

<p>1 Wednesday, 21 December 2011                  2 (10.04 am)                  3 LORD JUSTICE LEVESON: Good morning, Mr Barr.                  4 MR BARR: Good morning, sir. Our first witness is                  5 Mr Hipwell.                  6 LORD JUSTICE LEVESON: Thank you.                  7 MR JAMES HIPWELL (affirmed)                  8 Questions by MR BARR                  9 MR BARR: Good morning, Mr Hipwell.                  10 A. Good morning.                  11 Q. Could you tell the Inquiry, please, your full name?                  12 A. It is William James Quolian(?) Hipwell.                  13 Q. You've provided the Inquiry with a witness statement.                  14 Are you familiar with the contents?                  15 A. Yes, I am.                  16 Q. And are they true and correct to the best of your                  17 knowledge and belief?                  18 A. Yes, they are.                  19 Q. We will take your witness statement as read, although                  20 I'm going to ask you questions arising from it. Can we                  21 start first of all, please, with your career history?                  22 You tell us in the first paragraph of your statement                  23 that you began a career as a journalist in 1991?                  24 A. Yes, that's correct.                  25 Q. You trained through Reed Business Publishing and started</p> <p style="text-align: center;">Page 1</p>	<p>1 Q. And in 2005, you were convicted at Southwark Crown Court                  2 and sentenced to six months in prison, half that                  3 sentence being suspended?                  4 A. Yes, that's correct.                  5 Q. And you pleaded not guilty at the trial, so it followed                  6 that you were disbelieved by the jury?                  7 A. Absolutely.                  8 Q. Whilst waiting for the investigation and trial, you                  9 worked for Punch magazine?                  10 A. Yes, I did.                  11 Q. And also for Max Clifford Associates?                  12 A. Yes, that's correct.                  13 Q. You then joined Dennis Publishing to work on a men's                  14 lifestyle magazine, Inside Edge?                  15 A. Yes.                  16 Q. Since your release from prison, you've worked mostly in                  17 online publishing, especially on two sports websites?                  18 A. Yes.                  19 Q. And you've also had a media column in the Sunday Express                  20 and have written for the Guardian and the Observer?                  21 A. Yes, that's right.                  22 Q. And you now live abroad where you continue to work as                  23 a freelance writer and journalist?                  24 A. Yes, that's right.                  25 Q. Against that background, can I now ask you more about</p> <p style="text-align: center;">Page 3</p>
<p>1 off in trade publications, first of all Sunday Business                  2 and then Business Age magazine?                  3 A. Yes, that's right.                  4 Q. In 1998, you were recruited alongside a fellow                  5 Business Age colleague, Anil Bhojru, to start a new                  6 daily business column in the Mirror?                  7 A. Yes.                  8 Q. That column was called City Slickers and it was designed                  9 to popularise business content?                  10 A. Yes, that's correct.                  11 Q. That column became very popular and influential, didn't                  12 it?                  13 A. Yes, it certainly did.                  14 Q. But unfortunately there was a difficulty, quite a severe                  15 difficulty, in that you were tempted into insider                  16 dealing, weren't you?                  17 A. Well, I wasn't charged with insider dealing, I was                  18 charged with something else; but it is true that we                  19 sometimes owned shares in companies that we wrote about                  20 in the column, yes.                  21 Q. I'll be precise, then. You were charged with conspiracy                  22 to contravene Section 47(2) of the Financial Services                  23 Act 1986, contrary to Section 1(1) of the Criminal Law                  24 Act 1977?                  25 A. Yes.</p> <p style="text-align: center;">Page 2</p>	<p>1 life working for the Daily Mirror? First of all, can we                  2 deal with the topic of corporate governance?                  3 A. Yes.                  4 Q. How much corporate governance was there in respect of                  5 ethics when you were working for the Daily Mirror?                  6 A. I don't think there was very much at all. I was not                  7 given a copy of the PCC code. I was not some -- we were                  8 not briefed on a regular basis, we were not -- about it.                  9 We were not asked whether we were ever sticking to it                  10 when we were writing stories. And this is the culture                  11 I worked in. You would never ever hear reference to the                  12 PCC code, and actually, the term corporate governance is                  13 not a term that most journalists would recognise. It's                  14 not as if we are accountants or whether we are company                  15 executives. Corporate governance is not a term that is                  16 ever used in a newspaper office. It's just a totally                  17 alien concept to most journalists. You're not asked,                  18 ever, whether you are sticking to the terms of the PCC                  19 code because it never came up.                  20 Q. Looking at that in a little bit more detail, please,                  21 Mr Hipwell, first of all, by the time you joined the                  22 Daily Mirror, you'd been in journalism for seven years?                  23 A. Yes.                  24 Q. Including training with Reed Business.                  25 A. Mm.</p> <p style="text-align: center;">Page 4</p>

<p>1 Q. Had you been taught about the PCC code at the academic 2 stage?</p> <p>3 A. I don't remember ever being taught about the PCC code. 4 My training was in magazine journalism. It was a course 5 recognised by the Periodicals Training Council. 6 I suspect that if I had trained in one of the better 7 known newspaper courses, that it might have featured 8 more prominently, but as far as my own training went, 9 with a PTC-recognised course, it didn't come up at all.</p> <p>10 Q. Were you familiar with the code through your work on 11 trade magazines?</p> <p>12 A. No. Not at all.</p> <p>13 Q. Mr Morgan in his witness statement refers to some 14 fold-out copies of the PCC code available at the 15 Daily Mirror. Did you ever see any of those?</p> <p>16 A. No. I've never ever seen a copy of the PCC code whilst 17 I was working at Trinity Mirror at all.</p> <p>18 Q. Mr Morgan also gave evidence that the PCC code was 19 displayed on the wall at the offices of the 20 Daily Mirror. Do you recall that?</p> <p>21 A. No, I do not, no.</p> <p>22 Q. In the sentencing remarks made by Mr Justice Beatson, 23 which you deal with in the middle paragraph on page 2 of 24 your witness statement, the judge said: 25 "There was no guidance from your superiors or from Page 5</p>	<p>1 "The commission found that Mr Morgan had breached 2 the code of practice by purchasing shares in a company, 3 Viglen Technology plc, which had been recently tipped by 4 his newspaper. It also concluded that Mr Morgan had not 5 taken sufficient care to ensure that his staff were 6 acting in accordance with the code and that his conduct, 7 including the breach in relation to Viglen, had fallen 8 short of the high professional standards demanded by the 9 code."</p> <p>10 So it would appear that to that extent, ie criticism 11 of the editor's care, that the judge's comments were 12 supported by the findings that the PCC had made in 2000, 13 and which are rehearsed here in 2006.</p> <p>14 A. Sure. I totally agree with that.</p> <p>15 Q. If we move to tab 10, please, where we have -- I think 16 it looks like the press release from the PCC's ruling in 17 2000, we see a little more. There are a number of 18 bullet point findings there on the page. Can I ask you 19 to look at the third and the fourth. In relation to the 20 third, it says: 21 "The purchase of shares in Wiggins Group and 22 Viglen plc by editor Piers Morgan were breaches of the 23 code, in the case of the former share purchase only on 24 a technicality, as both companies had been written about 25 in the newspaper recently at the time of the purchase. Page 7</p>
<p>1 the in-house lawyers, and there was evidence of 2 a culture of advance information about tips and share 3 dealing within the office."</p> <p>4 LORD JUSTICE LEVESON: I think you ought to read the earlier 5 sentence than that, which is: 6 "I also take into account the fact that at that time 7 there was no formal code of conduct for journalists at 8 the Daily Mirror." 9 Then it goes on: 10 "There was no guidance from your superiors or from 11 the in-house lawyers, and there was evidence of 12 a culture of advance information about tips and share 13 dealings within the office." 14 A. Yes. 15 MR BARR: Thank you. Let's explore that a little more. 16 A. Sure. 17 Q. First of all, can we go to tab 6 of your bundle, please. 18 This is a ruling by the PCC. It was made in 2006. This 19 particular ruling was made following an application for 20 a request for the original PCC investigation conducted 21 in 1999 and 2000 to be reopened. 22 A. Mm. 23 Q. Of relevance to the comments that we've just heard, can 24 I take you to the second paragraph under the subheading, 25 that's the one by the bottom hole punch, where it reads: Page 6</p>	<p>1 The purchase of shares in Corporate Executive Search was 2 not a breach of the code." 3 And then the bottom: 4 "There was inadequate supervision of City Slickers 5 by the editor, whose responsibility it is to ensure that 6 the code is applied rigorously on the newspaper. This 7 also raised a breach of the code of practice." 8 So we see there the finding that your editor was 9 held in breach of the code in relation to supervision. 10 A. Correct. 11 Q. Below that it reads: 12 "The Commission is pleased that Trinity Mirror has 13 now revised its own internal procedures to ensure that 14 such breaches of the code cannot be repeated." 15 Just to be clear, were you around and able to tell 16 us whether or not that in fact happened? 17 A. No, I'd left the company by then, so I have no knowledge 18 of it. 19 Q. Thank you. Can I ask you whether you got any ethical 20 training whilst you were working for the Daily Mirror? 21 A. No, none whatsoever. 22 Q. Did you see any visible signs of ethical leadership from 23 any of the senior managers at the Daily Mirror? 24 A. No. I mean, this was not a subject that was of 25 overriding concern for any of the senior editors. It Page 8</p>

<p>1 just wasn't a subject that was addressed at all.</p> <p>2 Q. Just to be clear about the line management relations,</p> <p>3 and I'm looking now at the third page of your witness</p> <p>4 statement, is it right that your direct line manager was</p> <p>5 Mr Morgan?</p> <p>6 A. Yes. We were columnists, so we were outside of the news</p> <p>7 chain of command. We were outside of the control of the</p> <p>8 news desk. And although we had some early battles with</p> <p>9 the news desk, who wanted us to be within their remit,</p> <p>10 Mr Morgan was insistent that we were answerable to him</p> <p>11 and him alone. So there was no chain of command apart</p> <p>12 from us being, you know, sort of directly responsible to</p> <p>13 him and him only.</p> <p>14 Q. How often did you see Mr Morgan in practice doing your</p> <p>15 work?</p> <p>16 A. Well, a lot, because we were sitting next to the showbiz</p> <p>17 desk. He was a former showbiz journalist himself. He</p> <p>18 would -- you know, the thing about Piers is that he</p> <p>19 is -- was a very hands-on editor. He would not stay in</p> <p>20 his office like some editors do, take morning conference</p> <p>21 and run the newspaper from his office. He would be out</p> <p>22 on the news floor. He would be -- he was the beating</p> <p>23 heart of the newspaper. He would go up behind</p> <p>24 journalists and look at what they were writing on</p> <p>25 screen. He would point to maybe a paragraph sort of at</p> <p style="text-align: center;">Page 9</p>	<p>1 Q. -- assisting and supervising what was on the screen.</p> <p>2 A. Absolutely, yes.</p> <p>3 Q. Did he do that with you?</p> <p>4 A. Sometimes he did, yes. It's true to say that he had</p> <p>5 a better relationship with my fellow columnist</p> <p>6 Anil Bhojwala. They were quite good friends. Most of</p> <p>7 his dealings on this probably went through Anil, I think</p> <p>8 that's true to say. But yes, he did, he would come over</p> <p>9 and he would have a look at what we were writing on</p> <p>10 screen. That is from what I understand certainly true</p> <p>11 of the Viglen story which is mentioned a lot in this</p> <p>12 bundle, and I understand from Anil that he saw the story</p> <p>13 on screen and he even made recommendations to changing</p> <p>14 it on screen. So there was that level of involvement.</p> <p>15 Q. I'm getting the impression that this is involvement</p> <p>16 which the details might have varied from day to day, but</p> <p>17 we are talking, are we, about daily contact?</p> <p>18 A. Yes. I mean, he was the editor. Everything stopped</p> <p>19 with him. The whole newspaper, you know, he was -- it</p> <p>20 seems appropriate this week, he was the Dear Leader,</p> <p>21 that the newspaper was edited and produced with the cult</p> <p>22 of his personality. He was a very strong-minded</p> <p>23 individual and he had enormous charm and charisma, and</p> <p>24 he was the newspaper. It was -- you know, it was all</p> <p>25 about Piers and he did -- I think he did a very good job</p> <p style="text-align: center;">Page 11</p>
<p>1 the bottom of the page and say, "That's your story</p> <p>2 there, get it to the top". He was always on the floor.</p> <p>3 He would spend upwards of half an hour a day sitting</p> <p>4 with the showbiz team discussing their stories.</p> <p>5 He would -- it's probably true to say that he was</p> <p>6 less interested in the City than he was in showbiz, but</p> <p>7 because we sat next to them, he would also take a keen</p> <p>8 interest in what we were doing. He would ask us about</p> <p>9 the stories we were writing. He seemed very interested</p> <p>10 in the City. He liked money, he liked -- he wanted to</p> <p>11 know how it worked.</p> <p>12 It's probably true to say that he was disadvantaged</p> <p>13 by the fact that he didn't know a great deal about it,</p> <p>14 but he was certainly keen to learn and he enjoyed our</p> <p>15 column because it was very different from what the</p> <p>16 Mirror had had before in terms of its City coverage, and</p> <p>17 he was a great supporter of the column. In fact,</p> <p>18 I think he loved it. And for the first year that we</p> <p>19 were there, I think he held the column in very high</p> <p>20 regard and he thought it was a real contribution to the</p> <p>21 newspaper. He was, as I say, very hands-on and he took</p> <p>22 a keen interest in what we were doing.</p> <p>23 Q. So you've described him standing over the back of</p> <p>24 a journalist --</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 10</p>	<p>1 during the time I was there. I rated him very highly as</p> <p>2 an editor and I thought that he edited the paper with</p> <p>3 a great deal of flair and he produced a very fresh and</p> <p>4 inviting newspaper, and I was very happy to be involved</p> <p>5 with that.</p> <p>6 Q. Can I now ask you a little bit about the showbusiness</p> <p>7 team? You've told us that you were sitting close to</p> <p>8 them.</p> <p>9 A. Mm.</p> <p>10 Q. Can I explore that? Just how close were you to the</p> <p>11 showbusiness team?</p> <p>12 A. I was sitting within three feet of some of the</p> <p>13 journalists. The next desk.</p> <p>14 Q. Is this an open plan office?</p> <p>15 A. It's an open plan office, yes, nearer than I am to you</p> <p>16 now.</p> <p>17 Q. How big a team was the showbusiness team?</p> <p>18 A. I can remember at least ten people who worked on it.</p> <p>19 Q. Did they all sit together in the same place?</p> <p>20 A. Yes.</p> <p>21 Q. Or were some of them --</p> <p>22 A. There was a showbiz desk made up of three desks, which</p> <p>23 were all arranged together, and the City desk was right</p> <p>24 next to it. So, you know, we were within six to eight</p> <p>25 feet of the showbusiness desk.</p> <p style="text-align: center;">Page 12</p>

