66:1 77:9	61:12 63:24	12:9,24 27:8
16:9,15 17:10	grasp 8:23 106:8	21:13 25:11	57:20	79:16 84:7	82:4 89:24,25	27:12 31:1
18:21 19:5,12	grateful 43:16	30:22 100:22	Hong 55:16,17	89:3 91:11,11	91:19 92:14	34:18 49:1
21:14 22:8,9	60:3	112:8	hope 9:21 19:20	92:6 98:3	109:11 110:23	58:12 80:12,14
25:3 32:9 37:2	great 23:12	happier 107:23	25:13 32:8	110:24	influenced 99:1	81:2,19 82:4,7
38:1 40:16	58:10 86:16	happy 83:21	42:9,11 59:3	importantly	informal 62:5	82:24 83:7,8
42:9 44:6	90:16 100:13	92:4	66:4 79:9	94:17	information 2:9	83:16 84:6,24
56:15 61:17	greater 57:4 58:5	hard 47:12 83:17	91:18 102:22	impose 24:21	5:20 22:19	88:20 109:25
66:14 75:18	82:7 117:3	harder 88:23	103:21 111:23	imposed 108:23	29:15 38:8	115:16,18
89:11,12 92:4	greedy 6:15	Harding 62:23	113:18 115:4,4	imposition 15:1	40:11 49:13	116:1,3,10,16
93:18 97:11	grey 8:24 28:3,4	63:20 73:23,24	117:8	impossible 28:3	53:3 84:22	117:9
99:24 104:18	grindstone 19:10	74:1,3 87:6	hoping 38:8	imprimatur	information-g	interested 34:10
114:4	gripped 95:25	94:15 102:14	hospital 3:6	37:15 112:13	115:19	41:16 46:9,13
goes 47:10 50:9	grips 89:2	108:2	hours 61:20	imprisoned 96:9	informative 27:2	46:15,16,18
69:6 100:19	grounds 28:8	harshly 28:11	house 6:16 14:10	improve 47:5	informatively	90:21
going 1:17 6:9	62:3 81:17	hat 106:16	60:22	79:12	40:12	interesting 10:18
7:13 14:11,14	group 45:4,7	Hawkings 97:24	huge 112:23,25	improvement	informed 114:20	65:6 95:8,9
14:23 15:12	60:10 102:23	head 68:3 75:19	hugely 40:14	105:18	infringements	interests 65:19
19:20 30:15	groups 19:3	headline 14:14	Human 57:11	inadequate 88:6	103:14	79:18 93:17,23
33:10 35:12,18	grows 86:1	headlines 12:14	hundred 75:4	inappropriately	initial 97:10	interference
35:18 37:4	grudge 3:20 4:3	heads 68:7 77:22	hung 1:24	22:24	injunction 28:5	90:10
43:4 45:19	4:7,9	hear 47:25 59:13	hurdle 106:25	incident 106:1	30:2,4,16	Interim 68:15
47:24 48:14	guarantee 55:11	90:16 113:23		included 6:9	31:15,20	intermediary
49:5 51:16	guarantees 57:2	heard 34:9 58:21	I	45:8	injunctions	16:2
54:13 59:21	57:2	63:1 76:16	Ian 1:3,6,9	incorporate	31:17 114:4	internal 51:21
67:16 68:13	Guardian 5:13	90:22 95:20	idea 9:6 38:18	74:11	Inquiries 44:2	52:9,10 64:8
80:23 83:9	5:18 19:1 39:4	98:1,22 108:24	64:20 96:1	incorporated	inquiry 5:19	International
	<u> </u>	l 	<u> </u>	<u> </u>	l 	<u> </u>

0 17 01 17 00	00 6 11 12		115 2 116 17	1.4. 67 10 114 14	75.0.76.4	1 22 5 27 0
9:17,21 17:20	80:6,11,12	journalistic	115:3 116:17	late 67:19 114:14	75:9 76:4	line 23:5 27:9
23:21 43:6,14	84:4 85:24,25	87:21 89:6,12	117:11	latest 97:24,25	79:17,24 97:13	70:18 80:16
44:12 45:20,24	86:7,10,21	91:20	justify 27:23	launch 114:12	let's 9:18 13:4	81:14,20 89:10
46:11 50:11	91:8 94:8 96:1	journalistically	28:3 86:14	law 9:25,25	86:11 102:15	96:2 97:8,20
63:3 67:18,22	97:9 104:3	78:13	93:21 115:6,8	11:25 13:11	116:18	100:8
74:5 88:3,24	111:12 113:8,8	journalists 2:23	116:1	19:14,15,18	level 37:15,15	lines 13:25 20:13
International/	115:16	2:25 3:18 4:15		22:12,13,21	41:24 46:8	24:17 39:5
89:10	issues 11:8 17:17	13:22 72:23	K	27:14 30:9,9	64:24 80:22	40:3 65:14
Internet 36:16	21:20 33:12	84:12 86:5	keen 100:7	56:16,19 57:9	82:8 85:7,18	91:20 106:1
37:12 39:20	46:17,21,21	91:10,18 92:9	keenly 80:4	100:24 111:9,9	85:21,24 92:12	lips 105:3
47:17 112:4,5	47:15 51:24	93:8,12,15	keep 18:18 39:22	111:10 112:5,6	Leveson 1:5 2:2	list 65:24 70:18
112:8,9,17	52:1 57:25	94:2,12,17,22	109:6	lawful 50:12	10:13,17 11:4	listed 111:23
interrogate 79:4	64:5 74:16	96:19,22	keeping 19:9	laws 9:14,15	11:6,11 13:21	listened 41:3
intersection	83:25 85:15	108:21 109:22	keeps 28:4	22:15 55:12	18:15 19:1,8	listening 6:7
11:17	86:11 92:25	110:2,10 112:7	kept 17:23 19:17	115:19,20	19:23 22:13	literally 40:16
intervene 55:12	96:25 98:6	114:1	19:18,19	116:6	23:11,15 24:9	litigation 33:13
intervenes 56:14	99:18 104:6	jousting 11:9	key 39:23 79:7	lawyer 86:5	24:12 25:6,11	little 12:2 14:24
56:14	105:4 109:24	judge 11:13	110:3	lawyers 3:23	28:17 31:2,8	76:2 102:14
intervention	Italy 55:20 56:3	28:18,19 29:4	kill 33:17	18:18 35:4,15	31:22 32:4,11	103:19
56:6,9 57:5	56:4	30:2	kind 100:23	57:8 86:12,20	32:18,25 33:8	live 78:9 116:2
interviewed	item 53:15	judges 18:18	106:7	lay 22:3	33:12 34:4,8	lives 12:10 13:6
61:19 63:18	iv 48:9	92:11	kindly 59:18	Le 12:20 40:15	34:14 36:4	lobby 93:5,16
intimate 12:10	10.7	judgment 10:25	Kingdom 54:19	leader 74:12,18	41:13 42:11,21	94:4
intranet 47:16	J	27:21 28:20	55:5 57:1,21	77:6,16 92:23	43:12 52:11	lobbyist 6:15
48:12	James 62:23	29:5 81:2,3,5	57:25 58:6	98:7,22 99:17	54:5,23 55:25	located 59:23
introduced 76:2	63:20 73:23,24	82:3 85:21	knee-jerk 65:21	103:7 107:11	56:8,13,18	log 79:10 85:16
100:22	74:3 88:5	judgments 27:11	knew 6:10	111:4,11,19	57:6,14 58:16	86:5,22 91:24
intrusion 80:23	January 1:1,11	July 44:17 47:1	114:13	116:19	59:3,9,15,25	logically 115:20
82:1,8 115:7,8	30:17	72:10 88:16	know 7:19 15:15	leaders 88:1	66:23,25 73:11	long 18:10 31:6
116:2	Jay 1:3,7,8 2:5	jumping 94:6	18:8 27:14	leading 75:13	73:15,21 76:11	32:7 35:11
intuitively 8:24		June 67:19 72:20	32:20 38:19	98:3	81:4 82:7,11	41:5 79:14
15:2	11:16 20:2	jury 1:24		leads 96:21	83:17,20 84:15	98:18
inundated 22:19	24:13 25:15	justice 1:5 2:2	40:18 42:4	106:14	85:18 86:2,13	longer 20:8 21:6
invaded 113:15	29:4 34:21	10:13,17,23	49:15 50:24	leakage 51:4	86:25 92:6	look 11:19 13:6,7
invariable	36:8 41:11	11:2,4,6 18:15	56:4 57:7 64:1	learn 55:16 56:5	93:4,8,14,24	13:9 15:18,19
115:12	42:23 43:2,3	19:1,8,23	70:8 72:23	learned 32:23	94:4,13 98:15	18:17,17,18
investigate 23:20	43:18 54:2	22:13 23:11,15	74:12 82:6	learnt 85:4	98:19 99:10	20:3 23:16
	59:12,17,18		83:5 84:1,3,17			49:7 57:22
84:12 117:5	60:7 66:19	24:9,12 25:6	86:15 89:24	least-worst 109:19 111:2	100:1,6,16	58:9 59:1 83:1
investigated 22:22	67:3,5,6 73:10	25:11 27:10	90:23 92:6		101:5,10,17,22	
	73:22,25 74:1	28:17 31:2,8	99:23 101:25	leaving 61:17	101:23 102:4	83:1,6 87:7,7
investigation	76:14 82:13	31:22 32:4,11	106:13 108:25	lecture 39:25	102:12 103:23	88:17 101:16
5:21 52:9,10	84:16 87:1	32:18,25 33:8	110:16,21	led 84:23 116:20	104:12,24	112:22 115:5
85:10	94:15 98:20	33:12 34:4,8	knowing 13:10	Lee 67:4,8	105:1,9 106:5	117:7,8
investigations	100:7 102:14	34:14 36:4	knowledge 16:5	left 36:17	106:8,24 107:2	looked 74:25
52:5	103:24 108:2	41:13 42:11,21	49:16 53:14	legal 9:24 32:8	107:15 110:19	111:12
investigative 7:3	112:3,4 115:10	43:12 52:11	79:19 116:9	33:25 86:18	111:1,16 112:1	looking 7:14
25:16,17	Jay's 92:8	54:5,23 55:25	Kong 55:16,18	legally 50:25	115:3 116:17	15:10 19:24
investigator 49:9	jealousy 57:22	56:8,13,18		56:2,3	117:11	23:20 40:13
49:11	job 62:9 65:25	57:6,14 58:16	L	legislate 102:2	Leveson's	77:24,25 83:2
investigators	77:9 94:21,22	59:3,9,15,25	Labour 90:3	legislation 102:7	103:18	88:22 89:14
50:17 51:7,9	join 104:2	66:23,25 73:11	labouring	103:13,21	liabilities 10:15	98:20 101:14
Investigatory	joined 90:2,2	73:15,21 76:11	110:20	105:12 106:15	Liam 81:12 84:2	111:2
115:22	joint 30:20	81:4 82:7,11	lack 23:18	106:17,20,21	libel 1:21 14:19	looks 49:14
invite 26:12	joke 14:12	83:17,20 84:15	laid 113:18	106:22 111:5	36:12,13	loom 102:5
38:13	journalism 6:20	85:18 86:2,13	115:21	116:21	licensing 104:23	loomed 99:23
involved 2:18 4:5	7:3 25:16,17	86:25 92:6	land 96:24	legitimate 3:12	108:22	Lord 1:5 2:2
5:25 9:19 23:4	40:6,9 41:25	93:4,8,14,24	landing 95:12	82:8	lies 26:2,16	10:13,17 11:4
45:20,23 73:12	42:7 54:11	94:4,13 98:15	language 28:18	length 38:12	84:10	11:6 18:15
80:25 100:16	78:16 95:19,20	98:19 99:10	47:10	lent 34:1	life 28:7 39:9	19:1,8,23
involvement	95:23	100:1,6,15	large 26:14 57:8	Les 63:2	82:1	22:13 23:11,15
21:2	journalist 4:5	101:5,10	largely 98:10,12	lesson 32:23 56:5	light 70:20	24:9,12 25:6
involving 28:9	5:1 29:10,13	102:12 103:18	larger 99:23	83:10,11	liked 23:22	25:11 28:17
Iraq 106:2	29:14 35:2	103:23 104:12	largest 78:6	Lester 62:18	limit 57:5	31:2,8,22 32:4
isolated 74:17	55:24 68:23	104:24 105:1,9	Lascelles 59:16	letter 29:19	Limited 45:4,8	32:11,18,25
issue 5:7,22	69:1 75:18	106:8,24 107:2	59:20	33:20,24 35:4	45:10 60:2	33:8,12 34:4,8
11:16,17 27:25	86:8 95:25	107:15 111:1	last-chance	35:16,16,21,24	62:7	34:14 36:4
31:9 50:6 51:2	101:18 115:1	111:16 112:1	105:16	letters 36:8 75:3	limits 70:16	41:13 42:11,21
	I		1	1	I	I

	1	I	I	l	1	
54:5,8,23	35:6	31:17 32:1,13	65:12 107:14	69:21,22 74:2	newspaper 5:3	24:10
55:25 56:8,13	manage 103:6	32:22 34:5	MMR 40:24 41:2	102:17	14:20 15:11,11	nuclear 64:10
56:18 57:6,14	managed 95:13	56:10 85:24	Mm-hm 18:1	names 5:25	15:15 18:23	number 1:18
58:16 59:3,9 50:15 25 66:22	management	86:3 102:4 104:3 105:4.5	Mockridge	Napier 30:2,8	20:16 21:12 37:14 60:1	6:15 8:4 17:18
59:15,25 66:23 66:25 73:11,15	53:5,6,8,15 manager 6:6	mechanisms	42:24 43:1,3 43:10,12,18	32:2,11 narrow 28:3	78:7 89:19	26:14 35:2 40:8 43:15,22
73:21 76:11	managing 50:15	54:21	44:9 48:25	116:4	93:23 98:4	44:11,22 49:6
81:4 82:7,11	68:4,8 69:4,4	media 18:23	50:8,21 51:16	national 45:15	110:23 111:21	62:4,20 66:22
83:17,20 84:15	72:6	72:11 114:11	54:2,5	47:22 60:1,7	113:4,5	82:17 90:8
85:18 86:2,13	mandatory 21:2	114:11	model 64:14,15	61:3 62:1	newspapers	91:22,25 92:1
86:25 92:6	33:5,8	mediator 16:2,3	64:19,22 70:11	63:14 64:17	12:19 14:5,6	92:5 105:12
93:4,8,14,24	manifestations	medical 2:16	107:3	76:20 111:8	17:10 18:21,24	106:6 114:16
94:4,13 98:15	14:22	meet 37:21 38:2	modern 79:22	113:1	25:22,25 26:6	numbering 64:9
98:19 99:10	manipulate	91:4,6 108:22	modification	nature 2:8 71:14	37:5,7 45:8,10	numbers 6:2,5
100:1,6,15	94:16 108:10	meeting 38:6	76:12	81:1,9,15,19	48:17 53:22	nutshell 37:22
101:5,10	manipulated	46:23 86:6	modus 49:22	82:4 87:21	55:23 58:6	68:20
102:12 103:18	95:5	meetings 62:5,6	moment 11:9	94:11 96:19,19	62:6,10 75:8	
103:23 104:12	manner 49:4	78:1 85:16	36:20 37:10	97:5,12	92:14 93:10	0
104:24 105:1,9	75:15 78:20	86:22	39:22 45:15	nearly 2:24 13:4	96:13 100:19	obey 19:14
106:8,24 107:2 107:15 111:1	manoeuvres 28:10	megaphone 93:9	47:25 88:19	neatly 11:18	104:14,23	objection 102:25
107:15 111:1	March 72:1 73:8	members 6:16 19:20 48:16,18	money 9:12,13 10:20 23:9,18	necessarily 19:23 22:23	106:3 111:7 113:1	108:3,5 109:2
115:3 116:17	marketplace	68:25 104:6	24:7,9 25:18	32:4 33:16	newspaper's	109:14,19 110:9,12,13
117:11	57:23	memory 8:1	31:11 34:12,17	46:10 50:21	77:4	objectionable
Lords 6:16	markets 54:18	mention 80:2	35:7 71:12	58:17 59:5	newsroom 78:12	108:9,18,25
lose 94:11	55:15 58:2	86:10 113:22	73:12,15 81:24	82:24 86:23	83:12 85:11	objective 47:18
lost 18:8 27:14	marking 103:9	mentioned 82:21	114:5	94:2	86:4 96:19	48:21 62:17
30:21 60:25	marshalling 4:21	mere 47:14	monthly 46:23	necessary 82:19	newsrooms	obligation 114:2
88:2 113:16	masthead 113:5	merely 50:24	months 30:18,19	need 8:24 9:14	13:21	observation
lot 2:14,17,18,20	material 41:3,8	99:12 107:6	30:24 41:19	10:1 13:11	NGN 53:19	14:12 47:6
2:20 3:4 5:4,15	68:11	109:15 112:9	52:21,25 54:6	16:1 32:21	NHS 33:22 34:22	95:9
8:15 10:4,19	matter 32:4	merit 80:25	58:21 72:20,24	35:19 38:12	NI 45:4 46:22	observations
14:5,22 17:7	33:23 44:7	message 49:3	87:12 88:17	51:8 62:9	48:16 53:6,24	46:16 54:16
18:5 21:20	109:10 111:7,8	met 91:21,24	91:7,7	83:22,23 84:19	Nick 5:13	observing 94:25
23:4 28:22	112:16	methods 50:3,4	moral 88:3	92:1 97:13	night 95:2	obtain 29:14
34:3,12,17 42:5 47:10	matters 21:11 22:4 35:5	50:12 88:2 middle 21:23	Morgan 7:20 morning 1:8	104:2 111:19 needs 10:10	nit-picking 19:5 noble 40:10	obvious 25:17
62:14 72:25	43:24 63:22,23	76:24	74:13	58:14 59:1,12	non-cash 73:4	obviously 4:25
73:1,2,12	66:22 92:20	mid-morning	motive 38:5	111:20,22	non-confidential	14:18 17:8,24 18:2 21:13