<p>1 Q. For how long were you a part of that physical 2 arrangement? 3 A. Throughout my time there, nearly two years. 4 Q. And what level of interaction did you have generally 5 with the showbusiness team during the course of a day? 6 A. Well, they were -- they became our friends. We -- 7 I think we enjoyed each other's company. We would 8 certainly socialise with them in the pub after work. We 9 sometimes went to the same parties. We had a very good 10 relationship with them, and I think they liked us as 11 well because we were, it's probably true to say, 12 different from other City journalists. 13 Q. Against that background, I'm going to read the paragraph 14 which starts on the third page of your witness 15 statement, halfway down the page. You say: 16 "Another example of the lack of corporate governance 17 at the Mirror was the unfettered activities of its 18 showbusiness team. I sat next to the Mirror's 19 showbusiness journalists on the 22nd floor of Canary 20 Wharf Tower and so was able to see at close hand how 21 they operated. I witnessed journalists carrying out 22 repeated privacy infringements, using what has now 23 become a well-known technique to hack into the voicemail 24 systems of celebrities, their friends, publicists and 25 public relations executives. The openness and frequency Page 13</p>	<p>1 seeing? By which I mean: did you think that you were 2 witnessing serious wrongdoing? 3 A. Well, it didn't seem to me to be an ethical way to 4 behave, but it seemed to be a generally accepted method 5 to get a story. It seemed to be perfectly acceptable to 6 some of the Mirror's senior editors, and I saw it on 7 a daily basis in 1999, especially the latter half of 8 1999, where I would go as far as to say that it happened 9 every day, and that it became apparent that a great 10 number of the Mirror's showbusiness stories would come 11 from that source. That is my clear memory. 12 Q. Did you report to your superior, Mr Morgan, the fact 13 that showbusiness journalists were hacking phones? 14 A. No. I mean -- 15 Q. Why not? 16 A. Because it seemed to me that what they were doing was 17 entirely accepted by, as I say, the senior editors on 18 the newspaper, and, you know, I just didn't -- I didn't 19 do that. I thought it was a slightly -- I think it was 20 seen as a slightly underhand thing to do, but not 21 illegal. I don't think the illegality of it was ever 22 even considered. It just seemed to be fair game, fair 23 play. Any means to get a story. And this is, you know, 24 as I say, it became, I think, a daily part of their 25 news-gathering operation. Page 15</p>
<p>1 of their hacking activities gave me the impression that 2 hacking was considered a bog-standard journalistic tool 3 for gathering information. 4 "For example, I would on occasion hear two or more 5 members of the showbusiness team discussing what they 6 had heard on voicemails openly across their desks. One 7 of the reporters showed me the technique, giving me 8 a demonstration of how to hack into voicemails. 9 "The practice seemed to be common on other 10 newspapers as well -- journalists at the Mirror appeared 11 to know that their counterparts from the Sun were also 12 listening to voicemail messages, because on one 13 occasion, I heard members of the Mirror team joking 14 about having deleted a message from a celebrity's 15 voicemail in order to ensure that no journalists from 16 the Sun would get the same scoop by hacking in and 17 hearing it themselves." 18 A. Yes. I mean, that is my -- that is my testimony and 19 that is part of my memory. It is a long time ago, it is 20 12 years ago now, but that is what I saw, and there were 21 people on the showbiz desk engaging in that activity. 22 Q. It's very important that you don't name any individual 23 names of the journalists on the showbusiness desk, but 24 I'm going to ask you some more questions about this 25 topic. What was your attitude towards what you were Page 14</p>	<p>1 Q. Did the showbusiness journalists take any steps to hide 2 their phone hacking activities from managers? 3 A. No. 4 Q. Did you ever see or hear phone hacking taking place or 5 being discussed in front of Mr Morgan? 6 A. No, I did not. 7 Q. Is there anything which makes you think that Mr Morgan 8 did or did not know that the practice was taking place? 9 A. Well, I mean, I've discussed what kind of an editor he 10 was. You know, this is -- I cannot prove that he -- who 11 knew what at what time, but looking at his style of 12 editorship, I would say that it was very unlikely that 13 he didn't know that it was going on, because, as I have 14 said, he was -- there wasn't very much he didn't -- he 15 didn't know about. As I think he said yesterday in his 16 testimony, he took a very keen interest in the work of 17 his journalists. Showbusiness is very close to his 18 heart, he was a showbusiness columnist on the Sun, and 19 a lot of the people on the showbusiness desk at the 20 Mirror whilst I worked there had indeed come from the 21 Sun themselves and they were old friends, and nothing 22 really that happened on that desk happened without Piers 23 knowing about it because of the amount of involvement. 24 He would come and sit on that desk in the morning, 25 very often in the afternoon as well. He wanted to Page 16</p>

<p>1 discuss the stories. He's very interested in celebrity 2 gossip, and he would discuss with them the stories that 3 they were working on and necessarily, I should imagine, 4 where the stories came from, although that would 5 incorporate the legal department as well, seeing as some 6 of the things they might be publishing would be 7 potentially libellous and they would have to be legalised 8 by the Mirror's legal department, the first question 9 being, in my experience, anyway: if we're writing 10 something contentious that could get us sued, is it 11 defensible? What is the evidence? Are we going to have 12 to -- are we going to be forced into an embarrassing 13 retraction? Are we going to have to pay out libel 14 damages? These are key questions and they can only be 15 answered if the journalists concerned reveal where they 16 get the story, and they would be happy to do that to an 17 editor or a lawyer, because that is just what happens on 18 newspapers.</p> <p>19 Q. We'll return in a moment to the question of legal 20 oversight and things like that. Returning to the 21 question of who knew what about phone hacking, without 22 naming any names, did you ever witness the showbusiness 23 journalists talking about hacking or hacking in front of 24 other managers at the Daily Mirror?</p> <p>25 A. Senior editors are considered managers on newspapers.</p> <p style="text-align: center;">Page 17</p>	<p>1 celebrity PR agents."</p> <p>2 A. Yes.</p> <p>3 Q. Is that report an accurate representation of what you 4 said to that newspaper?</p> <p>5 A. Yes, it is. Yes.</p> <p>6 Q. Is it true?</p> <p>7 A. Yes, it is.</p> <p>8 Q. And you say "bosses". I don't want you to name names, 9 or indeed to identify a post so closely that a name can 10 easily be found, but can you give us an idea of where in 11 the management chain you're referring to by "bosses"?</p> <p>12 A. Well, it would be, you know, the head of a desk. The 13 section. Each desk, your know, there's a political 14 editor, there's a showbusiness editor, there's a royal 15 editor, there's a health editor. Depending on how 16 important these are in newspapers, you know, you have 17 a direct chain of command.</p> <p>18 So a showbusiness editor would have a deputy 19 showbusiness editor because it's such a big area for 20 a tabloid newspaper, showbusiness news. You know, the 21 health, maybe they might just have one journalist, 22 a health correspondent. The news desk would be made up 23 of the news editor, a deputy news editor and ten 24 journalists, maybe, or 12, working underneath them on 25 the news section of the newspaper. And then each editor</p> <p style="text-align: center;">Page 19</p>
<p>1 People who are senior editors, the news editor, the 2 showbusiness editor, they are considered the newspaper's 3 executives, although they are editorial, but I did not 4 see hacking talked about in front of the sort of genuine 5 management of the company, although I did see it 6 discussed with senior editorial managers.</p> <p>7 Q. Can we now look at some of the newspaper reports about 8 phone hacking in which you have been quoted?</p> <p>9 A. Yes.</p> <p>10 Q. I'm looking first at tab 13 of your bundle, and an 11 article from the Herald Sun published on 22 July of this 12 year. It's right, isn't it, that the Herald Sun is an 13 Australian newspaper?</p> <p>14 A. Yes, it is. It's the same group as the Australian. But 15 this appeared in the Australian, but I think it's 16 obviously part of the same group and this was obviously 17 put into the Herald Sun as well as the Australian.</p> <p>18 Q. There are a number of quotations which cover the same 19 ground that we've just been talking about. The one I'd 20 first like to talk to you about is on page 2, on the 21 second paragraph. It reads:</p> <p>22 "One of their bosses [and you're talking now about 23 the showbusiness desk] would wander up and instruct 24 a reporter to 'trawl the usual suspects', which meant 25 going through the voice messages of celebrities and</p> <p style="text-align: center;">Page 18</p>	<p>1 looks after their independent brief.</p> <p>2 So whereas we, for example, wrote a daily business 3 column, there was also a business editor who would write 4 business news for the main section of the newspaper, but 5 we were sort of, you know, part of the City desk, so 6 that's how a newspaper works.</p> <p>7 Q. I'd like to ask you now about the sixth paragraph down 8 on the same page, where it reads:</p> <p>9 "Chris Hughes, a showbusiness reporter during 10 Hipwell's time at the Mirror who has since become 11 a defence correspondent, told the Australian Online that 12 he had never hacked voicemails or been aware of the 13 practice at the Mirror."</p> <p>14 Is it right that Mr Hughes was a showbusiness 15 reporter whilst you were working at the title?</p> <p>16 A. Yes, he was.</p> <p>17 Q. And was he one of the people who sat in close proximity 18 to you, as you've described?</p> <p>19 A. Yes, he did.</p> <p>20 Q. It would appear that his comments as reported here are 21 in direct conflict with your own evidence, aren't they?</p> <p>22 A. Yes. But that's a matter for him.</p> <p>23 Q. You understand, no doubt, the importance of telling the 24 truth on oath, don't you?</p> <p>25 A. Absolutely.</p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

<p>1 Q. And despite this, do you stick by the testimony you've 2 given?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Can we move now to tab 15, please? This is a printout 5 from the Guardian's website. It's an article on Friday, 6 11 August 2006. It says: 7 "Hipwell: voicemail hacking rife at tabloids".</p> <p>8 A. Mm.</p> <p>9 Q. It again repeats what you've said to us, that there was 10 widespread hacking at the Daily Mirror.</p> <p>11 A. Well, I mean -- yes, on the showbusiness desk, because 12 I can talk about this because I sat next to the desk. 13 I sat within a few feet of people who were doing this. 14 I have no knowledge of whether this technique was used 15 on the news desk by the news journalists, so that's 16 a matter for the senior editors on that desk at the 17 time.</p> <p>18 Q. I see. Four paragraphs down it says: 19 "Many of the Daily Mirror's stories would come from 20 hacking into a celebrity's voicemail", Hipwell said of 21 his time at the Mirror between 1998 and his sacking in 22 early 2000."</p> <p>23 Do you have actual knowledge of information from 24 hacking being used to support or find the basis of 25 a story that was published?</p> <p style="text-align: center;">Page 21</p>	<p>1 LORD JUSTICE LEVESON: That's not quite how it's reported, 2 is it, Mr Hipwell? It's reported in the article as 3 a positive assertion, not just as a rumour.</p> <p>4 A. But it's based on gossip. I did not work at the 5 newspaper at the time, so I cannot -- I'm not sure how 6 that story was put together, but from my conversations 7 at the time with other journalists, and at this stage 8 I worked for Max Clifford Associates, where I was in 9 contact with a lot of tabloid journalists, this is how 10 it came about.</p> <p>11 MR BARR: In what terms did you report this matter to the 12 Guardian? Did you assert to them that it had happened 13 or did you tell them that it was just the word on the 14 street?</p> <p>15 A. I can't recall exactly what I said, but I remember 16 Chris Tryhorn, who is bylined here, phoning me and we 17 discussed it, and obviously at that stage phone hacking 18 was in the news because of what had happened to 19 Clive Goodman and the News of the World, and I think 20 obviously it was a subject that the likes of the 21 Guardian was interested in. I had already told them 22 back in 2002 that this was happening. There's another 23 article in my bundle to which I refer. So I imagine 24 I must have been someone that they wanted to talk to, 25 given I was at the Mirror at the time and I had already</p> <p style="text-align: center;">Page 23</p>
<p>1 A. Well, it's a long time ago. I mean, I can remember the 2 practice, I can remember this was a very common thing 3 for the showbusiness desk to do, but I can't remember 4 individual stories because I didn't work on them.</p> <p>5 Q. It may be against that answer that you may not be able 6 to assist me with my next question, but just in case, 7 I'm going to ask it anyway. Are you able to help us 8 with whether or not any front page splash on the 9 Daily Mirror, whilst you were working there, was in any 10 way supported or informed by hacked material?</p> <p>11 A. I can't answer that for sure, but I would say yes, but 12 that's conjecture.</p> <p>13 Q. At the bottom hole punch, the article reads: 14 "He said [and I think it's referring to you] the 15 Mirror found out about Ulrika Jonsson's affair with 16 Sven-Goran Eriksson from a voicemail left by the then 17 England coach on the TV presenter's phone." 18 How do you know that?</p> <p>19 A. Again, that is part of -- it was industry gossip at the 20 time. I did not work at the Mirror at the time. I had 21 left the Mirror by then. I do not know how that story 22 was put together, but at the time I remember the buzz in 23 the industry being that that's -- that it involved 24 a phone hack. That story. But again, I wasn't there so 25 I don't know how that story was compiled.</p> <p style="text-align: center;">Page 22</p>	<p>1 told them that this was going on.</p> <p>2 Q. Can I move now, please, to the next paragraph, which 3 says: 4 "Hipwell added that while he and fellow city slicker 5 journalist Anil Bhojru were under fire for writing 6 about shares in which they had invested, a sympathetic 7 colleague had hacked into the voicemail of the paper's 8 editor at the time, Piers Morgan, in an attempt to track 9 down any messages from Mirror executives." 10 Do you have that?</p> <p>11 A. I remember it happening, yes.</p> <p>12 Q. Is it true that a colleague actually hacked into the 13 voicemail of Piers Morgan?</p> <p>14 A. Yeah. Yes, he did, yes. I mean, in front of me, yes.</p> <p>15 Q. In front of you?</p> <p>16 A. Yes.</p> <p>17 Q. With what result?</p> <p>18 A. I don't think it elicited a great deal of information, 19 but he certainly -- he certainly tried. I mean, perhaps 20 there was -- you know, perhaps there wasn't a message 21 there, but he did use the technique to hack into 22 Mr Morgan's phone in 2000, at the beginning of 2000.</p> <p>23 Q. Can we go back, please, now to your witness statement.</p> <p>24 A. Yes.</p> <p>25 Q. I'm looking at the fourth page. It's the paragraph</p> <p style="text-align: center;">Page 24</p>