95:20	MD 41:2	77:6	motives 4:8 79:4	nervous 72:24	69:20,20	26:14 32:16
low 26:7	mea 41:1	mid-position	Motorman 5:21	never 16:19	non-political	36:9 39:24
lower 64:24	mean 3:8 4:7,23	8:23	5:24	30:23 51:10	97:17	52:22 67:21
loyal 3:1	6:3 9:18 12:18	millions 23:9	move 8:10 27:7	88:13 93:2	noon 59:12	69:17 71:7,13
lucky 98:13	12:25,25 19:12	Milly 10:7 87:17	29:21 87:1	new 24:20 41:20	normally 106:15	71:18 72:25
luncheon 117:15	21:15 23:7,18	88:15	100:4 103:8	54:18 55:4	nose 19:9	76:15 110:21
lunches 38:1,14	23:24 24:6,25	mind 105:2	112:4 116:11	56:23 61:17,18	note 7:9 54:20	occasion 61:23
lunchtime 87:11	26:1 27:14	mindset 15:3	moved 107:11	62:22 72:7	63:12 68:6	62:4 82:22
	28:23 37:3,4	mine 98:14	moving 78:11,12	73:8 101:11	notes 6:4	occasionally
<u>M</u>	38:7,13 40:13	minister 8:5 9:22	MP 11:13	106:21	notice 74:15 95:6	37:21 38:2
mad 28:11	47:12,16 63:1 63:24 77:1	12:18 24:3 56:2 92:22	MPs 6:15 38:13 38:14 82:16	newcomer 54:15	noticed 91:8 111:10	87:13 90:17
maelstrom 57:18	89:7 91:7	93:16 100:19	38:14 82:16 multiple 79:1	news 9:17,21 13:2 17:20	notification	occupy 22:16
magazine 2:14 39:23	104:11,20	Minister's 23:25	murder 10:6	19:21 23:21	21:19 29:22	occurred 9:7 October 11:20
Mail 14:9 15:10	meaning 10:25	minute 58:11,16	murdered 28:24	26:23 27:2	30:1 32:20,24	43:19 67:10
maintaining	meaningful	minutes 59:13	murderer 29:2	43:6,14 44:12	33:5,9 34:2	74:8
22:18	117:2	66:25	Murdoch 14:21	44:20 45:2,5,7	113:8,13,17,19	odd 7:12 115:10
major 20:16 28:9	meaningless	misbehaving	23:22,24 46:1	45:9,20,23,24	114:3,9,24	116:2,6
majority 69:11	101:3	4:15	60:18,23 61:1	46:11,15 47:13	115:1,9,13	offence 25:1
making 4:16	means 8:21 28:2	miscellany 82:15	88:5,5 89:20	50:11 53:6,9	117:4	offences 10:5
33:18 37:10	28:13 29:13	missed 15:20	90:8	63:3 67:18,22	notified 52:7	offer 6:17
46:19 84:21	78:16 113:6	mistake 40:23	muscular 111:20	68:7 72:10	notify 29:18	offered 6:16 63:8
89:14 93:22	meant 40:5	mistress 13:3	116:13	74:5 77:5,12	33:10,14	82:15
101:22 102:6	78:13	misunderstands		77:14,21 87:16	noting 5:13	office 56:4,22
makings 109:1	measure 61:11	96:18	N 1.0.17.22	87:19 88:1,3	notwithstanding	68:4 79:25
malicious 4:3	112:18 mechanics 5:15	misunderstood 37:25	name 1:8 17:23	88:24 89:10 90:20 95:12,13	103:1 November 98:24	91:4,5 114:21
malpractice 2:23	mechanism 31:9	Mm 24:11 31:7	17:23 43:9 50:10 67:7	95:14 96:15	nuanced 14:25	officer 44:13
man 30:8 33:21	incenanism 31.9	1 41111 44.11 31.7	59:19 67:7	73.14 70.13	nuanctu 14.23	45:22 51:25
<u> </u>	-	-	-	-	-	-

67:17	overambitious	69:17	Pause 92:17	permit 22:23	39:15 40:21	54:24 87:5
offices 7:9 65:9	52:24	paper's 76:7	pay 12:22 25:2,4	111:5	45:19 51:13	95:16 101:20
93:15,18 94:10	overheated	paper s 70.7 paper-based	80:9 82:21	permits 56:10	55:4,18 58:14	116:17
109:23 110:1	65:20	72:2	83:1	person 3:7,11	64:15 66:15	post 67:18
official 81:13				4:4 9:3 17:25		
94:23	overly 84:20 92:14	paragraph 1:19 15:25 17:2	paying 12:19 82:23	61:21 79:5	83:9 84:2,15	postulated 105:17
	overseas 65:8				89:14 91:10	
oh 7:17 21:17		20:4,12 21:16	payment 67:25	80:24 81:13	92:7 96:1,18	potential 32:25
23:25 24:2	oversee 84:14	24:13 25:17,20	69:14,16,24	114:13,19,21	97:10 103:24	33:13 76:21
26:21 92:17	100:25 101:5	27:8 29:23	70:4 71:11,18	personal 63:12	109:18 110:3	82:8
94:3	overseeing 88:5	39:19 44:2	71:21 72:15	81:15	110:21 113:15	potentially
okay 34:20 39:17	oversight 53:17	46:22 47:21	73:13	personnel 52:23	114:8	101:20
old 2:24	110:18	48:3 49:7	payments 48:14	perspective	points 5:24 38:25	pounds 23:9
ombudsman	overwhelmingly	51:13,17,19	52:15 68:13	54:10	40:21 44:11	poured 88:24
75:5	83:15	71:22 76:23,24	69:11,18 70:9	phenomenal	66:7 67:16	power 24:20
once 21:8 22:2	owned 7:18 45:4	78:20 80:6	70:12,20 71:4	97:25	74:24 79:11	91:19 117:5
56:14 91:7,7	89:19	paragraphs	72:18,21,25	phenomenon	111:3 113:19	powerful 65:18
103:12 113:15	ownership 18:5	25:15 49:6	73:2,4	36:8 95:21	police 5:16 9:16	powers 61:13
ones 69:20,22	o'clock 95:12,13	paraphrase	PCC 8:12 15:25	Phil 41:1	9:17 22:17	115:22
111:25	116:18 117:12	64:25	16:2,4 17:2,4	phone 5:12 6:2	23:4,19 88:24	practical 29:25
ongoing 51:5	P	parent 45:1	17:11,15,16,20	9:12 15:6	policeman 23:1,2	33:25 65:22
online 72:3 75:10		Parliament 56.10.61.2	17:22,25 18:8	28:23,25 46:6	policemen 9:13	77:3,4,17
87:11	page 11:21 13:16	56:19 61:2	115:5	52:1 62:13,16	policies 47:4,6	110:12 114:8
operandi 49:23	13:17 14:1	101:12 102:2	pending 30:4	87:5,7 90:15	47:18 48:1,6,7	practice 6:24 7:5
operate 19:4	15:15 24:18	102:18 103:2	Pennant-Rea	101:15 114:14	48:8 49:3 53:2	8:19 71:24
43:15 50:20	36:17 39:5,5,6	103:12 104:10	59:12,16,18,20	114:22 115:21	53:9,24 73:1	72:13 73:4
55:8 59:6	40:22 48:4,5	parliamentary	59:25 61:7	physically 69:12	policy 47:7 48:14	80:8 112:16
65:11 75:6,14	49:8 64:8,13	106:10	66:19 76:17	pick 29:22 71:6	51:4,8,14	115:12
operates 2:13	64:24 65:14	part 17:1 42:15	people 2:13,15	87:5 111:3	52:19 53:4,5,6	precious 58:24
6:21 57:19	68:2,14 70:15	57:8,9 62:21	2:18,20 3:18	picked 114:14,21	53:8,16 66:12	59:7
operating 38:10	71:22 75:1	64:7 87:24	4:6 7:1,3 8:16	piece 5:8,10	66:13 68:15,17	precisely 13:10
50:24	76:4,23 77:13	105:6,6	9:21 10:19	39:18 41:4	68:21,21 71:24	27:18 76:8
Operation 5:21	79:16,17 87:14	participants	12:5 13:6 16:6	75:16,22,22	72:5,8 73:8	89:20
operational 22:5	87:23 95:18	41:7	16:6,21 17:11	106:11,20,22	92:14 93:1	precision 108:15
opinion 75:22	97:13	participate 21:8	19:10,19 21:3	107:8,9	political 23:23	preconception
77:15 90:10	pages 2:23 17:9	34:16 104:15	21:4 26:1,2,8	pieces 2:17 7:20	60:21 90:11	87:2
97:1,2 112:9	77:15 80:2	particular 6:3	27:1,24 28:12	7:24 39:3	94:24 106:19	predominantly
opinions 77:14	87:25 94:20	14:17 17:16,18	32:13,14 34:11	Piers 7:20,25	106:25	70:11
97:21 98:25	paid 6:1,4 73:15	18:5 26:19	34:15,16 40:11	pile 24:5 59:22	politically 90:6	preferred 94:23
opportunity	83:22	27:19,25 29:22	47:9,15 51:2	pivotal 78:24	politician 93:16	prepared 42:17
42:12 103:17	pair 93:12	47:3,5 52:16	57:21 58:25	place 31:15,19	politicians 9:19	54:9 86:19
opposed 50:12	Pakistani 70:22	55:17,22 58:12	61:2 62:14,18	65:6 68:10,11	18:19 37:18,20	104:15
100:10,10	71:9	63:24 64:4,16	76:5 79:19	69:9 85:14	38:3,5,12	presence 64:9
101:2	palace 93:19	64:20,23 72:13	81:25 85:8	98:4 101:17	39:10 91:2,4	presented 47:11
opposition 92:23	Pandora's	93:8,9 95:7	86:18 91:12,19	111:18	91:19 92:10	83:15
order 14:20	113:15	96:1,2 97:8,9	93:5,18 94:1,9	plagiarised 5:8	93:3,13,21	president 30:8
18:10 26:13	Panuccio 67:3,4	99:14 108:17	96:14,20,23	plagiarism 5:7	94:16,19 95:4	30:13
29:14 89:8	67:8,15 70:15	particularly 2:10	98:5,13 99:15	Plainly 13:11	95:6,10 101:22	press 10:22
100:21	73:22	12:10,12 13:21	101:25 102:23	planned 106:18	102:4 103:17	14:21 18:17,20
organ 18:20	paper 14:23	17:13 24:20	104:10 111:13	plans 17:6	106:4 109:23	19:10,12,13,14
108:6	23:25 26:8	45:3 49:19	113:20 116:14	play 101:21	110:14	19:17 20:2,7,8
organisation	40:16 66:6,14	51:2 65:8	117:1	plea 42:6	position 5:22	21:5,7,22
30:12 52:21	75:12,23 76:6	76:18 81:7	people's 12:9	please 1:4,8,19	18:2 21:24	22:22 23:7
84:13	76:9,25 77:2,8	104:18 106:21	Peppiatt 13:20	2:8 3:16 7:24	43:24 45:15	24:19 41:24
organising 23:25	77:11,16,18	parties 16:14	perceive 11:24	20:4 21:16	47:22 51:18	42:7,23 54:21
original 87:9	78:1,5,8 79:17	30:20 38:2,15	perceived 78:5	43:3 45:25	55:3 76:14	55:12,14,19,19
ought 88:20	79:20 80:1,5	67:25	perception 38:21	47:1 49:7 74:1	100:18 102:9	55:20 56:6,7
outcome 108:10	81:22 84:14	partly 5:24 7:8	93:11 97:6	91:1 95:24	positive 51:1	57:19,22,24
108:16 114:6	85:9 87:11,25	parts 46:12 54:7	99:12	98:7 99:25	possibility 15:13	58:3,8 59:6
outcomes 108:17	90:2,2,11,11	59:6	perceptive 39:18	pleasure 37:23	15:14 27:1	64:11 94:20
outline 101:11	94:7 106:11	party 24:1	perfect 58:9,19	plenty 11:2 18:3	29:7 65:18	99:3,13 100:18
outlining 72:8	112:7,12,13	party's 51:22	59:7	plight 96:8	111:2	102:1,6,8,11
outside 7:8 52:1	papers 14:13	pass 49:5 55:24	perfectly 63:19	plugged 15:3,6	possible 4:8 10:3	102:24 103:4,5
57:21 63:23	15:20 17:16	56:16,19	performed 46:23	pm 117:14	18:7 26:25	103:14,15
85:8	19:19 26:9	passing 56:23	period 54:16	pocket 111:22	73:3 77:10,11	104:7 105:6,14
overall 2:12 8:7	75:10,10 80:3	passions 79:18	96:7	point 14:9 25:16	92:13 99:8	106:23 107:17
41:22 48:23	82:17 90:5,9	Paul 7:2 73:24	permissible	30:21 31:3	111:13 113:20	109:9 110:7,15
70:12	paperwork	74:3	27:11,13 28:7	33:18 37:7,10	possibly 5:6 25:6	112:16 116:14
	1	<u> </u>	l	<u> </u>	<u> </u>	

116:14,22	18:11,20 28:7	proprietorial	64:25	26:14 35:2	reader 75:17	recruitment
117:1,7	33:23 35:5,14	61:12 63:24	punish 117:5	36:15 41:6,12	readers 2:12	66:12
pressure 64:6	35:24 38:13,20	66:17 89:24	pure 3:20	43:2 54:3	15:3,22 26:11	redress 117:2
65:5,17,17	39:20,21 41:4	proprietors 4:19	purely 33:12	59:17 62:20	26:15,19 75:2	reduction 73:5
66:16,17 90:1	41:16 49:9,11	4:20,21 88:12	66:16 110:6	67:5 73:25	75:7,24 76:9	reelection 94:21
pressures 87:6	50:17 51:7,9	111:22	purpose 36:4	74:17 82:15	77:13 78:9,17	reference 14:10
presumably 24:2	78:2 80:11,15	proprietor's	37:22 44:10	91:3,14 99:22	79:9,9,10,12	referred 2:19
63:8 73:12	privilege 36:1	24:1	76:4	107:15,17	79:15,21 93:20	referring 24:23
75:21 90:14	86:19	prosecute 23:2	purposes 111:15	quibbling 8:16	95:18 96:16	refinement
presumptive	probable 108:17	prosecuted 6:10	pursue 10:20	quicker 11:1	97:3,7,12	113:16
113:11	probably 2:4	prospect 103:11	14:20 41:9	quickly 31:11	readership 15:4	reflects 27:12
pretended 6:15	20:25 24:6	prospective	84:1,5 91:20	32:15,22 52:23	58:5 113:1	refresh 47:17
pretty 14:2,21 42:8 73:9 91:6	38:17 40:3 57:7 65:9 70:6	79:10 protect 61:4	92:9 96:21,21 pursued 2:2	113:2 114:25 quite 2:20 7:9	reading 5:5 reads 14:5	refused 30:3 regard 51:14
96:20	74:11 75:3	protection 6:22	81:15,20	8:1,18 10:4	real 34:17 85:5	55:7
previous 36:14	89:18 98:10	24:22 44:1	pursuing 93:21	17:24 18:15	92:12 104:3	regards 52:15
68:21 80:7	problem 12:15	60:20 61:11	pursuit 81:9	19:24 30:14	105:4 110:22	regime 22:18
previously 69:9	19:9 20:25	65:16,23 86:9	110:2	33:19 34:9	realise 94:6	regularly 75:18
99:19	22:10,13,14	protections 69:8	put 3:9,12 6:4	35:11 39:13	98:18 111:19	91:6,9,18
prices 14:10	26:16,16 34:5	proved 89:3	7:12 13:4	50:2 64:4 66:1	reality 86:7	regulated 19:13
primarily 74:21	36:12,13,16	provenance	21:23,23 28:17	77:5 78:20	88:23 94:23,24	55:20
primary 17:1	104:13 107:17	71:20	30:11,22 33:21	83:17 90:5,9	really 25:24	regulates 20:7,8
prime 8:5 9:22	108:1	provide 42:14	34:12 35:2,21	90:20 95:8,13	28:17 34:17,17	100:17
23:25 24:3	problems 106:15	75:21 96:16	36:11 37:7,24	98:18 99:19	42:9 58:19	regulating
56:2 92:22 100:19	procedural 29:19	provided 43:4	41:6,8 42:2,6	104:13 105:11	88:9 94:24	102:24
		59:22,25 110:3	46:8 53:12	111:13	95:15 96:18	regulation 9:8
principal 108:3 109:14	proceedings 25:8 32:8	provides 101:6 104:5	58:20 61:19,25 62:24 63:1,16	R	100:8 106:8,12 110:24 112:23	10:4 20:2,5 21:15 56:11
principle 2:14	process 24:16	providing 70:17	66:13 94:25	rabbi 98:2	110.24 112.23	94:8 100:8,9
26:10 31:19	48:2,7 63:19	77:14 94:17	95:6 104:12	racking 31:16	realm 12:10,12	100:11 101:4
37:9 55:5,13	85:7,9 94:19	97:2	109:15	93:1	reason 10:1 17:1	101:11 102:11
55:13 56:15	110:8	proving 31:2	puts 113:9	raise 44:4 86:8	33:16,25,25	106:23 107:7
77:3 109:4	processes 75:20	provision 56:10	putting 4:2 26:7	raised 88:13	42:15 84:18	108:4 112:19
113:13	produce 78:8	provisions 45:3	40:23 77:8	raising 12:18	101:14 107:16	regulator 24:15
principled	producing 79:12	public 6:23 8:10	85:14 106:20	ramifications	107:24	24:20 25:7
102:25 110:9	product 79:13	10:7 11:16,17		36:3	reasonable 27:13	100:23,25
110:13	products 111:15	12:9,24 19:20	Q	ran 13:7 33:21	27:22,24 28:14	102:16,21,22