<p>1 immediately after the one which I read a few minutes 2 ago. I'll just let you find that. It's the one that 3 begins "During my disciplinary proceedings ..."; do you 4 have that? 5 A. Yes. 6 Q. "During my disciplinary proceedings with Trinity Mirror, 7 one of the showbusiness journalists, who felt I was 8 being treated unfairly by management, offered to hack 9 into Mr Morgan's voicemail on my behalf to try to find 10 out any information that would help my case against 11 Trinity Mirror. It seemed to me that phone hacking was 12 widespread on the showbusiness desk at the Mirror." 13 So in this statement, you don't go so far as to say 14 that the journalist actually hacked into Mr Morgan's 15 phone; you just said that he offered to hack into 16 Mr Morgan's voicemail. So was that an incomplete 17 account of what actually happened? 18 A. I guess it was. But I mean I clearly remember him doing 19 it, but I don't think it elicited any information which 20 was going to be useful or interesting. So perhaps 21 I didn't think any more of it. I can remember it -- 22 I remember it happening, but, again, I mean, it didn't 23 seem to elicit anything interesting. 24 Q. You've told us that some of the journalists who were 25 working in the showbusiness team for the Mirror had come</p> <p style="text-align: center;">Page 25</p>	<p>1 make the assumption that if they were conducting phone 2 hacks for the News of the World, why they wouldn't do it 3 on other newspapers, on the Sunday People or the 4 Sunday Mirror or the Daily Mirror. You know, it's just 5 a nonsense. 6 Q. Just to be clear then, are you saying that to your 7 knowledge journalists who you witnessed hacking did move 8 on to other tabloid titles -- 9 A. Yes. 10 Q. -- afterwards, including titles other than the Sun and 11 the Mirror? 12 A. Absolutely, yes. 13 Q. Can we now move back to an issue which you raised 14 earlier, which is the degree of legal scrutiny that you 15 were under at the Mirror. I'm looking now at page 5 of 16 your witness statement, in the middle of the page. You 17 tell us there that the Mirror's in-house legal team was 18 also heavily involved in assessing sources of 19 information, primarily out of concern for potential 20 libel suits. 21 A. Yes. 22 Q. You also tell us that the in-house lawyer, Mr Cruddace, 23 was taking a special interest in your column and that 24 the raw copy was sent to him in advance, in order to be 25 assessed for legal risk, or words to that effect?</p> <p style="text-align: center;">Page 27</p>
<p>1 from the Sun. 2 A. Yes. 3 Q. You explained why you thought that there was hacking 4 going on there too. Again, without naming names or 5 titles, did any of the journalists who you witnessed 6 phone hacking move on to other tabloid titles? 7 A. Well, I mean, the thing about showbusiness journalists 8 who work on national tabloids is that they go from 9 newspaper to newspaper. At any one time, half the 10 members of the Mirror showbiz desk had worked on the Sun 11 and vice versa. As I said, I can think of four people 12 who worked on the Mirror whilst I was there on the 13 showbusiness desk who had worked at the Sun. And 14 they -- you know, they go from newspaper to newspaper. 15 It's quite common for a showbusiness journalist to go 16 from the Mirror to the Sun to the News of the World, 17 back to the Sunday People, as and when jobs become 18 vacant. And, you know, they fill the same roles on 19 other newspapers. 20 So, you know, I've always thought it's a nonsense to 21 suppose that phone hacking at the News of the World was 22 isolated -- an isolated incident on that newspaper, 23 given that some of the journalists on the News of the 24 World end up on other newspapers, newspapers that are 25 part of Trinity Mirror. So I don't know why you would</p> <p style="text-align: center;">Page 26</p>	<p>1 A. Yes, that's right. 2 Q. Why was your column a matter for special interest from 3 the legal team? 4 A. I asked Mr Cruddace this and he said that we were 5 getting quite a lot of solicitors' letters. I think I'm 6 right in saying we were only successfully sued once by 7 a Mr Victor Kiam from a company that he liked so much 8 that he bought it. It made electric shavers and he was 9 well-known for this catchphrase and we wrote something 10 about him and his company that he didn't like and he 11 sued and he won and the Mirror had to pay out. 12 That was some time after Mr Cruddace came to me and 13 said that we would have to send the raw copy from our 14 column to him so that he could check it for defamation 15 first. He would legal it first. So we would send it. 16 We would email it to him or put it in a shared folder so 17 that he could have a look at it before it went through 18 to the page layout artist to put the page together. 19 So we did that for at least a year before we left 20 the Mirror, and it's true to say that he did take a very 21 keen interest in our column and, you know, we were happy 22 to -- I mean we just did what we were told and we sent 23 our copy first, but I don't know whether that was unique 24 to us. I just assumed that everyone else on the 25 newspaper had to do the same, because obviously, as I've</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 said, a newspaper doesn't want to face an embarrassing 2 libel action and have to print a retraction, an apology, 3 and maybe even have to pay out some significant libel 4 damages as well.</p> <p>5 Q. And was that every copy of your column, every single one 6 had been scrutinised?</p> <p>7 A. Yes. Yes, absolutely, yes.</p> <p>8 Q. Moving now to the editorial team's interest in 9 scrutinising stories, which you also mentioned, what 10 sort of interest did you see from, first of all, the 11 editor in relation to scrutinising stories before they 12 were published?</p> <p>13 A. You know, I've described what sort of editor Piers was, 14 but I would often see him late at night, often maybe one 15 of just a few people left at the paper, looking at 16 stories on screen, changing headlines. I mean, this 17 is -- you know, this might even be after the first 18 edition has gone. He would sometimes be sitting there 19 rewriting headlines. You know, in the so-called front 20 of book, in the first six, eight pages of the newspaper, 21 I would see him changing headlines, rewriting copy, 22 rewriting first paragraphs.</p> <p>23 He had that level of involvement. He stamped his 24 authority on every single page. As I said, the 25 newspaper was built around the cult of -- the cult of</p> <p style="text-align: center;">Page 29</p>	<p>1 being a tabloid newspaper, business stories rarely make 2 the front page. We actually launched the column with 3 a story which turned out not to be true about two large 4 supermarket groups merging, Asda and Safeway. I wanted 5 to run it as an item in our column, which was at the 6 back of the newspaper. Piers saw it and thought it was 7 a good enough story to splash the newspaper with, so we 8 ended up launching our column on the very first day 9 splashing on a story which turned out not to be true.</p> <p>10 Q. To what extent --</p> <p>11 A. But Piers was content to run the story. He asked where 12 it came from. I told him. He thought the source was 13 good enough. He ran the story.</p> <p>14 Q. If you wanted to keep a source anonymous and not reveal 15 the source, was that possible?</p> <p>16 A. No. I mean you don't really have too many secrets with 17 your editor. I mean, he's the editor. He's your boss. 18 He's the one who makes the key decisions. It's so -- 19 you know, it's not a game of -- you know, you can't try 20 to pull the wool over anyone's eyes. You have to answer 21 all his questions correctly. That's just how it worked. 22 And he was good at that.</p> <p>23 Q. Were you aware of any journalist working on the Mirror 24 who did withhold a source from the editor, but informed 25 the editor otherwise of how the story had been obtained?</p> <p style="text-align: center;">Page 31</p>
<p>1 Piers. He was the newspaper. You know, he was 2 extremely hands-on. Nothing happened at the newspaper 3 without him knowing. He wanted to know about the 4 details of each story, especially if they were celebrity 5 stories, and, you know, he wanted to know where they 6 came from. Where did this story come from? How do we 7 know? What's the evidence? The simple questions that 8 all editors ask their journalists. That was his job and 9 he did it very well.</p> <p>10 Q. You tell us in your witness statement that there was 11 a particular focus from the editors on the splash 12 stories, the front page stories.</p> <p>13 A. Right.</p> <p>14 Q. They got particularly close scrutiny?</p> <p>15 A. Of course, it's the front page splash, it's the thing 16 that's going to sell your newspaper. It's the thing 17 that the people in the shops who are going to buy your 18 papers see and they often make their decision on whether 19 they are going to buy it from the front page splash. 20 What kind of story is it? Is it an exclusive? How 21 interesting is it? The splash is the most -- obviously, 22 by definition, the most important page in a newspaper.</p> <p>23 Q. Were the sources of your stories things that your editor 24 wanted to know?</p> <p>25 A. Yes. Sometimes we had the splash. Very rarely. It</p> <p style="text-align: center;">Page 30</p>	<p>1 A. No. I don't think so. I mean, if it comes to 2 getting -- if it comes to a journalist being under 3 pressure to reveal a source, then they're not going to 4 reveal it, but they are going to reveal it to their 5 editor. They might not reveal it to anyone else on the 6 newspaper, but they will almost certainly reveal it to 7 their editor.</p> <p>8 Q. Can we focus on page 5 of your witness statement, the 9 last sentence in the first paragraph where you're 10 dealing with this topic and you conclude by saying: 11 "Of course reporters can reserve the right to 12 withhold names to protect their sources, but they would 13 still have to convince their editors on what basis they 14 can run with the story." 15 How do you square that with what you've just told 16 us?</p> <p>17 A. It's up to the editor to decide what to do with a story, 18 and often an editor will decide what to do with it, 19 based on the strength of the source. If it's not 20 a particularly good source, or it's someone who is 21 deemed unreliable, then, you know, the editor might 22 consider that it is not such a good story, he might 23 still run it, but he might run it, you know, further 24 down the newspaper. If it was a great story from a good 25 source, he might run it on the front page. But he</p> <p style="text-align: center;">Page 32</p>



<p>1 cannot make that decision unless he knows where the 2 story came from.</p> <p>3 Q. Can I just be clear what your evidence is? Is it that 4 a reporter can reserve the right to withhold the name to 5 protect a source from the editor or not?</p> <p>6 A. They can, but in my experience that doesn't happen very 7 often.</p> <p>8 Q. Can I now turn to what you say generally about cultural 9 attitudes and ethical attitudes of reporters? You tell 10 us that every journalist you've ever met has "come into 11 the profession with a strong sense of wanting to be 12 a force for good in society and to hold people in 13 positions of power to account, to be a voice for the 14 dispossessed and to fight injustice".</p> <p>15 A. Yes.</p> <p>16 Q. But it would appear, wouldn't it, that once they move 17 into the real world of work as journalists, that they 18 come under ethical pressures, don't they?</p> <p>19 A. Sometimes they do, sometimes they don't. Most -- as 20 I have said, most people, I think, come into the 21 profession to be a force for good. You certainly don't 22 do it for the money. You do it because it can be highly 23 enjoyable, can be extremely rewarding, and you can 24 change people's minds. As I said, most journalists, 25 I think, do go into the profession to be a force for</p> <p style="text-align: center;">Page 33</p>	<p>1 job. And that would be made very clear to people by 2 some of Mr Morgan's emails.</p> <p>3 I think that's menacing, but then again, you know, 4 most tabloid journalists have a pretty tough hide, tough 5 skin, and, you know, what might be menacing to other 6 people might not be to a tabloid journalist, but, yeah, 7 I'm happy to -- I stand by that -- I'm happy with the 8 description.</p> <p>9 Q. You also tell us in that paragraph that amongst the 10 pressures, one that isn't there is financial because you 11 tell us there's no financial incentive for getting 12 a scoop?</p> <p>13 A. No, not in my experience. You were just paid to be 14 a journalist on the newspaper. You were paid the same 15 whatever.</p> <p>16 Q. Can I move now back to the share dealing matter?</p> <p>17 A. Yes.</p> <p>18 Q. I'm looking now at tab 27 of the bundle at another 19 internal printout from the Guardian. This time it's an 20 article dated 3 May 2001. In this article, according to 21 the introductory paragraph, you've launched a "stinging 22 attack" on the paper's editor, Piers Morgan, and we see 23 the contents of that. Perhaps if we pick it up at the 24 third paragraph, it says: 25 "In reality, Piers is the one who got off lightly,"</p> <p style="text-align: center;">Page 35</p>
<p>1 good and a number of them achieve it.</p> <p>2 Q. The way you describe it in your witness statement, I'm 3 looking at page 7 now, is you say: 4 "There is, however, an undeniable pressure to 5 deliver scoops. Exclusives sell newspapers, especially 6 Sunday newspapers, and every journalist is under 7 pressure to bring them in. For example, Mr Morgan would 8 regularly send out all-staff emails berating his 9 journalists for not bringing in enough exclusives, and 10 these emails would often be quite menacing in tone." 11 Did you hear Mr Morgan's evidence yesterday?</p> <p>12 A. I think he agreed with it, but said that he had some 13 question mark over the word "menacing".</p> <p>14 Q. Yes. That's what I want to ask you about. Were the 15 emails menacing in tone?</p> <p>16 A. Well, some of them undoubtedly were. It was quite 17 common to be threatened with the sack. Frankly, if 18 a journalist doesn't bring in enough exclusives or 19 enough stories, then what use is he to a newspaper? 20 This is a highly competitive industry. You can easily 21 be replaced. It takes you years and years to get to -- 22 you know, to get onto a national newspaper, very often, 23 and, you know, you don't want to blow it by not pulling 24 your weight, and the fact is if you don't bring in great 25 copy, great exclusives, you're not going to last in the</p> <p style="text-align: center;">Page 34</p>	<p>1 wrote Mr Hipwell.</p> <p>2 "There is no difference between what we did and 3 what he did, save the volume of trading. We might have 4 bought into a few more companies but, in the main, his 5 investments were larger, as you would expect from 6 someone on £300k a year."</p> <p>7 "He continued: 'And whereas we got fired for gross 8 misconduct, Piers got editorial control of another 9 newspaper'."</p> <p>10 Can I take it from that that it's your opinion that 11 Mr Morgan was as guilty as you were, but got away with 12 it?</p> <p>13 A. I've always thought so. I mean, I can understand why 14 people think that I have an axe to grind against him, 15 but it has always been my contention that neither 16 Trinity Mirror nor Mr Morgan took their responsibility 17 for what happened, so, yes, I think I did trade on the 18 same information that he did. You know, as far as some 19 of the companies went, his investments were very much 20 larger than anyone else's on the newspaper. With one 21 company in -- one company called Viglen, chaired by 22 Sir Alan Sugar who was then a Mirror columnist himself, 23 Piers' investment was as large as £67,000.</p> <p>24 Q. You tell us in your witness statement that he bought 25 those shares, they were for him and his wife, the day</p> <p style="text-align: center;">Page 36</p>

<p>1 before the share was tipped by your column?  2 A. Yes.  3 LORD JUSTICE LEVESON: I don't think we're going to  4 reinvestigate this case for reasons which are pretty  5 obvious.  6 A. Okay.  7 LORD JUSTICE LEVESON: I am, however, concerned with one of  8 the underlying issues to this episode, because it bites  9 on custom, practice and ethics. You said at the  10 beginning of your evidence that you never saw a copy of  11 the code, you don't recall ever being taught it, but  12 I just want to press you upon that, if I might,  13 Mr Hipwell.  14 A. Yes.  15 LORD JUSTICE LEVESON: Are you saying that in your time as  16 a journalist, you didn't know there was a code?  17 A. No, I don't think I did. I never saw a copy.  18 LORD JUSTICE LEVESON: And what about the principles which  19 you had to apply when advising on the acquisition of  20 shares? Running a City desk or running a City column,  21 one would expect that you'd be aware, for example, of  22 insider trading requirements. Did you know nothing at  23 all about the propriety of your dealing in shares which  24 you were mentioning in your columns?  25 A. Well, we weren't regulated to give investment advice.</p> <p style="text-align: center;">Page 37</p>	<p>1 now. It was something we should not have done. And it  2 is right that we were held to account.  3 LORD JUSTICE LEVESON: I wasn't actually asking you to  4 revisit your own personal wrongdoing as found by the  5 jury, but rather thinking about the concept. You were  6 brought in to start a column. Surrounding that column  7 is all sorts of legal ifs and buts, if you like.  8 A. Yes.  9 LORD JUSTICE LEVESON: And I'm just wondering what you did,  10 because you'd come from a business environment, media  11 environment, what you did or what you were encouraged to  12 do or what was put in place for you to find out what the  13 four corners of the regime ought to be.  14 A. We just wanted to produce a really lively, interesting  15 column, which reflected what was happening in the stock  16 market at the time, and I think we did that. I didn't  17 really think about the ethics of what we were doing.  18 Certainly there was no ethical management from our  19 superiors on the newspaper.  20 LORD JUSTICE LEVESON: It's not just ethics, it's law.  21 There's sometimes a correlation between the two, perhaps  22 not always, but sometimes.  23 A. Yes, but that was never discussed. It wasn't  24 a consideration. It should have been, but it wasn't.  25 LORD JUSTICE LEVESON: You had to cope with people who</p> <p style="text-align: center;">Page 39</p>
<p>1 It's true to say that initially I did not want it to be  2 a share-tipping column. Actually, you know, in the  3 first few months after we launched the column, my  4 co-columnist Mr Bhoynul went on holiday. During that  5 week I quietly dropped the tip of the day, which was the  6 main share tip, I dropped it from the column. Within  7 the same week, maybe three or four days later, Piers  8 came to the desk. He had spotted that this particular  9 feature on the page had been dropped and asked me to  10 reinstate it, which I did.  11 It's also significant that this column was produced  12 at a time when there was the most incredible bull run on  13 the stock market. I don't think it would be possible to  14 do a column like that now. We were seeing these  15 companies come to the market capitalised at just a few  16 hundred thousand pounds one week. Three months later  17 they were capitalised at 10, 15 million pounds. People  18 were trying to acquire these Internet stocks. There was  19 a real public appetite for it, and that -- the  20 zeitgeist, if you will, is what we wanted to tap into.  21 I think we did it very well.  22 It's true to say that we got carried away, we traded  23 more enthusiastically than we should. I'm extremely  24 sorry and regretful that that happened. I apologised  25 then in the pages of the Press Gazette and I apologise</p> <p style="text-align: center;">Page 38</p>	<p>1 obviously hadn't had such a column before. So when you  2 were brought in to start this column, did you raise the  3 question, "Well, we have some things we're going to --  4 boxes we're going to have to tick on all this" or not?  5 A. No, I didn't. I did raise with Mr Cruddace, the  6 Mirror's in-house lawyer, the possibility that we should  7 put in a disclosure at the bottom of the page, like  8 other financial publications do. Investors Chronicle  9 does this. Our journalists sometimes own shares in  10 companies they write about. You used to be able to see  11 it in the Investors Chronicle. Not now, I haven't read  12 it for a while.  13 His response, and I think he was certainly  14 cross-examined in my trial about this, was that we're  15 not the Investors Chronicle, we're the Daily Mirror. We  16 are not regulated to give investment advice and we will  17 not carry that disclosure. You can read that from the  18 transcript of his evidence during my trial. But I did  19 raise it with him. I did --  20 LORD JUSTICE LEVESON: That's what he said, is it?  21 A. Yes.  22 LORD JUSTICE LEVESON: All right. As I say, it goes to  23 culture and practice rather than the specifics of this  24 incident.  25 Right, thank you.</p> <p style="text-align: center;">Page 40</p>

10 (Pages 37 to 40)