principles 8:13	profession 3:1	27:8,12 31:1	qualifications	41:1 88:1 89:1	28:19,23 30:10	103:4,9 104:1
8:25	25:7 professional	35:7,13 39:9	60:12 108:23	114:19	35:11 62:3 84:6	104:11,15 108:14 109:11
print 7:14 26:1 30:25 78:10,22	30:12	41:24 60:20 65:20 80:12,14	qualifies 44:2	range 2:8 27:10	reasonably	108:14 109:11
printed 29:12,15	professions 2:16	81:2,18 82:3,5	Quarter 36:25 quarterly 62:6	27:12 28:1,13 46:21 47:4	27:24 28:20	116:13 117:4
29:20 75:25	programme 6:14	82:7,24 83:7,8	quarters 99:13	71:6 77:13,14	39:15	regulatory 10:2
78:7 111:7	programmes	83:16 84:6,24	quasi-indepen	78:12 79:18	reasons 4:18	10:3 18:4
printing 4:17	95:11	104:7 107:19	75:14	97:2,9,20	23:19,20 33:14	22:18 45:2
25:21,24 31:21	progress 46:18	115:16,18	query 89:11	rapidly 78:17	94:5,7 113:21	108:8 109:8,8
prior 21:19	46:19	116:1,3,9,16	question 4:11	rare 70:5	113:22	109:16 110:5
29:21 30:1	progressing	117:9	10:18 11:4	rarely 78:23	Rebekah 44:16	115:21
32:20,24 33:5	46:15 52:6	publication	13:16 17:14,15	ratchet 103:19	receive 79:23	reinforcing 73:1
33:8,10,14	project 34:22	27:23 83:8	17:21 18:14	ratcheting 41:25	received 5:19	reject 63:5
34:1 113:8,13	prominence	publicly 44:4	22:4 24:9,14	RBS 28:7	86:17 99:9	relate 115:20
113:17,19 114:3,9,24	97:21	49:13,15	26:5,11 32:12	reach 28:20	receives 75:9	related 70:1
114:3,9,24 115:8,13 117:4	promoting 4:18 promotion 66:13	publish 3:2 21:18,22 35:25	33:21 35:2,12 35:17 36:18	84:23	receiving 36:8 recognise 113:25	relates 69:24 70:11
priority 105:9	promotions 12:5	112:5 115:2	37:19,25 38:19	reaching 29:6 react 106:4	116:23,24	relating 46:10
privacy 11:25	properly 79:4	116:22	41:14 46:8	reacted 5:16	recognised	relation 4:25
13:11 31:14,17	102:16	published 4:13	52:20 53:18	reaction 23:12	101:12	5:20 19:1,2
31:20 36:12	proposal 61:18	5:3,5 12:20	54:14 57:16	57:17 75:24	recognises 6:22	44:11 50:1,21
80:19 86:10	61:24 62:24	39:4 58:10	64:1,3 72:14	106:14	recognition	51:7 52:17
113:15,16	proposed 61:1	97:24	75:17 78:19,21	reactions 79:11	104:9	66:8 69:17
private 1:14,21	63:1	publisher 104:14	80:21 84:8	read 1:17 14:13	recommend 54:9	70:12 71:9,16
2:9,12 5:12,22	proposition	publishers 20:16	88:8,9 89:23	15:3,17,19,24	105:5 116:21	71:25 72:5,9
6:24 7:9,15,19	55:25	111:21	92:8,12 93:22	26:20,21,24	reconsider 17:9	72:24 73:6
8:11 11:18	proprietor 14:16 15:7,23 38:22	publishes 97:19	98:21 104:12	36:1 44:9 49:6	record 62:18 records 40:6	relationship 37:18 44:19
12:9,16,21 13:6 14:8	38:23 62:24	publishing 80:15 113:4	111:8,9 questions 1:7	54:4 66:20 67:15 97:13	49:15	79:8 81:10,16
16:18 17:9,17	65:18 90:1	punch 7:17	23:24 24:7	98:19 112:17	recover 30:23	81:20
10.10 17.7,17	05.10 70.1	Pulled /.1/	23.24 24.7	70.17 112.17	1000101 30.23	01.20

relationships	113:9,10,12	67:19,23 68:18	60:23 88:5	20:10 22:6,7	serious 95:19	similarly 96:6
12:11	113:9,10,12	69:7 74:20	89:20 90:8	23:25 28:11		
relatively 54:16	,	75:25 76:1,5			seriously 12:25	simple 85:6 115:4
relevant 29:11	requires 34:14 51:1 68:3 69:2	,	Rusbridger 13:24 34:3	32:2,23 38:2	59:2	
29:13 50:7	112:18	80:9,10,18,19	36:22	38:14 40:9,14	serves 75:5,7	simplest 85:7
		83:1 84:9		43:5 44:21 45:14 55:1	service 96:12,16	86:3
68:3 75:18,19	requiring 107:10 research 13:12	86:25 97:22,23	Rusbridger's		services 6:17	simply 5:5 22:25
reliable 3:15,25		98:10 99:6	17:7	60:12 64:9	serving 77:13	32:7 38:6 79:3
religion 97:17,18	resist 40:7	101:7 103:7	S	66:4 80:16	set 6:4 21:8 22:2	97:15 105:3
religious 97:20	resolution 10:24	111:1 113:20		88:10 91:17	25:1 28:11	113:24
reluctance 13:6	32:12 104:6	113:21 115:24	safe 93:2	92:17 94:3	32:8 38:20,21	simultaneous
rely 7:1	resolve 31:9 32:22	116:21	Sakineh 96:8	102:10 109:1 112:15 114:6	49:2 60:15	46:6
relying 54:16		rightly 51:17	saloon 105:16		76:24 77:1,17	single 32:19 33:9
57:3	resources 58:3,4	116:25	sample 26:13	seeing 109:19	77:20 78:1	114:21
remark 57:20	respect 79:20	rights 11:18	sanctions 24:21	112:25	82:14 83:12,13	sir 1:3 28:5
remedies 10:20	respected 90:12	57:11 80:11,15	24:22,23,24	seek 51:8 76:24	94:9 103:5	59:12 67:3
22:16	respects 103:5	right-hand 36:18	satisfactory	77:1 94:19	109:15	82:25 94:3
remember 40:2	respond 15:1	36:23 115:17	63:19,20	95:21	sets 22:1 48:22	104:8 106:19
82:25 83:2	75:11 100:14	rigorously 9:15	satisfy 5:10	seeking 81:11	102:20 109:7	sit 108:7 109:11
91:23 97:23	102:5 107:12	53:4	50:10 71:10	94:16	110:5	sits 109:12
114:9	107:22	ring 7:3 29:18	satisfying 61:20	seen 16:7 64:14	settle 16:8	situation 11:24
remembering	responding	ripped 109:4	Saturday's 75:12	68:16 72:17	settled 1:23	12:25 58:18,22
8:2	107:13	rise 10:14,17	save 45:19	73:5 86:16	settlement 16:21	86:23 114:25
remind 34:25	response 35:24	14:11 64:16	saw 43:14 87:22	103:8 108:5	seven 61:10	116:6
47:21	75:21 97:25	risk 26:6 31:11 31:12 32:21	88:11 90:7,24	Select 11:20 13:15 14:3	66:25	situations 12:4
reminds 47:14	98:22 116:19		saying 9:24		severe 39:10	12:17
remit 75:21 remove 59:5	116:23	53:5,6,8,13,15	11:23 15:14	34:21 35:22 selection 83:3	sex 12:4 shadowing 91:4	six 30:24 41:19
	responses 99:8	60:24 93:10	18:7 23:1			52:21,25 54:6
removed 56:3	111:18	95:5	26:21 28:17	selective 8:1	Shame 2:10,22	58:21 60:7
repeat 25:4	responsibilities	risks 33:1	29:17 31:18,19	self-evident 8:15	4:11,14 5:4	61:10 72:20,24
107:15	46:12 61:13	risky 28:9	33:24 35:4	8:22 38:24	42:17	91:7
reply 35:3	responsibility	robust 105:21,24	40:6 41:4 48:8	89:17	shaped 99:18	sketch 1:20
report 2:21 6:9	48:16,19 57:1	116:4 117:8	84:18 87:2	self-evidently	share 41:21 54:9	46:25
18:24 57:25	57:4 59:5	rogue 88:18	88:17 98:10	8:19 29:3	55:5,9	skill 4:5
95:15	61:21 84:8,10	89:11	104:8,9,14	30:25	shareholder 84:5	skilled 49:12
reported 96:3	responsible	role 46:3 61:4	106:5 114:23	self-regulation	sheet 66:6	sleeping 28:10
reporter 51:20	22:17 53:19,20	63:14 65:16	says 5:6 25:2	20:14 55:2	shocking 10:6	sliding 80:21
88:18 89:11	rest 25:11 54:3 66:20	66:4,6,9 76:19 76:22 79:5	28:13 36:17	self-regulatory	short 39:9 54:16	slightest 56:24
reporters 94:22		81:14 110:4	39:5,23 40:15	54:21	67:2 95:6 109:6	slightly 13:14
reporting 46:18	restricting 65:1 result 25:22		80:2	sells 25:22,24 seminar 13:21	shortcomings	33:3 37:25 115:10
75:17,20 81:16	114:3	rolled 48:9,11 53:3	scale 80:21		103:17	slow 13:5 31:18
85:12 86:24	results 52:6		scandal 62:13,16	semi-socially 91:2	shortlist 63:4	
96:2,15 106:1		room 92:21 99:2	73:12 96:4			39:8 87:4
106:4 109:3	retrospective	root 79:20	scare 40:24	send 7:10 35:16	shows 15:7	88:14
114:10	85:1	rubbish 3:21 26:22	Schillings 33:20	senior 9:20	show 85:7 showbiz 70:2	slumber 24:1 38:15
reports 26:21	revelation 99:11 revenue 46:14		34:25 35:21	sense 20:18		38:15 small 85:25
represent 2:2	review 54:25	rudimentary 39:22	science 97:18	22:14,15 27:3 39:7 64:5	shows 49:1 side 36:23 42:2	95:22 96:13
representative 26:13	69:13	39:22 rule 9:5	scotched 30:6,7		113:23	95:22 96:13
	reviewing 77:8	rule 9:5 rulers 12:2	screen 78:10	66:17 75:23 76:6 77:4,17	sides 38:7	99:21 103:20 smaller 99:21
represented 17:15,16	reviewing 77:8	rules 9:1,25	search 49:10,14	92:1 94:15		smaller 99:21 snag 86:16
,	revolting 42:6	83:12 103:6	49:16,22 50:3	97:11 113:17	sign 68:23 69:2 69:12	snag 80:10 social 37:20,23
representing 93:20	Richard 13:20	rulings 18:9	50:9,11,17,25	sensible 9:20	signatory 70:18	38:1
reprimanded	17:25	runngs 18:9 run 22:23 28:25	second 43:23	26:15	signature 67:12	socially 38:6
30:9,13	right 1:15,16,22	30:19 31:12	51:16 59:21	sensitive 51:2	69:3.5	91:2
30:9,13 reputation 79:7	3:24 4:1 5:3	30:19 31:12	100:21	71:14	o9:3,3 signed 1:10 8:11	societies 55:7
request 51:12	6:25 10:16	72:19 75:12	secondly 50:17	sent 35:15	8:12 48:10	society 30:9,9,10
70:17	11:3 14:2	85:9	77:1 102:21 secret 7:2	sent 33:13 sentence 20:5	74:7	39:8 46:17
requested 70:17	18:16 20:1,6	runner 33:7		96:9 98:16	significance	55:10 92:11
require 22:21	22:14,15 23:5	runners 68:25	Secretary 47:23	separate 4:9 8:10	95:17	98:6
34:15 51:5	25:10,13 26:6	running 4:20	60:17 63:9 66:2 82:5	18:11 27:7	significant 49:6	solicitors 34:25
68:23 83:20	26:9 27:13,17	41:5 80:1	secretary's 81:10	48:6 53:7,14	54:17 89:4	solve 104:13
required 9:9	30:6 33:19	runs 14:9 32:25	Section 44:2	53:15,22 54:17	113:4 114:2,2	107:18
47:19 50:15	40:23,24 42:21	75:12 76:3	section 44:2 sections 18:23	113:8	115:4 114.2,2	somebody 32:21
64:11 71:17	43:8,20 45:12	run-up 90:20	secuons 18:23 secure 94:21	separately 52:5	significantly	86:15
108:21	48:3,8 50:21	106:2		September 39:4	72:21 99:1	somewhat 20:10
requirement	58:17 59:9,22	Rupert 46:1	securing 116:8 see 5:8 6:2 8:13	68:15	similar 63:18	soon 84:10
32:6 55:6,23	62:10,25 64:18	59:16,20 60:18	13:17 14:6	sequence 13:14	91:3 111:15	sorry 1:24 18:14
32.0 33.0,23	02.10,23 04.10	57.10,20 00.10	13.17 14.0	Sequence 13.17	71.3 111.13	Joing 1.24 10.14
	•		•	•	•	•

20:11 36:20	staff 7:10 38:16	stoning 96:10	24:19 40:21	surmise 7:16	taxman 12:23	theoretical
37:25 89:7	49:19,20 52:17	stoning 96:10 stop 24:6 32:6,21	41:14 44:6	surmise 7:16 surprised 55:2	tea 8:5	115:15
110:20	65:8 71:22	88:13	50:18 55:21	86:20 99:15	team 68:25 72:7	thesis 26:9
sort 2:13 4:24	72:14 73:6,6	stopped 18:4	76:11 92:19	surprising 97:3	tease 105:3	thin 56:20
8:5,19,22 11:9	stage 48:7 100:4	41:5	93:2 97:17	Susan 67:3,4,8	technical 99:22	thing 4:24 8:6
19:5 21:11	stand 3:21,25	stopping 31:21	112:5	suspect 65:16	technically 99:7	59:1 83:6
29:19 31:9	115:6	34:18	subjected 64:6	89:24	telephone 79:25	98:23 105:23
32:6 34:5,14	standards 22:3	stories 2:25 3:19	subjective 48:21	suspicion 89:21	television 95:2	106:7 110:17
36:9,14 38:5	47:14 48:22	3:20,22 4:8,13	submission 60:2	89:22	tell 3:8,15 5:1	110:17
40:18 46:9	83:13 107:4,6	4:14,16,16,20	subscribe 20:17	swift 106:14	7:3 9:1 10:9	things 4:17 7:1,4
64:20 66:18	108:14 110:4,6	4:25 5:4 14:6	20:24	swifter 104:5	46:22 61:9	7:14 8:2,18,23
71:5 77:3 81:5	110:18	15:17 19:6	subsequent	sworn 1:6 43:1	telling 3:11 7:1	8:24 9:14 10:7
84:19 89:12	Standing 98:20	22:24 37:1,4	26:21	59:16 67:4	8:21 96:16	10:11 23:10,15
105:11	stands 110:13	42:18 57:25	subsequently 27:15	73:24	temporary 30:3	26:1 28:3 29:2
sorts 106:15 sot 6:19	start 89:5 102:24 106:11 111:10	58:10 77:24,25 78:22,25 80:9	subsidiaries	system 8:25,25 10:2,3 11:7	30:16 ten 4:13 59:13	42:9 46:9 76:1 78:14 85:4
sought 47:3 96:6	started 29:2	81:6 82:21	45:24	21:8,21,25	101:16 102:1	90:7,18,23,24
101:20	43:14 66:5	88:10 89:12	subsidiary 45:4	32:5 33:17,22	105:22	90:25 91:16
sound 111:22	67:22	92:10 96:24	53:18	35:10 56:22	tend 11:14 17:12	99:16 102:19
sounded 14:2	state 20:5,7,8,9	story 2:21 3:2	subsidies 55:22	63:13 67:25	37:4	107:23 112:22
sounding 66:18	21:17,21 22:4	4:8,10 5:5,12	substantial	68:2,10 69:8	tended 19:4,7	115:6
sounds 49:21	27:18 47:23	5:14,18 13:23	104:14	72:2,3 96:6	tendency 18:25	think 4:23 5:14
source 3:3,4,7,15	55:22 56:6,9,9	14:9,14,16	subtract 76:17	103:1,3,8	108:16	5:17 6:7,19,24
3:25 5:1 69:22	56:14,14 57:5	15:12,18 23:5	succinctly 60:9	104:21,23	tends 4:14,15	7:17,25 8:15
70:4 78:22,23	60:17 66:2	25:22 28:25	sucking 4:19	105:21 108:6,8	111:6	9:4,8,20 10:10
78:24 79:1,3	82:5 94:10	30:6,7,10,19	sue 25:3		term 8:21 27:3	10:23,24,25
89:12	100:17,24	30:22,25 32:7	sued 5:17 25:9	<u>T</u>	48:21	11:3 12:20
sourced 89:16 112:14	101:4 108:4,22 108:23 109:2,7	33:9,14 34:12 37:14 70:1,2,2	sufficient 27:4 95:17 107:20	tab 11:19 13:15	terms 5:15 6:12 6:20 8:13 38:4	13:7 14:5,13 14:22 15:17,20
sources 2:5,9,12	108.23 109.2,7	70:23 71:9,13	sufficiently	20:11 36:16 38:25 39:1	46:16,24 49:8	16:8,20,24
2:15 52:16	110:4,10	71:16,20 73:11	105:21,24	40:22 43:22	50:5 52:20	17:1,4,5,5,12
72:15 78:19	stated 50:16	73:13,18,19	116:4	44:22 59:23	53:21,24 57:24	18:11,12,16,22
80:6,9 88:25	statement 1:11	78:25 79:2,3,5	suggested 111:4	67:9 74:6	60:8 63:9	19:13,14,17,23