<p>1 MR BARR: The question I was going to put to you about your 2 feelings towards Mr Morgan, him having got away with 3 something, is -- 4 LORD JUSTICE LEVESON: Could you pause a moment? The 5 transcription system has failed. 6 Just a few minutes early, let's have a little break. 7 (11.07 am) 8 (A short break) 9 (11.18 am) 10 LORD JUSTICE LEVESON: Just before we start, are you 11 satisfied that we've captured everything that we've done 12 to date? Thank you. If this happens again, please 13 don't wait for some break, say something. 14 Yes, Mr Barr. 15 MR BARR: Thank you, sir. I'm touching wood when I say we 16 think all the problems are sorted out now. We 17 understand there was a power problem. 18 I'm almost finished, Mr Hipwell. I was asking 19 whether your beliefs about Mr Morgan and that he got 20 away with something, have they influenced the evidence 21 that you have given about him in any way? 22 A. No. I don't spend my life thinking about Mr Morgan. 23 It's a long time ago now, it's 12 years ago. I've had 24 two major organ transplants since I left the Mirror, 25 I've moved on with my life. I do not really think about</p> <p style="text-align: center;">Page 41</p>	<p>1 do it himself, but I certainly did to some of the 2 clients that I managed whilst I worked for him. 3 Q. In dealing with the tabloids on behalf of your clients, 4 how important was copy approval? 5 A. Whilst I worked for Max? 6 Q. Yes. 7 A. Max does his own thing. He -- you know, he -- 8 I wouldn't necessarily know everything that he got up 9 to. I mean, certainly there were instances when copy 10 approval was required. I think that's pretty common, in 11 publicity agents' offices; it was then and I'm sure it 12 is now, but again, I worked mainly on Max's corporate 13 clients, people in business who came to him and wanted 14 help with a problem. There was a lot of crisis 15 management. 16 I worked on, to give you an example, the account of 17 a personal injury insurer which had been all over the 18 Sun and also featured on the consumer programme 19 Watchdog, and I would provide advice to his corporate 20 clients, of which there were maybe five or six, whilst 21 I worked there. Max concentrated on the big 22 showbusiness exclusives and buy-ups and that kind of 23 thing, and he would obviously help people to market 24 their story if they walked into his office, he would 25 often negotiate for them and I think his advice was</p> <p style="text-align: center;">Page 43</p>
<p>1 my time at the Mirror. I'm not obsessed with getting 2 back at him. As I've said, I think he was an engaging 3 and charming character, and I thought he was a very 4 talented editor whilst I was there. 5 But when what happened happened, he displayed 6 characteristics that -- personal characteristics that 7 I do not like in people, moral cowardice. He did not 8 face up to what happened, he did not take his share of 9 responsibility, and that is part of my evidence. So, 10 yes, he did not take responsibility for what happened. 11 Neither did Trinity Mirror, and obviously my evidence 12 should be seen in that light. 13 Q. Can I ask you finally now about your time working for 14 Max Clifford? 15 A. Yes. 16 Q. During the time that you worked for Max Clifford, was 17 advice given to clients to take protective measures to 18 prevent their phones being hacked? 19 A. I can -- I don't think Max personally gave information 20 to any of his clients, including Simon Cowell, about his 21 mobile phone. There might have been other people in the 22 office who did. I think I did myself to some of our 23 clients. I don't think Max did, and obviously Max's 24 phone was hacked, his own phone was hacked, so he can't 25 have given that advice to clients, given that he didn't</p> <p style="text-align: center;">Page 42</p>	<p>1 normally excellent. 2 MR BARR: Thank you. Those were all my questions. 3 Discussion re procedure 4 LORD JUSTICE LEVESON: Thank you. Mr Browne? 5 MR BROWNE: Sir, as last night with Mr Morgan, who is not 6 directly my client, I've considered whether I could 7 assist the Inquiry by seeking leave under Rule 10 to 8 cross-examine Mr Hipwell. 9 I won't speculate as to what ruling you would have 10 made if I had done that, but I do want to explain, and 11 it's only fair to my clients that I should take a minute 12 or two to do so, why, notwithstanding that we do not 13 accept Mr Hipwell's evidence, we do not think it 14 productive to challenge it by extensive 15 cross-examination. It would hold up the progress of the 16 Inquiry and it could very easily lead into the "you 17 did", "I didn't" form of cross-examination. 18 LORD JUSTICE LEVESON: You will have gathered from what 19 I said that the precise detail was not what I am 20 concerned with. 21 MR BROWNE: Indeed. 22 LORD JUSTICE LEVESON: Although there are two features which 23 do concern me and which I do think are relevant. The 24 first is the observation of Mr Justice Beatson, who 25 obviously conducted a lengthy trial and was in by far</p> <p style="text-align: center;">Page 44</p>

<p>1 and away the best position to reach conclusions which he 2 did, and secondly, the overall question of the way in 3 which the column was set up and, as it were, managed 4 legally in line with the questions that I myself asked. 5 So those seem to me to be relevant to the issues 6 that I must address, rather than the specific detail. 7 I hope that's helpful to what you wanted to say. It may 8 not be. 9 MR BROWNE: Well, it is, sir, and it's why we've reached the 10 conclusion that it is best addressed by our giving 11 evidence when our time comes, focusing on those matters. 12 But it has not been easy for the core participants to 13 know how to proceed in this matter. 14 To take an example, this morning Mr Barr gently led 15 from Mr Hipwell the allegation that Mr Morgan was guilty 16 of an offence. That was something investigated over 17 many years, I think four years, by the DTI inspectors, 18 and no proceedings were brought. Now, that wasn't put 19 to Mr Morgan, and yet it was led out of him before the 20 adjournment by reference to something that Mr Hipwell 21 had said, I think, to the Guardian, and it was returned 22 to by Mr Barr again when we sat after the breakdown in 23 the transcription system was cured. 24 LORD JUSTICE LEVESON: I think that's when I interrupted. 25 MR BROWNE: Well, I'm not capable of entirely accurate</p> <p style="text-align: center;">Page 45</p>	<p>1 and I anticipate that whether that reasoning stands up 2 may be relevant to what is considered about the way in 3 which the PCC has conducted itself. But I'm not going 4 to come and look at this or reinvestigate or reconsider 5 the DTI investigation or anything to do with it. 6 MR BROWNE: Well, I think, with respect, it's only fair that 7 one should say publicly on behalf of Mr Morgan, who was 8 subjected to that line of cross-examination, that the 9 PCC's conclusion in deciding not to reopen their 2000 10 investigation was that there didn't appear to be any 11 evidence to support the contention that the motive for 12 not revealing the higher figure was to try to protect 13 Mr Morgan or to minimise the Commission's criticisms. 14 Now -- 15 LORD JUSTICE LEVESON: I understand that. 16 MR BROWNE: Thank you. 17 LORD JUSTICE LEVESON: And I go further, Mr Browne. I know 18 that that will be online and I know that the very 19 detailed statement that Mr Morgan made about 20 Mr Hipwell's evidence is itself part of the evidence in 21 the Inquiry, so I'm very conscious of that. 22 MR BROWNE: Indeed, and that is important because, of 23 course, when Mr Morgan tried to refer to it, perhaps not 24 surprisingly he was told that he wasn't the one making 25 speeches or asking questions, but for me at any rate</p> <p style="text-align: center;">Page 47</p>
<p>1 telepathy, but if your Lordship was as concerned as 2 I was at that stage, it would only be natural. 3 Similarly, yesterday with Mr Morgan, he was 4 cross-examined at some length by Mr Jay as to why it was 5 that the PCC were not told initially that the total 6 holdings of him and his wife in Viglen were 67,000 and 7 were led to believe that it was the acknowledged lesser 8 figure of 20,000. Now, the explanation for all of that 9 is copied in the very document Mr Barr referred to, the 10 2006 ruling of 7 May, which I think in your bundle is 11 tab 6. 12 LORD JUSTICE LEVESON: Yes. 13 MR BROWNE: I don't know whether you've had an opportunity 14 to read that, but it demonstrates, first of all, that 15 Trinity Mirror and Mr Morgan were open with the DTI 16 inspectors about the 67,000 figure from the start, but 17 believing that they had been lied to by Mr Bhojru and 18 Mr Hipwell and that knowledge of the fact that the 19 figure in reality was 67,000 rather than 20,000, they 20 withheld it from the PCC because, to use their words 21 recorded in the PCC ruling, that was almost a touchstone 22 of the veracity of Messrs Bhojru and Hipwell -- 23 LORD JUSTICE LEVESON: Yes, my concern about this is nothing 24 to do with the Trinity Mirror, I say immediately. My 25 concern about this aspect of the case relates to the PCC</p> <p style="text-align: center;">Page 46</p>	<p>1 what is critical, which has not been challenged by 2 counsel to the Inquiry, indeed quite the contrary from 3 the evidence led from Mr Hipwell, is that the matter 4 was, as Mr Morgan says in paragraph 29 of his second 5 witness statement, never raised at the time with 6 Mr Morgan or with senior managers, and now of course we 7 are 12 years down the track, only one of about a dozen 8 people who are embraced in Mr Hipwell's charges has been 9 named, Mr Hughes, and we know from him that he has 10 explicitly denied it. 11 Now, I think that's all I want to say, save this. 12 Yesterday, and this explains why I've risen to expand 13 our thinking and our position, Mr Sherborne made the 14 point in relation to Mr Nott's evidence that it had not 15 been challenged by Trinity Mirror. That's a fair point 16 in adversarial litigation. 17 LORD JUSTICE LEVESON: I entirely agree with the point that 18 you are about to make. This is not adversarial, this is 19 inquisitorial and I understand the point. 20 MR BROWNE: It's inquisitorial, and for those acting for 21 core participants it leads to some difficult and 22 delicate decisions as to how they should pursue matters 23 with witnesses and it's on that account that I wanted it 24 to be known publicly and beyond this tribunal why it is 25 that I'm not cross-examining Mr Hipwell. He is on his</p> <p style="text-align: center;">Page 48</p>

<p>1 own account an acknowledged liar. It is remarkable that                  2 it is led by him from Mr Barr that he understands the                  3 importance of telling the truth on oath in the light of                  4 what happened at the Crown Court and it must be the                  5 first time in history that any courtroom in this                  6 building has heard as evidence what is described by the                  7 witness as mere buzz.                  8 LORD JUSTICE LEVESON: Mr Browne, just on that topic,                  9 I think that it's not entirely fair to characterise some                  10 of the -- all the evidence I've heard as lacking                  11 credibility, albeit I must recognise and allow for the                  12 fact that courts and investigators have examined various                  13 of these transactions in the past and reached                  14 conclusions on far more evidence than I will ever have                  15 and could ever obtain unless this Inquiry were to                  16 proceed for an eternity.                  17 MR BROWNE: Sir, you will recall that "buzz" was the phrase                  18 used in relation to the suggestion that the story about                  19 Ulrika Jonsson had involved a phone hack. I wasn't                  20 using "buzz" to describe all of Mr Hipwell's evidence,                  21 I was simply reminding you about what he said about that                  22 part of his evidence related to phone hacking.                  23 LORD JUSTICE LEVESON: We've actually had it both ways,                  24 haven't we? Because yesterday we had Ms Marshall and                  25 Mr Morgan moving away from positive assertions in                  Page 49</p>	<p>1 you were at the Daily Mirror and then you moved to the                  2 Daily Express in 2003; is that correct?                  3 A. That's correct.                  4 Q. I think you are still at the Daily Express as a general                  5 news reporter; is that right?                  6 A. That's right.                  7 Q. In relation to the Madeleine McCann story, you tell us                  8 that you went to Portugal in 2007, indeed you were there                  9 a total of six times until February 2008, and you were                  10 six weeks in the country at your first visit; is that                  11 correct?                  12 A. Yes, that's correct, six weeks, yeah.                  13 Q. Can I ask you first of all, please, in your own words to                  14 tell us about the "uniquely challenging" aspects of                  15 covering this story? It's paragraph 4 of your                  16 statement. I'm not going to ask you to read it out, but                  17 to tell us why it was uniquely challenging.                  18 A. Well, it was obviously a story of great interest and the                  19 problem was sort of accessing information from the                  20 police because of the secrecy of justice laws, which                  21 meant that it was illegal for them to discuss any                  22 details of the case or the investigation. Normally in                  23 a story like that, you would expect the police to be                  24 organising appeals and they'd have a strategy of dealing                  25 with the media and the press. But it wasn't there in                  Page 51</p>
<p>1 material they had written to saying, well, it was only                  2 rumour. This morning we've had it the other way around.                  3 MR BROWNE: Thank you.                  4 LORD JUSTICE LEVESON: Thank you very much, Mr Browne.                  5 Thank you, Mr Hipwell.                  6 A. Thank you.                  7 MR JAY: Sir, the next witness is Mr Pilditch.                  8 LORD JUSTICE LEVESON: Thank you.                  9 MR DAVID PILDITCH (sworn)                  10 Questions by MR JAY                  11 MR JAY: Please sit down, Mr Pilditch, make yourself                  12 comfortable and tell us your full name.                  13 A. David Hamilton Pilditch.                  14 Q. You'll find in the bundle in front of you, I hope under                  15 tab 2, your witness statement has been signed and                  16 contains a statement of truth. Do you stand by this                  17 evidence?                  18 A. Yes.                  19 Q. I'm going to ask you first of all to tell us something                  20 about yourself. You have been a journalist for 26 years                  21 now; is that correct?                  22 A. That's correct.                  23 Q. You started at a local paper, you were formally trained                  24 by the National Council for the Training of Journalists.                  25 You worked for a national news agency. For eight years                  Page 50</p>	<p>1 this case.                  2 Q. They didn't have a formal strategy because under                  3 Portuguese law it was forbidden to speak to the press;                  4 is that correct?                  5 A. That's right.                  6 Q. Then you tell us in the final sentence of paragraph 4:                  7 "Quite frankly this was a ludicrous state of affairs                  8 which made covering the story near impossible."                  9 A. That's correct.                  10 Q. Did you mean by that getting to the truth of the matter                  11 or did you mean by that -- well, what did you mean by                  12 that?                  13 A. Getting to the truth, yes. I mean, it was as if you'd                  14 been transported like Dr Who into some Orwellian                  15 nightmare where the truth is impossible to find.                  16 Q. It might be said if the truth is impossible to find,                  17 a journalist cannot properly say anything?                  18 A. Well, that's right, because certainly in relation to the                  19 police investigation, in a story like this you'd expect                  20 that the primary information would be coming from the                  21 police, and in this case that just wasn't happening, so                  22 you are in an impossible situation because obviously                  23 you're trying to do everything to make sure that you can                  24 get to the bottom of what's happened to                  25 Madeleine McCann. The parents were in the end left to                  Page 52</p>

<p>1 do that job that the police would normally do.</p> <p>2 Q. Did you feel under any pressure to produce stories in</p> <p>3 relation to this case?</p> <p>4 A. There was obviously a lot of pressure because there was</p> <p>5 newspapers and TV networks from all over Britain and</p> <p>6 Europe there, and the interest was in the story. You've</p> <p>7 obviously got to -- you can't sort of not cover the</p> <p>8 story of something that -- that's why I'm saying it's</p> <p>9 ludicrous, because you have to be in a position to cover</p> <p>10 the story. That's in everybody's interest.</p> <p>11 Q. You're making it sound, maybe this is the case, that you</p> <p>12 were on the horns of a dilemma. On the one hand you</p> <p>13 were under pressure to cover the story; on the other</p> <p>14 hand you couldn't cover it because you couldn't get to</p> <p>15 the truth. Is that a fair characterisation?</p> <p>16 A. That's right. But you want to make sure, as</p> <p>17 a journalist, that you've got facts and proper</p> <p>18 information that you're dealing with, but without the</p> <p>19 police co-operation it's impossible to do that.</p> <p>20 Q. You say in paragraph 6:</p> <p>21 "The lack of official cooperation between the police</p> <p>22 and the media in my view fatally flawed the</p> <p>23 investigation into Madeleine's disappearance from day</p> <p>24 one."</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 53</p>	<p>1 information, but you tell us in paragraph 13:</p> <p>2 "My stories were compiled using numerous sources of</p> <p>3 information."</p> <p>4 Can we just list, please, your sources of</p> <p>5 information? You say first of all:</p> <p>6 "I interviewed witnesses, many locals connected with</p> <p>7 businesses, resort workers, holidaymakers and expats."</p> <p>8 What information did they give you which bore on the</p> <p>9 Madeleine McCann story which was relevant?</p> <p>10 A. Well, the police had been round the resort and other</p> <p>11 areas on their own enquiries, and we were finding out</p> <p>12 lines of enquiry that the police were pursuing through</p> <p>13 speaking to local people and they'd been given</p> <p>14 descriptions of potential suspects, things like that,</p> <p>15 and you'd get a whole load of witnesses giving you the</p> <p>16 same description, then you have a pretty good idea what</p> <p>17 the police are working on, and then you go to the police</p> <p>18 and they can't tell you if that's right or wrong.</p> <p>19 Q. So the suspects, are these people who were suspected of</p> <p>20 having abducted Madeleine; is that right?</p> <p>21 A. I think that's right, yes. I mean, the police were</p> <p>22 putting out a description of a particular man that</p> <p>23 they -- I think witnesses had described being near the</p> <p>24 apartment, a potential suspect.</p> <p>25 Q. Okay. And what about the locals connected with</p> <p style="text-align: center;">Page 55</p>
<p>1 Q. Why do you say that?</p> <p>2 A. Because of these lack of appeals, there was just no --</p> <p>3 the things that should have been done, the strategies</p> <p>4 that should have been put in place by the police were</p> <p>5 not there, so at the time when it was most important</p> <p>6 that people were alerted to what was going on, that</p> <p>7 didn't happen. And throughout the whole investigation,</p> <p>8 I think this lack of information meant that -- and there</p> <p>9 were leaks of information as well, which meant that, as</p> <p>10 I say, there was no strategy. It was just confusion all</p> <p>11 round, where there should have been focus.</p> <p>12 LORD JUSTICE LEVESON: But isn't that then the story?</p> <p>13 A. Well, the story is to find out what's happened to</p> <p>14 Madeleine McCann.</p> <p>15 LORD JUSTICE LEVESON: No, isn't the story the lack of focus</p> <p>16 and the accusation? And obviously to find Madeleine,</p> <p>17 but isn't that the position rather than just</p> <p>18 repeating --</p> <p>19 A. That was the story that we were writing in the early</p> <p>20 stages. The story about the confusion, about the lack</p> <p>21 of information.</p> <p>22 LORD JUSTICE LEVESON: I'm running ahead of Mr Jay and</p> <p>23 I shouldn't.</p> <p>24 MR JAY: Paragraph 13, please, Mr Pilditch. You make it</p> <p>25 clear that the police could not be an official source of</p> <p style="text-align: center;">Page 54</p>	<p>1 businesses? Is this the same sort of enquiry you were</p> <p>2 making?</p> <p>3 A. That's exactly what I'm saying. I mean, in the early</p> <p>4 stages, when we arrived on the story, did what we do on</p> <p>5 all stories, which is go around speaking to people in</p> <p>6 the vicinity and trying to find out what they knew.</p> <p>7 Q. So during this phase, is this right, you were under the</p> <p>8 impression that the police focus was on an abductor?</p> <p>9 A. Well, it certainly was, and -- I mean, there were</p> <p>10 various lines of enquiry that emerged, but certainly in</p> <p>11 the very early days they were putting out various</p> <p>12 descriptions and there were also potential sightings</p> <p>13 that were reported as well, but this information wasn't</p> <p>14 coming from the police directly.</p> <p>15 Q. You say in paragraph 18, when you're dealing with other</p> <p>16 sources of information, you'd previously identified</p> <p>17 Mr Clarence Mitchell as being the McCanns' official</p> <p>18 spokesman, which we know about. Paragraph 18:</p> <p>19 "In addition to quoting from Portuguese newspapers</p> <p>20 and the Drs McCanns' official spokesman I approached my</p> <p>21 own sources."</p> <p>22 Could you make it clear for us, please, it's dealt</p> <p>23 with in paragraph 19, who your own sources were?</p> <p>24 A. What I'm saying is that we were looking at the</p> <p>25 Portuguese newspapers every day and that gave you a sort</p> <p style="text-align: center;">Page 56</p>