89:5,6,8	1:11,17 15:25	80:15,23 81:1	suggesting 31:25	table 22:24	65:22 76:6,7	20:7 21:1,17
sourcing 49:12	20:5,13 29:9	81:9 82:16,18	32:11 33:8	tabloid 17:18	77:13,20 80:14	22:12 23:18,19
79:2	43:18,19,23,25	83:9,15,18	93:4,25	70:11	82:1,2 86:3	24:5,10 26:3
so-called 94:18	43:25 44:3	84:1,17,18	suggestions 17:7	tabloids 13:22	90:14 96:15	26:16,20,22
102:16	45:18 48:2,9	87:1,5,9,10,10	suggests 2:22	take 1:17 3:14	99:9 100:11	27:8 28:1
spare 74:13	51:16 54:4 59:24 60:5	87:11,22 88:16	suits 93:11	5:23 24:17	101:15,21	29:10 31:15
speak 46:5,7 75:18 91:11,19	66:20 67:10,12	88:21,23 89:4 89:16,18 95:2	summarise 11:23	35:9 61:21	117:2,3 terrible 13:1	35:21 37:8,22 37:25 38:10,11
speaking 25:21	68:1 74:7,7,11	95:7,7 96:21	summarised	66:25 73:11 78:7 84:15	terribly 4:19	38:17 39:18
113:12	74:18,25	105:19 110:2	11:19	89:21 94:7	terrifically 40:10	40:3,7,22 45:3
specific 44:7	statements 43:7	113:23 114:10	summer 36:14	97:17 101:23	terrorising 36:10	47:3,10,17
51:24 54:3	44:9 86:17	115:25	87:9 91:23	101:25 114:5	test 27:12 62:12	48:19,21,25
61:4,13,22	States 56:16	straight 7:2	Sun 45:9 53:19	taken 37:6 40:13	102:14 117:11	49:1 50:7,8
62:4 66:22	State's 63:9	straightforward	72:13	54:3,7	tested 37:8,12	51:1,1 52:4,6
74:24 112:13	state-sponsored	78:21	Sunday 6:18	takes 31:6 94:7	thank 1:5,10 3:2	52:19,21,23,25
spectacularly	55:24	strange 113:3	45:11 53:20	talk 3:23,23 4:5	7:19 10:12	54:24 55:7,15
14:11	statute 22:1	street 2:10,22,24	62:16 63:15	42:17 90:23	42:21,22 43:8	55:16 56:5,15 57:20 58:7 14
speech 55:6,11 109:5	56:23,23 103:13 106:5	4:11,14 5:4 23:3 42:16	70:7,10 74:6 87:3 90:4	96:14 99:17 103:3	43:11,17 44:24 45:25 47:21	57:20 58:7,14 58:23 59:1
speed 11:2 23:10	106:21	93:19 95:10,17	suppliers 50:18	talking 11:14	48:14 49:5	60:2 62:2,12
112:22	statutory 9:8	101:18	supportive	28:1 31:13	54:2,14 59:9,9	62:15,19,20
speedily 21:11	21:15 94:8	strike 12:23	104:19	34:6 51:21,22	59:11 60:5,7	64:1,21 65:4
speedy 32:12	100:9,11,23	stringency 63:23	suppose 75:7	58:22 84:20	61:6 63:21	66:1,3 68:6,22
106:17	102:10	strong 39:7	80:18 115:19	107:3 109:23	64:13 66:19,23	70:6,7,9,11,24
spend 85:12	stealing 4:16	77:15 94:8	supposedly 37:8	tapping 9:12	66:24 68:10	72:13,18,22
104:17	steer 26:15	102:9 116:15	sure 3:19,22 4:23	targets 115:13	73:10,21,22	73:1,6 76:5
spending 23:9	steps 3:14 50:10	strongly 98:5	10:18 38:7	tarnishing 26:5,7	74:4,14,24	78:20 79:14
spends 17:9	71:9 Stoven 07:24	struck 105:10 structure 53:1	47:18 57:6	tarred 18:6	76:14,23 78:19	80:6,20 82:10 82:17 83:23 25
spent 43:13 61:19 81:24	Steven 97:24 stick 16:16 18:3	56:4 83:20	58:16,17 64:4 76:8 77:9	task 100:14	82:13 89:23 90:14 98:7	82:17 83:23,25 84:4,7,9 85:4
spin 32:7 95:7	66:1	structured 77:5	85:23 93:10	111:11 116:24 tautology 20:18	117:12	85:13,23,23
splash 9:10 95:1	stiff 7:9	stuff 37:13	106:6 111:1,24	21:1	theme 8:10 27:7	86:3,21 88:10
spoke 71:18	stipulated 73:3	subdivision 53:7	112:21 113:23	tax 12:22 111:15	27:7	88:15 89:14,17
90:20	stolen 82:23	subject 9:1 10:21	surge 114:3	taxes 12:18,19	themes 1:18	91:9,18 92:1,7
	I	1	I	l	1	I

92:25 93:1,17	31:4,6,12 33:9	tort 112:6	53:22,25 60:23	unlawful 50:12	want 5:8 11:23	weigh 80:14
94:7 95:8	34:1 35:11	tortious 10:14	61:5 65:14	unreasonable	15:3,17,23	weight 27:20
				29:3		
96:14 97:23	43:13 45:21	total 30:20	83:25 96:7		22:24 26:8	112:11
98:3 99:7,16	48:1 50:16	totally 4:17 9:6	102:19 113:19	unsolicited 60:3	32:7 37:24	weighty 112:17
100:15 102:3	51:3,4,12 52:6	touched 115:24	two-way 38:11	untrue 4:18	40:6 62:11	welcome 65:16
103:22 104:20	52:22 54:17,25	trace 85:16	type 4:12 69:16	update 51:17	74:11 85:11	66:3
105:13,14	60:19 63:2	trade 38:11	types 81:6 104:6	updates 43:24	86:15 92:7,9	well-communi
110:12,24	64:4,4 65:5	47:23	typically 71:13	update/refresh	94:9 95:3	49:2
111:21 112:12	72:1 84:21	traduced 10:21		47:4	96:21 97:7,7,8	well-founded
112:20,20	85:3,12 88:25	trail 69:14 73:16	U	updating 46:20	99:23 100:16	108:5
113:2,18,25	90:15 91:24	73:20 84:19	ultimate 45:1	up-to-date 47:20	100:18 102:15	went 30:7,14
115:7,17	100:2 101:16	85:6,15	ultimately 45:10	urgent 31:5,6	102:16,17	72:3 88:25
116:18	102:2 104:17	training 53:3	Um 20:20 26:18	usage 72:17	104:18 109:21	89:6.8
	105:22,25	72:25		use 9:5 73:4		
thinking 5:6 34:4	,		91:22		113:22 116:25	weren't 8:3 63:7
75:19 76:21	110:14 114:5	travel 73:18	unacceptable	94:20 100:3	wanted 42:6	Werritty 81:11
85:2,2 86:15	117:6	travels 81:21	10:8,9	useful 36:6 37:2	56:22 65:3	84:3
103:23 104:24	times 6:18 12:17	treading 81:17	unbounded 24:2	38:8 70:6	66:21 89:18	Werritty's 81:21
112:2	28:11 29:18	treat 116:14	unclear 85:8	useless 35:10	90:23,23 114:8	81:23
thinks 23:8	45:10,11,11	treats 117:1	uncomfortable	uses 14:19	wanting 18:6	Westminster
third 36:21	46:6 51:20	tree 44:21	101:13	usually 90:19	wants 21:21 40:4	93:20 98:2
39:19 40:22	53:20,20 60:1	trial 13:4	underlying 5:10	utterly 4:17	war 57:9 105:13	we'll 10:18 11:7
43:25 51:22	60:8,18 61:17	tribunal 17:3	undermine	35:10 42:5	106:2 110:21	19:23 45:14
67:25 101:7	61:22 62:6,16	trick 85:20	55:13		wasn't 34:22	55:1 66:25
114:17	62:16 63:15,15	tried 24:25 42:14	undermining	v	63:8,11 88:19	90:24 105:16
third-party	64:14 68:11	trouble 21:12	34:12	valuable 100:2	wasted 35:8	107:21 110:18
51:23	70:7,7,8,10	105:20,22	understand 8:20	value 31:8 71:11	watch 35:6 105:2	113:2 117:12
Thomas 42:24	74:5,6,13,19	true 1:12 4:7,9			watching 85:5	we're 1:17 20:12
			9:3 44:3 57:14	85:5	_	
43:1,10	74:21 76:15	5:6 26:20	75:19 79:17	varies 90:16	water 88:24	24:5 30:19,24
thorough 3:9	78:9,10,18	29:20 112:20	81:11,21 89:7	various 44:20	way 4:1 11:3	35:19 40:13
47:7 85:9	79:8,15,16	112:21	89:15 93:10	45:2 54:7	14:14,17 15:11	46:19 47:24
thought 7:12	80:9,13 82:15	trust 3:17,18	98:17 100:10	vary 46:5	16:9,11 19:10	64:7 67:15
15:8 19:22	82:20 86:4	16:23 94:9	107:2	vast 18:8 35:7	19:24 23:5	77:7,8 80:4