14 (Pages 53 to 56)

<p>1 of starting point, very often, of what sort of lines you  2 might be pursuing on a particular day. But then, as it  3 became apparent that the police weren't going to  4 co-operate directly, I had to try and make contact with  5 them in whichever way I could, and the way I did that  6 was by identifying journalists who had -- from the area  7 and crime reporters who'd got very good police contacts  8 and they were in daily contact with them, with the most  9 senior officers in the case, as I've said, who were  10 investigating the crime.  11 Q. You identify three sources, don't you, who provided you  12 with information, you say. Two were Portuguese  13 journalists who, you say, were in daily contact with the  14 most senior officers investigating Madeleine's  15 disappearance. The third was a translator who worked  16 for the Portuguese police and translated, interpreted in  17 the Portuguese legal system.  18 A. Yes.  19 Q. Is that right?  20 A. Yes.  21 Q. So they were, as it were, your sources? You haven't  22 given their names, but in terms of who they were --  23 A. Yeah.  24 Q. -- these are the individuals we're talking about?  25 A. These were my best sources. I mean, during the course</p> <p style="text-align: center;">Page 57</p>	<p>1 within the police investigation at that time."  2 Is that right?  3 A. Yes.  4 Q. But in truth, is this not also right, that the best you  5 could do was to obtain from your Portuguese journalists  6 their report of what senior officers were apparently  7 telling those Portuguese journalists?  8 A. Sorry?  9 Q. The best you could do was to obtain from the two  10 Portuguese journalists who were your main source their  11 report of what they were apparently being told by senior  12 officers within the Portuguese police service?  13 A. Yes.  14 Q. You say in paragraph 21, five lines down -- maybe  15 I should read the preceding sentence:  16 "Indeed, by this point in time, one of my  17 contacts ..."  18 Is this one of the three you had identified  19 previously?  20 A. Yes.  21 Q. "... was informing me of day-to-day developments as they  22 were taking place and before they were being written  23 about in Portuguese newspapers. This enabled me to  24 verify the accuracy of the information I was being  25 given."</p> <p style="text-align: center;">Page 59</p>
<p>1 of the time I was there, there were other people, but  2 these were the ones that I used on a regular basis.  3 Q. So is this right: the senior officers in the Portuguese  4 police who, under Portuguese law, were not supposed to  5 brief Portuguese journalists, were doing just that,  6 unofficially, and then you were, as it were, picking up  7 on the scraps of their briefings from your contact with  8 those journalists? Is that right?  9 A. Yes. And if there was -- I was able to sort of develop  10 a dialogue with the police through these third-party  11 sources, so sometimes in the Portuguese newspapers they  12 didn't -- there was only just one or two lines that  13 weren't developed that may need more developing, so  14 I was able to ask questions to the police, not directly,  15 but through the journalists who were talking to them  16 every day.  17 Q. So you put a question to the journalists, the  18 journalists to the police, and the answer came back; is  19 that what you're saying, Mr Pilditch?  20 A. Well, the answer didn't always come back, but yeah, that  21 was the process that I was working through.  22 Q. You say in paragraph 21:  23 "Despite the barriers thrown up by the Portuguese  24 criminal justice system, I was able to obtain an  25 accurate and truthful insight into ongoing developments</p> <p style="text-align: center;">Page 58</p>	<p>1 Would it be fair to say that enabled you to verify  2 some the accuracy of what you were being given?  3 A. Yes. It satisfied myself that this wasn't just  4 information that was being given to me that wasn't very  5 good information; it confirmed that my source was  6 dealing, as he said, with the most senior officers in  7 the case.  8 Q. Can I ask you about paragraph 22:  9 "Although I was confident of the veracity of the  10 reports I was writing, due to the secrecy of justice  11 laws they were impossible to prove, to any satisfactory  12 legal standard, at that time. The fact is that every  13 newspaper, TV network or media organisation that  14 reported on details of the investigation into  15 Madeleine McCann's disappearance were in the same boat."  16 A. Mm.  17 Q. You're effectively saying there that given all the  18 problems you've identified, in particular the  19 restrictions imposed by Portuguese law, on one level, at  20 least, what you were writing about was impossible to  21 prove to any satisfactory legal standard. Is that what  22 you're saying?  23 A. Yeah. I mean, I knew that the reports were correct, but  24 I also knew because they -- there was no confirmation,  25 that there were going to be difficulties if any</p> <p style="text-align: center;">Page 60</p>

<p>1 complaints were made because they just weren't from 2 a publicly declared statement.</p> <p>3 Q. I appreciate your role as journalist is not to obtain 4 legal advice, not to edit the story, but these 5 difficulties which you are frankly referring to here, 6 did they cause you to hesitate at all in writing the 7 stories you did?</p> <p>8 A. Yeah. You feel uncomfortable writing stories where 9 you're being put in a position where you can't do it in 10 the way that you're used to, to be certain that what 11 you're saying is fair and accurate, and the only way 12 I felt that I could get round that would be to just 13 explain the information in terms of this is where the 14 information's being sourced from. So if it was -- this 15 information's coming from the Portuguese police, I don't 16 know if it's 100 per cent correct, but I know that it's 17 coming from the Portuguese police.</p> <p>18 Q. Your discomfiture, was that something you discussed with 19 your news desk?</p> <p>20 A. Yeah, I mean we had dialogues all the time, every day, 21 and I explained to them the problems that we were having 22 and, as I say, you couldn't just not write a story, 23 particularly in the early stages of the enquiry, where 24 what you were doing was basically launching appeals and 25 trying to get people to come forward.</p> <p style="text-align: center;">Page 61</p>	<p>1 desk?</p> <p>2 A. Yes. I said "If we're going to have any problems, we 3 may not be able to defend these things because we just 4 cannot get any confirmation", and that was the 5 difficulty.</p> <p>6 Q. And what was the reaction from your news desk, if any?</p> <p>7 A. Well, they took my comments on board and as I said, 8 you're in a situation where it's a story of great 9 interest and you've got newspapers and TV from all 10 around the world who are covering it and you know that 11 your rivals are working on similar information and 12 they've got similar issues, and it's the sort of process 13 that, you know, reporters go through every day when 14 they're explaining what information they've got, and, 15 you know, I knew that all I could do was present it in 16 the -- with sort of explaining the sources that the -- 17 where the information had come from.</p> <p>18 Q. You told us about three or four minutes ago you couldn't 19 not write the story.</p> <p>20 A. Yes.</p> <p>21 Q. And then you went back to what the position was at the 22 early stages with the missing child --</p> <p>23 A. Yes.</p> <p>24 Q. -- and all of that, but the position we're talking about 25 now with the defamatory articles, they were written</p> <p style="text-align: center;">Page 63</p>
<p>1 So basically, every day when I'd speak to the news 2 desk, normally you'd say, "Look, this is what we know, 3 this is what the police are saying, and that's taken as 4 being fact", but the conversations I was having with the 5 news desk were explaining the information I had with all 6 the caveats that were attached to it.</p> <p>7 Q. Did you tell your news desk that which we see in 8 paragraph 23 of your statement, namely: 9 "Due to the restrictions of the Portuguese law, 10 anyone who was unhappy about something that had been 11 written or said about them and wished to take legal 12 action would almost certainly have been successful." 13 Was that sentiment shared with your news desk at the 14 time?</p> <p>15 A. Well, this is what I felt on the ground. I'm not 16 a legal expert, but I felt that just the situation as it 17 presented itself, that that was the case, and I'm 18 certain that the news desk would have had conversations 19 with lawyers about this, and there would have been 20 discussions, ongoing discussions, and that was the 21 situation that we were in and there was no way around 22 it.</p> <p>23 Q. I must persist with the question.</p> <p>24 A. Sorry, yes.</p> <p>25 Q. Yes. Did you share your discomfiture with your news</p> <p style="text-align: center;">Page 62</p>	<p>1 between September 2007 and January 2008.</p> <p>2 A. Mm.</p> <p>3 Q. The McCanns were given arguido status under Portuguese 4 law I think on 7 September 2007?</p> <p>5 A. Yes.</p> <p>6 Q. It might be said, well, you could not write the story. 7 There was no imperative to write stories which you knew 8 wouldn't stand up to legal scrutiny. Do you see that 9 point?</p> <p>10 A. Yes. But the position that we were in was that this was 11 probably the most significant development that had 12 happened up to that time in the investigation.</p> <p>13 Q. Sorry, what was, Mr Pilditch?</p> <p>14 A. Well, when the McCanns were named arguidos. It's not 15 something you could ignore. It's not something where 16 you could just present a story that was based on 17 a comment from the McCanns' official spokesperson.</p> <p>18 LORD JUSTICE LEVESON: Did you do any work to find out 19 precisely what that meant in Portuguese law?</p> <p>20 A. Yes, a lot of work, yeah. We spoke to lawyers in 21 Portugal, and it was explained to me that there were 22 subtle differences between arguidos and suspects. 23 There's no legal equivalent.</p> <p>24 LORD JUSTICE LEVESON: They're merely entitled to have legal 25 representation and have other advantages, isn't that</p> <p style="text-align: center;">Page 64</p>

16 (Pages 61 to 64)



1 right? That's what Dr McCann told us, I think.  
 2 I remove the word "merely" from what I just said.  
 3 A. No, we were given a completely different version by the  
 4 lawyers in Portugal. We were told that effectively an  
 5 arguido is a suspect. It gives the police an  
 6 opportunity to put much tougher questions than they  
 7 could to a witness, and they were allowed legal  
 8 representation and I think the McCanns themselves were  
 9 given some very, very tough questions from the  
 10 Portuguese police.  
 11 LORD JUSTICE LEVESON: So proceedings in English terms would  
 12 be active?  
 13 A. There are subtle differences, but I don't think they  
 14 were arrested or anything like that. But effectively  
 15 that was the -- was what was explained to us by the  
 16 lawyers in Portugal.  
 17 MR JAY: Yes. I'm not sure whether you fully saw the point  
 18 of that last question, Mr Pilditch.  
 19 A. Sorry.  
 20 Q. That it brings into play contempt of court issues.  
 21 A. I see. Well, I -- mm, yeah, I don't -- can't, really.  
 22 The problem is that the McCanns' spokespeople were  
 23 briefing the press at this time and explaining that --  
 24 even sort of the extent where sort of things that the  
 25 Portuguese police were accusing them of.

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1 Q. We have a situation here where the McCanns are accorded,  
 2 if that's the right verb, arguido status under  
 3 Portuguese law. They are prevented, in any event, from  
 4 speaking out.  
 5 A. Yes.  
 6 Q. To say that, this is right, they face a maximum two  
 7 years sentence of imprisonment if they do. You can't  
 8 speak directly to the police because that is also  
 9 prevented under Portuguese law.  
 10 A. Yes.  
 11 Q. I'm just concerned with what are the imperatives, if  
 12 any, which drive the stories which we know you come to  
 13 write?  
 14 A. As I'm saying, this was a very big development in the  
 15 story, and there were newspapers and TV networks  
 16 reporting what was going on, and obviously there would  
 17 be discussions on the newspaper from lawyers and all  
 18 sort of parties that would be involved, and I think, you  
 19 know, the actual legal sort of aspects would be  
 20 something that the lawyers would be discussing.  
 21 Q. You make it sound as if the story acquires a life of its  
 22 own and almost defines itself, and then, like a large  
 23 snowball, runs down a snowy incline. Is that fair or  
 24 not? I suspect you'll say it isn't, but could you help  
 25 us with that?

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1 A. I think if you put it into context of the story, the  
 2 story was such a huge story, and I suppose you're right,  
 3 I mean there is a sort of a vortex, isn't there, that is  
 4 created.  
 5 Q. You keep on using the term "the story". What do you  
 6 mean precisely by that?  
 7 A. The disappearance of Madeleine McCann.  
 8 Q. Yes. But we're moving away from that, aren't we, with  
 9 the particular pieces you write?  
 10 A. Well, I was just reporting on day-to-day developments  
 11 and that's what my job was to do.  
 12 Q. Okay. You say under paragraph 25 that all your stories  
 13 were checked with more than one source prior to  
 14 publication:  
 15 "Once Clarence Mitchell was appointed as [their]  
 16 spokesman, it was agreed that all stories would be  
 17 bounced off him rather than the Drs McCann directly.  
 18 This was strictly adhered to."  
 19 In relation, though, to the stories which we know  
 20 were by agreement deemed to be defamatory, did  
 21 Mr Mitchell comment on all such stories?  
 22 A. Well, he commented on every story, and very often, you  
 23 know, in quite strident terms, just explaining that this  
 24 was part of a black propaganda campaign and that there  
 25 was no evidence to back up what the police were saying.

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1 Q. Then you make it clear in paragraph 25, and this would  
 2 have to be the case under Portuguese law:  
 3 "On every occasion, Portuguese police refused to  
 4 comment on grounds that the enquiry was subject to  
 5 judicial secrecy."  
 6 A. On the record --  
 7 Q. In other words, in order to get to the truth or  
 8 otherwise of the story, which is what you were writing  
 9 about, you couldn't, because the police were refusing to  
 10 help you. Is that fair?  
 11 A. They were refusing to tell us on the record. At the  
 12 same time, they were at this time leaking particularly  
 13 aggressively.  
 14 Q. Some people within the police were leaking for whatever  
 15 reason; is that not right?  
 16 A. Well, it was the senior detectives working on the case.  
 17 Q. Doing it off the record; is that right?  
 18 A. Yes.  
 19 Q. Just look at some of the individual pieces, please.  
 20 These are under tab 4. It's part of exhibit JM2. I'm  
 21 going to look first of all at page 31647. It is right  
 22 to say that all the pieces I'm going to refer to,  
 23 I believe all of them, are agreed to be defamatory  
 24 pieces and very substantial compensation was paid, so  
 25 I'm not, as it were, concerned to reopen that matter,

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<p>1 which won't and can't be reopened.  2 A. Mm. Sorry, I don't know where I'm looking.  3 Q. I'm immediately looking at the wrong page.  4 LORD JUSTICE LEVESON: Yes, because this is not an article  5 written by this witness.  6 MR JAY: My note is suspect.  7 LORD JUSTICE LEVESON: What's the date of the article,  8 Mr Jay? Do you know?  9 MR JAY: 29 November. No, my notes are just wrong. I think  10 we're going to do better with 31645 on 1 December 2007.  11 A. Yes, okay.  12 Q. This is one we see you co-author.  13 A. Mm.  14 Q. Can I be clear first of all about one matter. It says  15 at the start:  16 "Gerry and Kate 'still the prime suspects'.  17 That's the headline. Were you responsible for that  18 headline?  19 A. No.  20 Q. You say that with confidence. I'm sure in line with  21 usual practice, it won't be in dispute that the editor  22 or subeditor is responsible for that. Do I have that  23 right?  24 A. Well, it's not the subeditor, it would be the editor or  25 the night editor. I'm not too sure who writes</p> <p style="text-align: center;">Page 69</p>	<p>1 between the British ambassador and senior police  2 officers at police headquarters in Faro, and I went  3 straight from the airport to the police headquarters and  4 basically I provided a bit of colour from police  5 headquarters. I wrote about sort of official cars  6 coming out of these sort of colonial style police  7 buildings and things. That was my role in the story.  8 Because nobody wanted to talk to me, so I was just sort  9 of stood outside the police headquarters.  10 Q. Fair enough, but the general tenor of this is that the  11 line of investigation within the Portuguese police was  12 seeking to establish the truth of a hypothesis that  13 Madeleine died as a result of an accident in the flat  14 and the parents then hid and disposed of the body; is  15 that right?  16 A. What, this particular story?  17 Q. Mm.  18 A. I can't comment on this particular story.  19 Q. Let's look at another one that you might be able to.  20 LORD JUSTICE LEVESON: But your name is at the top of it.  21 Should that be just ignored?  22 A. No, I explained why my name is on the top of it, because  23 I played a role in the story, but that's all I did,  24 stand outside police headquarters.  25 LORD JUSTICE LEVESON: You didn't read the story before it</p> <p style="text-align: center;">Page 71</p>
<p>1 headlines, but it's not the subeditors. They just fit  2 stories into space.  3 Q. I think it's important for our purposes today to  4 establish it's not you, okay?  5 A. No.  6 Q. Is that always the case with these headlines; it's never  7 the journalist, it's always the editor?  8 A. Well, it's never the journalist. You know, something  9 that I think the editor or night editor -- I mean, I'm  10 not too sure, to be honest. The editor would have  11 a final say about it, but --  12 Q. But we can see from the first line of the text:  13 "Kate and Gerry McCann are still regarded as the  14 prime suspects in the disappearance of their daughter  15 despite inconclusive findings from DNA evidence."  16 A. Yes.  17 Q. So that's your wording, isn't it?  18 A. No.  19 Q. You don't think it is?  20 A. You see, I didn't really write this story. This has  21 Nick Fagge's name on it. Normally, if you've got  22 somebody who is named first, they are the people who do  23 most of the writing. I do remember this one because I'd  24 just arrived in Portugal that day and I think Nick Fagge  25 was being replaced and there had been a meeting going on</p> <p style="text-align: center;">Page 70</p>	<p>1 went out under your name?  2 A. No. I would have filed my bit of copy to either the  3 news desk or to Nick Fagge, who was compiling the story,  4 and it would have just been inserted into the story.  5 Very often reporters write stories and don't get their  6 bylines in the papers because somebody else is the main  7 reporter who is pulling it all together. Very often  8 there could have been more reporters or could have been  9 more input into this story, but I don't think there was.  10 I think Nick Fagge wrote the story and I, as I say,  11 arrived at the airport and went straight to the police  12 headquarters in my hire car, so that's all I did, and  13 then informed him of what had happened at the police  14 headquarters, which was just I was witnessing what took  15 place at this meeting.  16 MR JAY: In terms of the procedure, though, Mr Pilditch, the  17 assumption I was making, but it may be incorrect in the  18 light of what you're saying, is that this is emailed  19 back to London; is that right?  20 A. Yes. I can't remember whether I emailed my part of it  21 to London or if I emailed it to Nick Fagge, but it would  22 be one of the other, I think.  23 Q. Isn't it standard practice that if, on the face of it,  24 a story is being coauthored, that the copy is sent to  25 you -- imagine Mr Fagge is the primary author -- for</p> <p style="text-align: center;">Page 72</p>

<p>1 comment, you approve it or not, and then, you having 2 made any contribution you see fit, the text is emailed 3 to London? 4 A. No. 5 Q. Probably here by Mr Fagge. Is that not what happens? 6 A. No. I wouldn't have seen the whole article. As I say, 7 I would have simply passed on the part of the story 8 I was doing to the news desk or -- you know, I think 9 that's what would have happened -- or the reporter who 10 was compiling the story. 11 Q. Okay. So which part of this piece do you say you did 12 write? 13 A. To be honest, I'm not even sure if anything went in, 14 because, as I say, I went to the police headquarters 15 where this meeting was taking place. 16 Q. Yes? 17 A. And I would have written some colour about, you know, 18 what I saw. I saw the police officers and I saw the 19 people that I recognised, who I knew who they were, but 20 there was a whole load of, as I say, official cars. 21 Basically, I was stood outside the police station and 22 when the meeting was over, I saw the people who were 23 involved, or some of them, leaving the police 24 headquarters and I'd have just filed some colour about 25 what I saw at the scene. That was my involvement in the</p> <p style="text-align: center;">Page 73</p>	<p>1 much, is at the very end: 2 "The source added: 'Once interviews have been 3 conducted the file will be passed ...!'" 4 So whoever the source was, was close to the police 5 investigation, as it were, and we know from the evidence 6 you're giving us it's likely to be one of the two 7 journalists, isn't it? 8 A. Yeah. 9 Q. In terms of the colour, though, which you refer to in 10 the context of the previous piece, which you say you 11 didn't have a hand in, the term "fingers of suspicion", 12 whose was that? 13 A. I don't know. I can't say at this -- 14 Q. Might it have been your term, Mr Pilditch? 15 A. No. I mean, it's not -- I don't really know what it 16 means, to be honest. 17 Q. Well, because some of the language here might, by some, 18 be said to be somewhat loaded. 19 A. Mm. 20 Q. For example: 21 "Portuguese detectives could fly to Britain to sit 22 in on make-or-break interviews ..." 23 You're making it sound as if guilt or innocence 24 might turn on the result. It is quite heightened, isn't 25 it?</p> <p style="text-align: center;">Page 75</p>
<p>1 story. 2 Q. I think it looks as if, from what you're saying, that in 3 truth Mr Fagge was the sole author, your name shouldn't 4 have been on this at all. 5 A. No, because -- 6 Q. We're not sure where we're seeing the colour you 7 imparted. 8 A. It looks like someone's knocked it out of the story. 9 Doesn't look like it's made the cut. The only thing 10 that made the cut was my name. 11 Q. But we do see from the penultimate sentence: 12 "The McCanns were named as suspects on September 7." 13 A. Yes. 14 Q. Are you sure that's right? 15 A. Well, I didn't write this story. That's what I'm 16 saying. 17 Q. Let's look at one which we can be sure that you did 18 write. 31643, dated 3 December. Just cast an eye over 19 it. Your source here is someone within the Portuguese 20 police speaking to a journalist, who then speaks to you; 21 is that correct? 22 A. It looks like it. I mean, it doesn't source any -- 23 doesn't say that there was any other -- I mean, 24 I haven't attributed any other source to it, so -- 25 Q. The only attribution, but this is not going to help us</p> <p style="text-align: center;">Page 74</p>	<p>1 A. Well, I mean, we certainly knew that this was something 2 that Portuguese police were considering at that time. 3 Q. Okay. And then what about the sentence about eight 4 lines down: 5 "Detectives want to focus on the 10 issues that have 6 haunted them ..."? 7 A. Mm. 8 Q. That must be your terminology, mustn't it? 9 A. Well, they were obviously struggling, weren't they, the 10 detectives? 11 LORD JUSTICE LEVESON: I'm sorry, Mr Pilditch, I'd just like 12 to understand this. In the first sentence it says "10 13 'fingers of suspicion". Are you saying you didn't 14 write that? 15 A. I can't recall whether that was my specific wording or 16 not. 17 LORD JUSTICE LEVESON: Well, do you read the articles when 18 they come out in the paper and think about whether 19 they've been changed back in London? Or do you not 20 bother? 21 A. What I'm saying is I wrote this story four years ago, 22 and I can't remember if those were my specific words or 23 not. 24 LORD JUSTICE LEVESON: And "10 issues that have haunted 25 them", Mr Jay's question, is that your word?</p> <p style="text-align: center;">Page 76</p>

<p>1 A. I'm saying the same thing. I mean, I can't remember if                  2 I used that word. The thing is that I file my story and                  3 there are other processes involved after that, so if I'd                  4 written this story last week, then I'd know exactly --                  5 well, even if I wrote it last week, I wouldn't know                  6 exactly my specific words, without referring to the                  7 original copy that I'd sent.                  8 MR JAY: Did you not assemble -- forgive me for putting it                  9 in these terms -- these ten issues from what you'd                  10 gleaned from reading Portuguese newspapers and then                  11 turned it into a story in your own language?                  12 A. Well, I think it would have been speaking to my source.                  13 I wrote a story, I presented a story the way I'd written                  14 it, and I can't tell you for certain whether this is the                  15 story that I wrote word for word. I doubt that it was,                  16 because it normally isn't, but I don't know which words                  17 I used and which words were used in part of the                  18 subediting process.                  19 Q. Your source was only telling you that interviews could                  20 take place. I think my question was in order to work                  21 out what the subject matter of the interviews might be,                  22 you looked at Portuguese newspapers and assembled what                  23 you thought were the ten key issues which might be put                  24 to the McCanns. Is that not a fair supposition?                  25 A. Well, this is what my source would have been telling me,</p> <p style="text-align: center;">Page 77</p>	<p>1 Q. Well, what did you know at the time about the DNA                  2 evidence?                  3 A. Well, that there was DNA evidence that was being                  4 examined.                  5 Q. But you didn't know what the results of the examination                  6 were, did you?                  7 A. No.                  8 Q. The McCanns' evidence, at page 35 of the transcript --                  9 A. Transcript?                  10 Q. Sorry, pardon me, Mr Pilditch, it's under tab 5.                  11 A. Yeah.                  12 Q. The question which was put at the bottom of page 34:                  13 "The overall flavour or thrust of this article [not                  14 the article we're looking at now, but it doesn't matter,                  15 the point is the same] was that there was DNA evidence                  16 which linked your daughter with a hire car. What do you                  17 say about that?                  18 "Answer: The first thing to say, it's simply                  19 untrue. Madeleine's DNA was not uncovered from the hire                  20 car. That's the first thing."                  21 A. We know that now, but I don't think we knew that then.                  22 The police were saying that it had been.                  23 Q. The police were saying that some what might have been                  24 human tissue was found in the car.                  25 A. Yes.</p> <p style="text-align: center;">Page 79</p>
<p>1 yeah.                  2 Q. Are you sure about that?                  3 A. Well, I mean why wouldn't it be?                  4 Q. Can I just pick up on one of the ten points. The                  5 forensic findings, do you see that?                  6 A. Yeah.                  7 Q. "-- though not conclusive -- that Madeleine's body was                  8 in the spare tyre ..."                  9 A. Yes.                  10 Q. You're suggesting there, aren't you, that there were                  11 findings -- presumably this is a reference to DNA                  12 evidence -- which established, although did not do so                  13 conclusively, that Madeleine's body was in the spare                  14 tyre well in the boot; is that right?                  15 A. Yeah.                  16 Q. The DNA evidence did not go anything like that far, did                  17 it?                  18 A. Well, I think at this time it wasn't known how far it                  19 had gone.                  20 Q. That's precisely the point. You're making it sound as                  21 if there were findings, when in fact the DNA evidence,                  22 if you're going to properly characterise it, was at best                  23 inconclusive.                  24 A. I think we know that now, but I don't think we knew that                  25 at this time.</p> <p style="text-align: center;">Page 78</p>	<p>1 Q. And that they had done some tests in Portugal on it and                  2 the results were inconclusive?                  3 A. Well, I think the tests were carried out in Britain.                  4 Q. And they were also inconclusive, weren't they?                  5 A. Well, they were, yeah.                  6 Q. I'm just troubled by --                  7 A. I'm just explaining what the police --                  8 Q. I'm just troubled by the use of the term "findings" in                  9 relation to this eighth or ninth finger of suspicion.                  10 I must suggest to you it is wrong and unfair to have                  11 characterised them as findings at all.                  12 A. Well a finding --                  13 Q. Whether or not one adds in parentheses that they are not                  14 conclusive.                  15 A. A finding is something that you found, isn't it?                  16 I don't know. But they found something and it was                  17 something that was being analysed.                  18 Q. There are two different senses in which the word                  19 "finding" is being used. The first is, "We've found                  20 something which we believe to be human tissue", and the                  21 second is, "We've analysed the human tissue and our                  22 finding is X", the finding may be it is the DNA of                  23 a particular individual.                  24 A. Yes.                  25 Q. We never got, did we, to that second stage at all; do</p> <p style="text-align: center;">Page 80</p>

<p>1 you see that?</p> <p>2 A. Well, I was explaining what the findings were.</p> <p>3 I mean -- mm.</p> <p>4 Q. I think I've taken that point as far as I reasonably can</p> <p>5 with you.</p> <p>6 I'm not going to look at all of these, but you did</p> <p>7 write quite a few of these articles. There's another</p> <p>8 one at 31640.</p> <p>9 A. Mm. This is -- is this before or after that one? Yeah.</p> <p>10 Q. Although it's earlier in the bundle, we are working --</p> <p>11 A. Backwards.</p> <p>12 Q. -- chronologically forwards, I hope, because the</p> <p>13 previous one was dated 3 December.</p> <p>14 A. No, you're right, yeah.</p> <p>15 Q. Here you are reporting what the police theory was at</p> <p>16 that point, at least the theory which was being</p> <p>17 apparently put out by some in the police to Portuguese</p> <p>18 journalists.</p> <p>19 A. Mm.</p> <p>20 Q. Namely, Madeleine died in an accident and then the</p> <p>21 parents covered up the crime and later disposed of their</p> <p>22 daughter's body. You do rightly say in this piece,</p> <p>23 about eight lines down:</p> <p>24 "Months of painstaking analysis on DNA uncovered in</p> <p>25 Portugal had so far failed to produce conclusive</p> <p style="text-align: center;">Page 81</p>	<p>1 piece.</p> <p>2 A. Mm.</p> <p>3 Q. The thrust of this piece is that Portuguese detectives</p> <p>4 were apparently fearful of the fact that British police</p> <p>5 would not properly interrogate the McCanns; is that</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. Did you think at the time there was any basis for that</p> <p>9 fear?</p> <p>10 A. Yeah, I did, yeah.</p> <p>11 Q. From your own knowledge of British police and Portuguese</p> <p>12 police? Did you really think that?</p> <p>13 A. Yes.</p> <p>14 LORD JUSTICE LEVESON: What did you think, that the British</p> <p>15 police would go easy on suspects?</p> <p>16 A. No, that the Portuguese police believed that. There</p> <p>17 seemed to be lots of -- I don't know if it was cultural</p> <p>18 differences, but there seemed to be lots of</p> <p>19 disagreements going on behind the scenes between various</p> <p>20 authorities, and the officers who were investigating</p> <p>21 this case, the senior officers, this is what they were</p> <p>22 saying. They believed that -- I think they were</p> <p>23 concerned they'd complain that they'd ask for</p> <p>24 information and were upset because they only got one</p> <p>25 piece of paper or something, background information.</p> <p style="text-align: center;">Page 83</p>
<p>1 evidence."</p> <p>2 That was the position. And then there were going to</p> <p>3 be further tests, I believe, in this country; is that</p> <p>4 right?</p> <p>5 A. I can't recall the chronology of when the tests were</p> <p>6 carried out and what point the investigation had reached</p> <p>7 at this point.</p> <p>8 Q. Did you make any personal assessment, did you ponder in</p> <p>9 your own mind about the inherent plausibility or</p> <p>10 otherwise of the police position as apparently reported?</p> <p>11 A. Well, I mean, I didn't know what was going on, but my</p> <p>12 assessment was that, you know, there must be some form</p> <p>13 of plausibility in what a modern police force is telling</p> <p>14 you in the 21st century in a European country. You</p> <p>15 wouldn't think they would just, you know.</p> <p>16 Q. You were telling us earlier that the Portuguese police</p> <p>17 investigation was fatally flawed, and that was the view</p> <p>18 you formed from the outset. That's in your witness</p> <p>19 statement.</p> <p>20 A. Yeah, I'm talking now about the lack of appeals and</p> <p>21 the -- the investigation didn't get off the ground, but</p> <p>22 I don't know what's going on with experts examining</p> <p>23 forensic evidence and all this sort of thing. That's</p> <p>24 just a different part of it.</p> <p>25 Q. And then at 31634, 10 December, again this is your</p> <p style="text-align: center;">Page 82</p>	<p>1 There was obviously issues going on behind the scenes</p> <p>2 between the Portuguese police and other authorities.</p> <p>3 MR JAY: Okay. There's only one other piece I'm going to</p> <p>4 ask you about, it's 31629, please, Mr Pilditch,</p> <p>5 12 December 2007. This is the piece about the priest.</p> <p>6 Do you remember this one?</p> <p>7 A. Yes.</p> <p>8 Q. Your source, I think, three-quarters of the way down the</p> <p>9 page, is a "close friend of the priest"; is that right?</p> <p>10 A. The priest?</p> <p>11 Q. Yes.</p> <p>12 A. Yes.</p> <p>13 Q. Are you able to give us any further information about</p> <p>14 that?</p> <p>15 A. Um ... well, this was information that was passed on to</p> <p>16 me by people who were in contact with the priest.</p> <p>17 I mean, I was speaking all the time to parishioners and</p> <p>18 worshippers in Praia da Luz.</p> <p>19 Q. You think it might have been one of those individuals</p> <p>20 who passed it on to you; is this right?</p> <p>21 A. Yes.</p> <p>22 Q. This is, if I may say so, a rather loaded story because</p> <p>23 the suggestion is, do I have this right, that the priest</p> <p>24 felt under tremendous emotional strain because some sort</p> <p>25 of confession had been given to him by Dr Kate McCann.</p> <p style="text-align: center;">Page 84</p>