23:21 28:24	87:3,3,4 88:19	trustee 66:7	understandable	VAT 111:5,6	32:6 36:21,25	85:14 94:6
30:25 35:11	89:16 90:3,4	trustees 63:13,17	92:9 95:3	veracity 8:7	40:23 44:3	103:8,19,23
36:7 41:23	92:3 95:1,18	63:18 64:20	114:1	version 1:10	47:11 48:22,25	106:5 107:3
76:19 82:12	95:21 96:3	66:9,15 76:22	understanding	viability 79:8	55:8 57:18	108:10 110:20
87:18 92:3	97:1,5,14,19	truth 1:11 25:22	69:10 81:19	vibrant 55:18	59:6 62:10	111:18 113:3
101:1,13	98:4,13 99:15	25:24 43:19,25	understands	victories 1:25 2:1	70:15 71:13	116:6
109:20,21	99:15 105:12	67:12 74:8	15:2	2:3	76:7 77:17,18	we've 5:15,17
	109:22 110:22				77:25 78:17	23:7 29:2
thoughts 98:14		truthful 44:7	understood 53:2	videos 78:15		
threatened 96:9	116:23	67:13 74:8	115:23	view 7:2,25 10:4	79:23 81:24	42:12 44:9
96:10	timing 88:15	try 30:22 40:7	undertaken	23:6 29:6	82:11 86:22	54:12 62:4
threatening	tipped 114:20	66:4 79:1	50:10	54:11 55:9	87:17 91:15	66:20 74:25
33:20,24 35:4	tip-off 114:11	84:10 89:1	undertaking	57:17 60:21,21	93:11 95:14,19	76:1,15 81:6
three 24:17	title 2:22 53:25	91:6 96:22	63:10	61:10 62:14	99:17 107:18	85:4 92:20
29:18 43:7	titles 42:12,13	108:2	undertakings	77:12,15 79:11	107:21 109:25	95:20 107:11
53:25 54:1	43:13 54:1	trying 29:17 31:3	47:23 60:16	79:14 82:22	110:1 114:23	108:24 111:12
55:7 70:10	60:24 64:20	32:21 38:3,10	90:8	85:13 89:21	115:3,4 116:7	111:12,17,23
87:24	72:6	59:4 64:7	undoubtedly	94:8 95:12	116:19	113:18 115:11
three-quarters	TNHL 45:16	89:15 95:15	83:8	99:10 101:25	ways 9:20 11:2	whaling 6:18
70:14	53:19	105:3	undue 66:16	112:21	19:24 42:18	whilst 71:3
threshold 68:4	today 1:3 50:7	Tuesday 1:1	unduly 85:19	viewpoint 15:4	50:20 55:22	whistle-blowers
70:19	58:22 98:8	Tugendhat	unenviable	views 27:13 37:1	111:15	2:19 4:2
threw 7:11	107:22,22	27:10				whistle-blowing
thrived 26:9	toes 81:18	tune 15:21	111:11	41:20 62:14	wealthy 34:11 weapon 64:10	3:5 4:4
			unethically	75:24 100:3,4	-	
throw 6:12 42:10	token 61:24	turn 26:2 27:16	22:24	virtually 115:11	wearing 106:16	Whittamore 6:1
throwing 6:19	told 4:20 8:20	115:16	uneven 116:5	visited 43:13	weave 1:18	50:1
thrown 33:5	13:22 16:5	turned 82:20	unfair 25:13	voicemails 87:17	website 39:22	wholly 45:4
thumb 9:5	49:23 65:19	114:16	unfortunate 20:9	voluntary 20:14	40:15	98:11 110:7
thumbnail 1:20	86:21	twice 24:25 25:6	unfortunately	20:21 22:8	wedge 56:21	whomsoever
46:25	Tom 14:19	Twitter 80:2	21:24 111:17		week 8:20 13:21	92:11
tighten 110:16	Tony 9:22	112:24	unhappy 110:15	$oldsymbol{\mathbf{W}}$	17:10 46:5,5	widely 116:15
110:17	top 9:23 23:23	two 1:25 2:1,23	unique 18:12	waive 86:19	66:14,14 90:19	117:9
tightened 69:7	24:5,17 36:17	5:24 13:1	United 54:19	walk 93:15,18,19	weekly 75:12	widespread
tightening 72:4	39:5 65:14	16:14,21 17:9	55:5 56:16	94:9	weeks 41:22 42:3	87:20 88:19
time 7:15 14:13	topic 29:21	39:5 41:22	57:1,21,25	walking 101:18	46:5,7 87:24	wife 24:1 38:15
18:10 25:18	tories 90:4	43:7,24 53:18	58:6	_	90:17 101:8	willing 20:16
10.10 23.10		¬3.1,2¬ 33.10	30.0	101:19 109:22	70.17 101.0	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
	•	•	•	•	•	•

02.14		40 15 0 05 0			
83:14	write 2:14 19:4	12 17:2 35:8	5 11:19 13:15		
win 94:20	28:8 40:11	12.4 49:7	20:11 39:5,5		
wish 13:16 20:24	41:2 66:6	13 39:1 40:22	48:5 51:19		
44:1,4 88:22	91:12	14 43:19 67:10	68:15		
wishes 38:21	writer 39:24	74:8 98:24	5.1 68:1		
wishing 65:15	writing 5:13	14.1 51:13	5.1.3 68:13 70:14		
withdrawn 1:23	21:1 35:10	150,000 70:24	5.2.2 71:22		
withstanding	48:1 79:20	16 1:11 20:4,12	50,000 68:5,9		
30:4	80:13 82:14	43:23	70:19 71:5		
witness 1:3,10	written 7:19,20	17 1:1 21:16 80:6	72:21		
8:20 20:4,12	8:3 57:1 98:23	18 24:13 88:16	53570 44:22		
29:9 42:23	wrong 8:5 28:15	19 25:15 44:2			
43:7 48:15	31:19 41:4	1930s 56:2	6		
59:23 67:3,10	42:9 76:6	197 36:17,24	6 43:22 78:20		
73:23 74:6,17	wrongly 89:22	1981 47:24 60:17	95:12		
witnesses 33:25	wrote 7:9 41:4	61:14 64:17	6A 59:23		
48:20 55:9		90:9	6.6 44:2		
80:7	<u>X</u>	1986 1:14			
woman 96:8	X 42:3 108:11	1994 74:22	7		
won 30:14,24	T 7	1998 57:3 92:16	70 13:16		
wonder 58:19	<u>Y</u>		7796 70:15		
wonderful 83:6	Y 108:11		7822 75:1		
wondering 65:22	Yeah 29:8	2 36:16 44:22			
wood 37:2 word 18:15	year 1:22 11:20	74:4 75:1	8		
word 18:15 101:5	23:13 39:4	116:18 117:12	8 67:9		
words 21:14	43:19,23 44:17	2,000 68:8			
31:10 32:14	47:1 67:10	2.4 51:17	9		
42:17 98:23	72:11,19 74:8	2.5 46:22	9 11:21		
107:7	88:16 92:2	2.6 47:21			
work 2:15 3:18	96:3 97:22	2.8(iv) 48:3,5 20 13:16 25:17			
5:17 16:13	98:24	25:20			
22:20 46:23,25	years 4:13 17:17	2000 1:22 115:22			
54:6 71:13	23:16 41:17 54:11 58:23	2000 1.22 113.22 2002 45:3			
80:17 81:25	61:10 70:10	2002 43.3 2004 67:22			
97:24 98:11,12	73:7 74:22	2005 61:8 74:22			
103:18,25	75:4 76:2 78:7	2006 61:8			
105:7,10 107:8	96:7 101:16,16	2007 62:23 74:20			
107:9,19,25	102:2 105:22	78:4			
111:4 115:3	109:22 114:10	2008 67:19 68:11			
worked 16:7	114:18	2009 87:9			
32:16 54:17	York 61:17 98:2	2010 72:1 73:8			
55:15 72:7		91:21 92:2			
working 54:22	$\overline{\mathbf{z}}$	2011 68:16			
67:22 96:23	Zealand 54:18	2012 1:1,12			
works 16:6 53:10	55:5	21 25:15			
82:11 107:18	l	22 27:8			
world 19:21	0	22.11 29:23			
21:25 22:16	07774 43:22	22.5 29:9			
24:4 25:12	07777 48:4	225 78:7			
26:23 27:2	07785 49:8	23515 64:9			
38:9,9 45:9	07794 68:2	23516 64:24			
54:7 65:5 68:7	07798 71:22	24-hour 78:11			
72:10 79:22	07823 76:23	26 1:23			
87:16,19 88:1					
89:10 113:3	1	3			
116:2,12 worried 42:3	1 43:5 67:9 70:13	3 64:8 76:23			
worried 42:3 worry 36:2	74:6	30 71:6 72:20			
worry 30:2 worst 4:8 14:17	1.02 117:14	350,000 30:21,21			
worth 35:17,18	10 1:19 70:10				
111:23	95:13	4			
wouldn't 7:10	10.00 1:2	4 6:14 88:16			
69:22 79:2	11 1:23 11:20	40 1:22			
99:19,19	15:25 38:25	40,000 71:6			
104:19	74:21				
wound 106:12	11.39 67:1				
1					
I					