<p>1 That's what you're getting at, isn't it?</p> <p>2 A. Where have -- is that part of the story?</p> <p>3 Q. Yes. Right in the middle of the page:</p> <p>4 "Investigators became convinced Kate had confessed</p> <p>5 to him -- but the tormented priest insisted he would</p> <p>6 stand by his vow to take the secrets of the confessional</p> <p>7 to the grave."</p> <p>8 Are you sure about that sentence, Mr Pilditch?</p> <p>9 A. I know that the police interviewed the priest and</p> <p>10 nothing came from it, and I think this is what the</p> <p>11 police were saying.</p> <p>12 Q. It might be said that you were drawing a bit of an</p> <p>13 inference here, that you knew from what you were told</p> <p>14 that the priest had been interviewed by the police, but</p> <p>15 it's just the clause "the tormented priest insisted he</p> <p>16 would stand by his vow to take the secrets of the</p> <p>17 confessional to the grave", I'm troubled a bit by that,</p> <p>18 whether that's a bit of journalistic licence on your</p> <p>19 part. Are you sure about the accuracy of that</p> <p>20 statement?</p> <p>21 A. I think the accuracy is that priests -- that's how</p> <p>22 confessional works, isn't it?</p> <p>23 Q. As a matter of general proposition it may well be, but</p> <p>24 you're going a bit further than that, because you're</p> <p>25 suggesting that not merely would the priest stand by his</p> <p style="text-align: center;">Page 85</p>	<p>1 wouldn't get anything from the priest, because he was</p> <p>2 duty-bound not to tell them anything.</p> <p>3 Q. Mm.</p> <p>4 LORD JUSTICE LEVESON: Do you not get the point that Mr Jay</p> <p>5 is making?</p> <p>6 A. Sorry.</p> <p>7 LORD JUSTICE LEVESON: That the inference in the sentence</p> <p>8 goes rather beyond that and suggests that the priest had</p> <p>9 a secret to take to the grave?</p> <p>10 A. It says "investigators became convinced". I mean,</p> <p>11 that --</p> <p>12 MR JAY: Yes. Absolutely. If you read the whole lot as one</p> <p>13 piece, it reinforces precisely that point.</p> <p>14 A. Mm.</p> <p>15 Q. Because here we have a very -- well, I've made the point</p> <p>16 already, Mr Pilditch. I'm not sure that you're fully</p> <p>17 seeing it, though.</p> <p>18 A. No.</p> <p>19 Q. Okay.</p> <p>20 A. What I'm saying is this is what the investigators --</p> <p>21 they interviewed the priest and got nothing from him,</p> <p>22 and I think they probably thought that they were just</p> <p>23 going through a routine of interviewing a priest.</p> <p>24 I think they suspected that they wouldn't get anything</p> <p>25 from him. So I'm just saying what was going on, what</p> <p style="text-align: center;">Page 87</p>
<p>1 religious obligation, but he would also be taking the</p> <p>2 secrets of the confessional to his grave because he was</p> <p>3 given a confession by Dr Kate McCann. Isn't that what</p> <p>4 you're getting at?</p> <p>5 A. I think the Portuguese police were saying that they'd</p> <p>6 interviewed Father Pacheco and they hadn't got anything</p> <p>7 of any use. The problem with a lot of this stuff was</p> <p>8 the way the information was leaking out, it was like</p> <p>9 thinking out loud, really.</p> <p>10 Q. Yes.</p> <p>11 A. These were the sort of conversations that in a police</p> <p>12 sort of a, you know, force in this country would be the</p> <p>13 sort of things that officers would be talking about</p> <p>14 behind the scenes. But --</p> <p>15 Q. But all you knew as a fact, if your source was to be</p> <p>16 trusted, and let's assume for the purposes of this</p> <p>17 exchange that your source could be, is that the police</p> <p>18 had interviewed the priest.</p> <p>19 A. Yes.</p> <p>20 Q. But everything else was an inference that you might have</p> <p>21 drawn, indeed did draw, in particular the bit about the</p> <p>22 tormented priest insisting he would stand by his vow to</p> <p>23 take the secrets of the confessional to the grave. You</p> <p>24 weren't told that by anyone, were you?</p> <p>25 A. I think the police were explaining why they thought they</p> <p style="text-align: center;">Page 86</p>	<p>1 the police were -- how they were -- as I say, this is</p> <p>2 like a bit of thinking out loud by the police that was</p> <p>3 in the public domain and it's the sort of thing that</p> <p>4 normally police officers wouldn't sort of tell you,</p> <p>5 really.</p> <p>6 Q. To be fair to you, Mr Pilditch, can we be clear about</p> <p>7 two or three matters? First of all, you don't, of</p> <p>8 course, have a lawyer advising you as to what to put or</p> <p>9 not to put into your copy?</p> <p>10 A. No.</p> <p>11 Q. We know that, it's not standard practice for that to</p> <p>12 happen. That happens higher up the chain, doesn't it?</p> <p>13 A. Yes.</p> <p>14 Q. And secondly, it's ultimately the editor's decision, not</p> <p>15 yours, as to whether to publish any particular story</p> <p>16 that is put up by you or any other journalist; is that</p> <p>17 right?</p> <p>18 A. Yeah.</p> <p>19 Q. And in terms of the chains or lines of communication,</p> <p>20 the standard line of communication is between you and</p> <p>21 the news desk, and then the news desk and the editor; is</p> <p>22 that also right?</p> <p>23 A. Yeah.</p> <p>24 Q. Did you have any conversations with the editor at any</p> <p>25 stage about any of these stories?</p> <p style="text-align: center;">Page 88</p>

<p>1 A. No.</p> <p>2 Q. I think you've told us earlier that any misgivings you</p> <p>3 had about the accuracy of the stories and the</p> <p>4 difficulties you were having were shared with the news</p> <p>5 desk; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Is that something you think might have happened once or</p> <p>8 something that might have happened more than once?</p> <p>9 A. Sorry?</p> <p>10 Q. Your discussions with the news desk?</p> <p>11 A. Yeah.</p> <p>12 Q. In particular about misgivings in relation to the story</p> <p>13 and the difficulties you were having in verifying</p> <p>14 a story.</p> <p>15 A. I think every day you would have conversations with the</p> <p>16 news desk throughout the day and you'd explain the</p> <p>17 information that you had and where it had come from. As</p> <p>18 I say, you'd explain the caveats that were attached to</p> <p>19 it.</p> <p>20 Q. My final point is, is this a possible explanation for</p> <p>21 what happened here in relation to, to use your term, the</p> <p>22 story: the McCanns are declared arguidos by the</p> <p>23 Portuguese authorities on 7 September 2007, and the</p> <p>24 direction of the story changes?</p> <p>25 A. Yeah.</p> <p style="text-align: center;">Page 89</p>	<p>1 it would be published simply on the human basis that we</p> <p>2 have already a tragic situation, parents have lost their</p> <p>3 daughter in the sense that the daughter has disappeared?</p> <p>4 A. Yes.</p> <p>5 Q. Absolutely clear. They are in a state of emotional</p> <p>6 turmoil?</p> <p>7 A. Yeah.</p> <p>8 Q. And then to add to that natural emotional turmoil, what</p> <p>9 is being written about them.</p> <p>10 A. Yeah.</p> <p>11 Q. How does this factor into this, if at all, from your</p> <p>12 perspective? Not from your perspective now, but from</p> <p>13 your perspective at the time?</p> <p>14 A. At the time, I really didn't know what was going on.</p> <p>15 I knew that the police investigation was headed down</p> <p>16 this particular path and, as I say, I'd have no idea why</p> <p>17 the police were heading down this path and, well, this</p> <p>18 is the point that we were at and this was -- I didn't</p> <p>19 know what happened to Madeleine McCann, I still don't</p> <p>20 know, so I'm just saying that at this time, this was</p> <p>21 what was happening and I was reporting on the</p> <p>22 developments that were happening, but I didn't know if</p> <p>23 the police were barking up the wrong tree or if, you</p> <p>24 know, as I say, you'd expect them to have some form of</p> <p>25 competency.</p> <p style="text-align: center;">Page 91</p>
<p>1 Q. And instead of being a standard story about child</p> <p>2 abduction, it becomes a rather more sinister story, in</p> <p>3 inverted commas. It's that story or version which</p> <p>4 starts to dictate the direction in which people like you</p> <p>5 are writing their copy? Is that a fair characterisation</p> <p>6 of what might be happening here?</p> <p>7 A. Well, at that particular point in time, I was reporting</p> <p>8 on the sort of day-to-day developments that were going</p> <p>9 on on the ground, and this is pretty much what was</p> <p>10 happening. During this time, there was also -- there</p> <p>11 were contradictory reports. You know, the Portuguese</p> <p>12 police at different times were saying contradictory</p> <p>13 things. One day they're saying that, you know, they're</p> <p>14 going down one route and the next day they're heading</p> <p>15 off in a completely different direction. So not all the</p> <p>16 reports were of this nature, but at this particular</p> <p>17 point in time when the investigation had reached this</p> <p>18 point, then this was the sort of information that was</p> <p>19 coming out.</p> <p>20 Q. Okay. There is one more question, I hope you don't mind</p> <p>21 me putting this. I appreciate that it's the editor's</p> <p>22 decision as to whether this material is published.</p> <p>23 A. Yes.</p> <p>24 Q. But did you have any personal concerns about this</p> <p>25 material going up to the editor with the likelihood that</p> <p style="text-align: center;">Page 90</p>	<p>1 Q. I'm not sure you have answered my question. Can you</p> <p>2 remember what it was? I can repeat it again.</p> <p>3 A. Yes, if you could repeat it, yeah.</p> <p>4 Q. You already have a huge amount of emotional turmoil:</p> <p>5 a four-year-old child has disappeared. It goes without</p> <p>6 saying.</p> <p>7 A. Yeah.</p> <p>8 Q. And then people like you, if you don't mind me putting</p> <p>9 it in those terms, are writing stories which imply that</p> <p>10 the child has not been abducted, something far more</p> <p>11 sinister has happened.</p> <p>12 A. Right.</p> <p>13 Q. The propensity of those matters being written about</p> <p>14 would naturally add to the emotional turmoil which is</p> <p>15 already immense. It's whether that enters into your</p> <p>16 thinking at the time at all when you are writing these</p> <p>17 stories?</p> <p>18 A. Well, I think I explained. I mean, there is emotional</p> <p>19 turmoil, but I'm reporting on what's happening on the</p> <p>20 ground.</p> <p>21 Q. Okay.</p> <p>22 A. On that particular day.</p> <p>23 MR JAY: I think I understand, Mr Pilditch. Thank you very</p> <p>24 much.</p> <p>25 LORD JUSTICE LEVESON: I have a slightly different point,</p> <p style="text-align: center;">Page 92</p>

<p>1 which is this: you may not understand the Portuguese 2 law, and that's entirely fair enough. 3 A. Yeah. 4 LORD JUSTICE LEVESON: But you do understand, I'm sure you 5 would agree, that stories have to stand up? 6 A. Yes. 7 LORD JUSTICE LEVESON: And that your paper is at risk of 8 massive damages claims if you write something that's 9 defamatory? 10 A. Yes. 11 LORD JUSTICE LEVESON: That you can't then stand up? 12 A. Yes. Well, I think I've said that in my statement. 13 LORD JUSTICE LEVESON: I understand. You were getting all 14 sorts of tittle-tattle -- 15 A. Right. 16 LORD JUSTICE LEVESON: -- from different people in 17 circumstances when you knew the police couldn't 18 officially talk, is that fair? 19 A. Yes. 20 LORD JUSTICE LEVESON: And as far as you were concerned they 21 were going off in very different directions, one day 22 this, one day something else; that's your assessment of 23 what they'd been doing? 24 A. But at this point in time, they were very much focusing 25 on this.</p> <p style="text-align: center;">Page 93</p>	<p>1 LORD JUSTICE LEVESON: Yes, but you didn't know at the time 2 A. No, but I knew at the time that these were genuine lines 3 of enquiry and this particular line was the only line 4 the police were pursuing at that time. I didn't know 5 the truth. 6 LORD JUSTICE LEVESON: But the evidence you've got, that 7 you've now seen, doesn't in fact justify some of this 8 stuff, does it? Because the DNA was not in this 9 condition that you described it in your article. 10 A. Yeah. The police were claiming it was in a -- I think 11 the police were telling lies and trying to claim they 12 had more than they actually had. But in 2008 in July 13 when the police released their official file, this was 14 some time after this period, there's lots of 15 documentation and there's lots of all sorts of 16 statements and -- the whole file that they'd been 17 investigating. It's only when that was published that 18 you could see that actually this whole thing was based 19 on a false premise. The police went as hard as they did 20 down this line and they had no reason to do it, they had 21 no evidence to back them up. 22 LORD JUSTICE LEVESON: So all the stuff, for example, about 23 what the priest might have been told, it's all fluff. 24 There's nothing to it. 25 A. It's all things that were happening at the time. But if</p> <p style="text-align: center;">Page 95</p>
<p>1 LORD JUSTICE LEVESON: So be it, but you had the experience 2 of what they had been doing. 3 A. Mm. 4 LORD JUSTICE LEVESON: Did you ever have any concern that 5 you wouldn't be able to stand up this story? 6 A. Yeah. 7 LORD JUSTICE LEVESON: And did that give rise to concern 8 that you shouldn't be writing it as it was written? 9 A. I think I was writing it in the only way I could write 10 it, because I was explaining where my sources were 11 coming from and I was explaining that this isn't 12 something that I can prove or confirm. But those sort 13 of decisions would be made further up the chain about 14 the law. But I was just writing on developments that 15 were going on on the ground at that time. 16 LORD JUSTICE LEVESON: So you saw your role purely to reduce 17 whatever you heard, from whatever source you heard it, 18 into a story? 19 A. It's not tittle-tattle, you see. This was -- 20 LORD JUSTICE LEVESON: Isn't it? 21 A. No, because it was information that was coming from the 22 senior detectives investigating the case. 23 LORD JUSTICE LEVESON: Or so you were told. 24 A. Well, I know now that it is, because there's files that 25 have been released and there's --</p> <p style="text-align: center;">Page 94</p>	<p>1 you look at things now, knowing what we know in the 2 public domain, it's a very different picture. 3 LORD JUSTICE LEVESON: I agree, and that's why I asked you 4 whether you were concerned at the time that you couldn't 5 stand the story up with the risk that your paper was 6 exposed to massive damages claims, as indeed they were. 7 A. Well, I was uncomfortable writing stories like this, but 8 I felt it was the only way to write it, but the sort of 9 decisions about the risk were taken by lawyers and by 10 executives on the paper. 11 LORD JUSTICE LEVESON: Did you write a piece, perhaps not 12 for publication, but for your editors, to underline the 13 extreme fragility of this information? 14 A. They were well aware of that. I mean, this was the only 15 way you could operate in Portugal at that time. 16 LORD JUSTICE LEVESON: I see. 17 A. And other newspapers were doing it. There was no other 18 way of doing it. All I could do was exactly spell out 19 who was saying what. I was saying if it was a police 20 source, this is what the police are saying. Or if it 21 was somebody else, I'd say this is what they were 22 saying. As a journalist, as a reporter, you want to 23 write stories based on fact when you know it's fact, but 24 because of the secrecy of justice law in Portugal, you 25 had to do it in a different way, an unsatisfactory way,</p> <p style="text-align: center;">Page 96</p>



<p>1 but the only way you could do it, which was to say,                  2 "I don't know that this is fact, but this is what people                  3 are saying about these different things".                  4 LORD JUSTICE LEVESON: Yes, well, I think we've probably                  5 done that point. Thank you.                  6 Discussion re procedure                  7 MR DINGEMANS: May I ask some questions?                  8 LORD JUSTICE LEVESON: Yes, you may. Just before you do,                  9 Mr Dingemans, I think Mr Sherborne also wants to.                  10 I think you would probably rather ask after                  11 Mr Sherborne. What's the topic, Mr Sherborne?                  12 MR SHERBORNE: Sir the topic is really one of the topics                  13 that you raised in the questions you asked Mr Pilditch.                  14 It's in paragraph 24 of his witness statement, and it                  15 refers to his assessment, if I can put it that way, of                  16 the police files. You've heard Mr Pilditch say more                  17 than once now that the police files have revealed that                  18 the articles he was writing were truthful and accurate,                  19 and I'd like to pick him up on that comment and take him                  20 through one or two of the articles to demonstrate how                  21 that's simply incorrect.                  22 LORD JUSTICE LEVESON: But I don't think he's quite saying                  23 that and I don't think we need to go too much into the                  24 facts. As I understand what you're saying, as                  25 I understand what the witness said, he was accurately</p> <p style="text-align: center;">Page 97</p>	<p>1 the police concerns.                  2 A. Yes.                  3 LORD JUSTICE LEVESON: But you can ask that question and                  4 then -- I mean, nobody is suggesting, and he certainly                  5 isn't suggesting, as I understand the witness, that any                  6 of the allegations in relation to DNA or in relation to                  7 these other features are established by the facts in the                  8 record; merely, as I understood it, by what the police                  9 believed, even though they couldn't prove a single word                  10 of it.                  11 MR SHERBORNE: Indeed. I don't think Mr Pilditch could                  12 possibly suggest for one minute that they were true.                  13 LORD JUSTICE LEVESON: Yes.                  14 MR SHERBORNE: But what he does suggest is that there were                  15 documents and other material in the police file which                  16 support the truth of what he was saying the police were                  17 saying, if I can put it that way. And that is simply                  18 incorrect. I can demonstrate that by three articles,                  19 and I can do it very quickly.                  20 LORD JUSTICE LEVESON: Right, let me hear what Mr Dingemans                  21 says about that.                  22 MR DINGEMANS: Sir, the whole purpose of your Inquiry is                  23 inquisitorial. It is at this stage not going into                  24 dissent of adversarial fact-finding matters. There has                  25 been no notice from this core participant. Contrast</p> <p style="text-align: center;">Page 99</p>
<p>1 reporting that which the police were thinking; he wasn't                  2 accurately reporting that which the police could                  3 actually prove, because that's not what the police were                  4 telling him.                  5 MR SHERBORNE: What he says in his statement, sir, is:                  6 "Under the Portuguese system, the authorities                  7 released the official police file ..."                  8 Then he refers to the documents in there, then says:                  9 "Through the release of those documents and                  10 subsequent legal actions in Portugal it is now a matter                  11 of public record that the reports I was writing between                  12 September 2007 and January 2008 were truthful and                  13 accurate."                  14 So that is a fairly sweeping statement and it is one                  15 which, very simply, can be demonstrated to be untruthful                  16 and inaccurate, and I would ask you to be able to do so.                  17 I can do it, as I say, relatively shortly, and then                  18 there are one or two supplemental questions I'd like to                  19 ask him on behalf of Dr Kate and Dr Gerry McCann.                  20 MR DINGEMANS: Sir, may I make submissions to my learned                  21 friend about whether this is appropriate?                  22 LORD JUSTICE LEVESON: You may, but I think, in the light of                  23 my understanding of the evidence of this witness, the                  24 truthfulness and accuracy is not intended to reflect the                  25 facts as revealed by the evidence, but as revealed by</p> <p style="text-align: center;">Page 98</p>	<p>1 a matter when we wanted to raise questions of his                  2 witnesses, we would put them through counsel to the                  3 Inquiry, and we respectfully submit that you would                  4 permit this whole Inquiry to be hijacked into                  5 fact-finding matters which are not suitable for this                  6 stage of this process.                  7 LORD JUSTICE LEVESON: I understand the point, but I have                  8 raised concerns, as you heard at the very end of the                  9 witness's evidence.                  10 MR DINGEMANS: Yes.                  11 LORD JUSTICE LEVESON: The witness has made it clear the                  12 limit of his reporting. It's probably not going to                  13 advance the customs, practice and ethics analysis to                  14 look at whether the way in which the allegations                  15 dribbled out of the Portuguese police were picked up and                  16 reported, but on the other hand, in the same way that                  17 I've been content for various core participants to stand                  18 up and make a correcting statement simply so that the                  19 public domain -- so there isn't a misleading impression                  20 given, I don't think it's appropriate to prevent                  21 Mr Sherborne from doing that, and maybe he can do it by                  22 way of statement, because I've got the evidence of the                  23 witness on the topic. But to cut it out entirely runs                  24 the risk of leaving a potentially unfair picture.                  25 But whether it goes to customs, practise and ethics,</p> <p style="text-align: center;">Page 100</p>

<p>1 I take your point.</p> <p>2 MR DINGEMANS: My other point is questions to this witness.</p> <p>3 There's been no notice that he was going to be asked</p> <p>4 questions on behalf of this core participant. I have no</p> <p>5 problems, and, sir, it's entirely up to you whether you</p> <p>6 permit people to make statements, but in our submission</p> <p>7 there shouldn't be a practice of standing up to ask</p> <p>8 questions simply because they want to ask further</p> <p>9 details when there's been no notice to the relevant</p> <p>10 witness.</p> <p>11 LORD JUSTICE LEVESON: Well, I don't know whether this is</p> <p>12 a topic which Mr Sherborne informed Mr Jay about.</p> <p>13 MR DINGEMANS: He didn't, according to the information</p> <p>14 I have.</p> <p>15 LORD JUSTICE LEVESON: I certainly required all core</p> <p>16 participants to do that, so that we could make</p> <p>17 a decision, and I think that was the approach that</p> <p>18 I adopted.</p> <p>19 MR DINGEMANS: Sir, that's only my point on this point. The</p> <p>20 only reason for objecting is if one is trying to prepare</p> <p>21 fairly witnesses for what may happen and then people</p> <p>22 decide to pick up points that they haven't decided or</p> <p>23 bothered to notify to counsel to the Inquiry.</p> <p>24 LORD JUSTICE LEVESON: All right. Well, Mr Sherborne, that</p> <p>25 seems a not unfair point.</p> <p style="text-align: center;">Page 101</p>	<p>1 it, even if it was only last night.</p> <p>2 MR SHERBORNE: Sir, when a witness seeks to reinforce</p> <p>3 evidence he's given in response to a question you've</p> <p>4 asked, it assumes far more importance than it would do</p> <p>5 in the pages of the witness statement that have been</p> <p>6 provided.</p> <p>7 LORD JUSTICE LEVESON: Identify to me your three examples,</p> <p>8 please.</p> <p>9 MR SHERBORNE: Sir, I can do it by way of a speech.</p> <p>10 LORD JUSTICE LEVESON: No, I don't want you to make</p> <p>11 a speech. I want you to identify the three examples.</p> <p>12 MR SHERBORNE: The three examples are firstly, and they're</p> <p>13 examples that -- I tried to pick on examples as Mr Jay</p> <p>14 was going through, which are not the same articles.</p> <p>15 October 1, 2007, which is an article -- I don't have the</p> <p>16 exhibits, so I can't tell you the page. It's entitled</p> <p>17 "Now police say she fell down the steps: the hunt for</p> <p>18 Madeleine". It's one that Mr Pilditch co-wrote with</p> <p>19 Mr Evans, but on this occasion, since his name comes</p> <p>20 first, I assume he will accept that he was responsible</p> <p>21 for it.</p> <p>22 LORD JUSTICE LEVESON: Let's just see it. I'm concerned</p> <p>23 with the facts so that an impression should be -- an</p> <p>24 incorrect impression should be put right. So 1 October,</p> <p>25 did you say?</p> <p style="text-align: center;">Page 103</p>
<p>1 MR SHERBORNE: Can I deal with that point before I deal with</p> <p>2 my substantive one, and that's this. You'll appreciate</p> <p>3 that this witness statement was only provided I think to</p> <p>4 us yesterday afternoon. That's the first I saw of this</p> <p>5 witness statement.</p> <p>6 LORD JUSTICE LEVESON: I'd be very surprised, but --</p> <p>7 MR DINGEMANS: It was provided to the Inquiry two weeks ago.</p> <p>8 I can't talk about my learned friend.</p> <p>9 MR SHERBORNE: It may have been provided to the Inquiry two</p> <p>10 weeks ago, I did not see it until yesterday afternoon.</p> <p>11 LORD JUSTICE LEVESON: All right.</p> <p>12 MR SHERBORNE: But that perhaps is a point of lesser</p> <p>13 importance. A point of greater importance is that this</p> <p>14 paragraph 24 was a matter that only was raised by you,</p> <p>15 sir, in your question to Mr Pilditch, and that's when he</p> <p>16 relied on it to positively reinforce the fact that what</p> <p>17 he had published by way of reports of what the police</p> <p>18 were saying was truthful and accurate, having had sight</p> <p>19 of the Portuguese police file. That is why I stand to</p> <p>20 ask those questions.</p> <p>21 LORD JUSTICE LEVESON: No, no, Mr Sherborne, that doesn't</p> <p>22 work, because, as you will know, the statement would be</p> <p>23 going on the Internet in any event, so it's a public</p> <p>24 document for all to see, and if the point had to be</p> <p>25 made, the point was going to be made as soon as you read</p> <p style="text-align: center;">Page 102</p>	<p>1 MR SHERBORNE: Yes:</p> <p>2 "Now police say she fell down the steps" is the</p> <p>3 front page headline, "The hunt for Madeleine". And the</p> <p>4 opening words are:</p> <p>5 "Madeleine McCann's parents faced new smears</p> <p>6 yesterday after it was reported their daughter died</p> <p>7 falling downstairs. It is claimed Portuguese police are</p> <p>8 100 per cent certain Madeleine was killed in an accident</p> <p>9 at her family's holiday apartment and Kate and Gerry</p> <p>10 covered up the tragedy."</p> <p>11 LORD JUSTICE LEVESON: Right?</p> <p>12 MR SHERBORNE: "The theory is Madeleine, four, wandered out,</p> <p>13 stumbled" --</p> <p>14 LORD JUSTICE LEVESON: All right, but what's the point?</p> <p>15 MR SHERBORNE: The point is this: there is nothing in the</p> <p>16 Portuguese police file to suggest that Madeleine had</p> <p>17 been harmed in any way.</p> <p>18 LORD JUSTICE LEVESON: Yes, but --</p> <p>19 MR SHERBORNE: There is also --</p> <p>20 LORD JUSTICE LEVESON: But are you able to say that the</p> <p>21 police were not putting that out?</p> <p>22 MR SHERBORNE: There is nothing in the police file which</p> <p>23 suggests that the police had found evidence that</p> <p>24 Madeleine had been harmed in any way.</p> <p>25 LORD JUSTICE LEVESON: Yes. My question was rather</p> <p style="text-align: center;">Page 104</p>

<p>1 different. Are you able to say that the police didn't 2 put that out? 3 MR SHERBORNE: What I'm able to say is there is no 4 suggestion the police were putting that out in the 5 police file. 6 LORD JUSTICE LEVESON: All right. 7 MR SHERBORNE: That's why I say this is not about disproving 8 that the articles were true or that the facts suggested 9 were true because it's not even stated they are. It's 10 about disproving that there was evidence or that the 11 police were suggesting there was evidence to support 12 these allegations. And there is nothing in the police 13 files to suggest the police were suggesting that. 14 If one turns then to 17 October, this is a point 15 that was raised not in relation to this article, this 16 article is Mr Pilditch's article alone, entitled 17 "Parents' car hid a corpse. 'It was under carpet in 18 boot', say police", and refers to the DNA evidence. 19 LORD JUSTICE LEVESON: Yes. 20 MR SHERBORNE: It's right to say that there is nothing in 21 the police files to suggest that Madeleine's DNA was 22 found in the car. Indeed, as the police files show, and 23 as Mr Pilditch would know, the McCanns only hired the 24 car after Madeleine had disappeared. 25 LORD JUSTICE LEVESON: Yes, but that's the same point about</p> <p style="text-align: center;">Page 105</p>	<p>1 LORD JUSTICE LEVESON: Well, you can consider over the -- 2 no, I won't ask you to do that. 3 A. Could I just say something in relation to this? 4 LORD JUSTICE LEVESON: All right. 5 A. It's not just the police file that I'm referring to 6 here. I'm talking about statements that have been made 7 in courts, and in fact the chief -- the head of the 8 police inquiry has written a book, and I'm talking about 9 a whole series of different sources of information that 10 are now in the public domain -- 11 LORD JUSTICE LEVESON: Oh, well, then -- 12 A. -- that weren't in the public domain at that time. It's 13 not just the police file in isolation I'm talking about. 14 LORD JUSTICE LEVESON: Then actually your sentence is quite 15 wrong in paragraph 24, because your sentence in 16 paragraph 24 says: 17 "Through the release of those documents [that's the 18 police file] and subsequent legal actions in Portugal, 19 it's now a matter of public record that the reports I'm 20 writing were truthful and accurate." 21 A. Yes. 22 MR DINGEMANS: Sir, the legal action was concerned to put -- 23 My learned friend Mr Sherborne was seeking to 24 cross-examine on a false premise anyway, because he's 25 ignored the legal actions.</p> <p style="text-align: center;">Page 107</p>
<p>1 the conclusive/inconclusive DNA, isn't it? 2 MR SHERBORNE: It's a similar point, but as I say, what the 3 police files show is that no DNA of Madeleine was ever 4 found in the car, so there's nothing in the police files 5 to support the suggestion that DNA of hers was found, 6 which is what is stated in the article. 7 LORD JUSTICE LEVESON: All right, and the third point? 8 MR SHERBORNE: And the third for example relates to one that 9 I think Mr Jay did take Mr Pilditch to, which is the 10 priest bans Madeleine, the 12 December article. It 11 relate to this. I don't know whether you have that 12 article. 13 LORD JUSTICE LEVESON: Yes. 14 MR SHERBORNE: It refers to the investigators becoming 15 convinced that Kate had confessed to the priest, and of 16 course again there is nothing in the police file to say 17 that Kate McCann had confessed to the priest. Indeed, 18 the witness statement of the priest makes perfectly 19 plain, and that is in the police file, that no such 20 confession was given. 21 LORD JUSTICE LEVESON: All right, I understand the point. 22 Thank you. 23 Mr Pilditch, I am going to ask you the question in 24 this way: you've obviously seen this entire file. 25 A. I've seen it some time ago. I have seen it.</p> <p style="text-align: center;">Page 106</p>	<p>1 LORD JUSTICE LEVESON: I've got the point. But more 2 significantly it's, as I expressed the view, slightly 3 dependent upon the brief that Mr Pilditch was fulfilling 4 the extent to which decisions thereafter were made, 5 which were appropriate. 6 Right. I understand the point. 7 MR SHERBORNE: With respect, sir, I wasn't allowed to 8 cross-examine. If I had cross-examined, it would not 9 have been on a false premise. 10 LORD JUSTICE LEVESON: I'm not going to get into the issue 11 between you and Mr Dingemans. I'm not going to go down 12 the route of trying to unpick what one Portuguese police 13 officer said, either in a book or in a legal proceedings 14 or in the record. Everybody is agreed that there is 15 absolutely no foundation at all for the allegation that 16 emerged throughout the public hearing throughout the 17 press at this time, that Dr and Dr McCann were involved 18 in any way in any inappropriate conduct in relation to 19 the disappearance of their daughter. 20 So that doesn't need to be established for me and in 21 the same way that I wasn't going to go into what 22 happened in relation to the City Slickers column, this 23 is very much a side issue. I understand the point, and 24 I understand the reason why it is very important for 25 your clients to make that position critically clear, and</p> <p style="text-align: center;">Page 108</p>

<p>1 I am happy to emphasise it and I am sure that 2 Mr Dingemans wouldn't want to say anything to the 3 contrary, and he is nodding, so I put that into the 4 record. But further than that I simply don't consider 5 it necessary to go. 6 If I say, because of my natural sympathy for Dr and 7 Dr McCann, that it's appropriate, then actually I have 8 opened a door which I cannot prevent other people from 9 seeking to examine in different ways and I haven't 10 sufficient requirement to go into these areas to justify 11 it. 12 MR SHERBORNE: Sir, I accept that. It is simply this. You 13 need to consider, obviously, in terms of the culture, 14 practices and ethics of the press, whether it was 15 responsible or, as one might say, utterly irresponsible 16 to publish this kind of information. 17 LORD JUSTICE LEVESON: I think you'll find that the question 18 I asked was designed to that very issue. 19 MR SHERBORNE: I understand that, but it is the statement 20 you've seen in paragraph 24 of the way in which it's 21 being said these stories were being put together that is 22 necessary to be tested and that's why I asked for it to 23 be tested in the way I did. 24 LORD JUSTICE LEVESON: I understand. Right. Thank you very 25 much, we'll resume at 2.05 pm.</p> <p style="text-align: center;">Page 109</p>	
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<p>1 (1.05 pm) 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 110</p>	
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