

NI Group Limited
J. H. Walford
First Statement
Exhibit: "JHW1"
14 October 2011

**IN THE MATTER OF THE LEVESON INQUIRY INTO THE CULTURE, PRACTICES AND
ETHICS OF THE PRESS**

EXHIBIT "JHW1"

This is the exhibit marked "JHW1" referred to in the witness statement of Justin Hugh Walford dated the 14th day of October 2011.

May 3 2007

Dear Colleague

I am writing to everyone on the paper in the wake of the Clive Goodman case with some reminders about the PCC Code of Conduct and the relevant areas of criminal law in a rapidly changing legal landscape.

As I am sure you know, the PCC Code of Conduct is included as part of your contract of employment in the staff handbook.

All Sun journalists must work within the Code. Failure to do so could be treated as a disciplinary matter.

A copy of the Code is available on the intranet and on the PCC's website pcc.org.uk. A pocket-sized version is also included with this letter.

Following the Goodman case nobody can be in any doubt that phone message tapping - listening to voicemails on someone's mobile - is not only a breach of the Code but illegal. Paying someone to carry out such activities is equally out of bounds.

As far as law is concerned, the only public interest defence would be in detecting crime.

The PCC Code defines a defence of public interest as: *detecting or exposing crime or serious impropriety, protecting public health and safety and preventing the public from being misled by an action or statement of an individual or organisation.*

In recent months, several complaints to the PCC have been generated from the same type of stories we have published. While they are unrelated to issues raised by the Goodman case, I thought this letter would be a useful chance to highlight these issues to prevent repetition.

A common misconception about the PCC Code is that if a dubious character such as a convicted criminal complains about a story to the PCC we can use their dodgy background as a defence. We cannot. While that may be the situation in libel cases, it is not a defence to the PCC whose primary concern is accuracy. For example, last year several papers were obliged to publish clarifications after Ian Brady complained a story about him was factually incorrect.

The bottom line is if we publish a story about someone with no reputation which is not accurate and they complain to the PCC, we may have to publish a correction.

Another area of regular confusion is coverage of mental health issues and in particular secure hospitals such as Broadmoor. Killers and rapists being detained at these places must be referred to as 'patients' and not 'cons' 'lags' or 'prisoners.' Likewise these institutions are not 'prisons' or 'jails', they are secure hospitals.

Finally, the way we refer to asylum seekers is monitored very carefully by the PCC. A common mistake is to refer to someone as an illegal asylum seeker when in fact there is no such thing. Someone is an asylum seeker until their application for asylum is rejected when they become an illegal immigrant. They are never illegal asylum seekers.

If you are writing or subbing a story for publication either in the paper or online and have any concerns it may breach the Code, please ask me or Malcolm Speed in Glasgow.

I also enclose a concise guide to several areas of the criminal law with which you need to be familiar as provided by Tom Crone. As you know, ignorance of the law is never acceptable either as a defence or as an excuse. If in future you are in any doubt about such matters, please consult either Tom or Justin Walford in the legal department.

Yours sincerely,

GRAHAM DUDMAN
MANAGING EDITOR

The Regulation of Investigatory Powers Act 2000 ("RIPA")

- RIPA prohibits intentional and unlawful interception of communications by post, phone or other telecommunication systems. The maximum sentence is two years, or a fine, or both.
- Under RIPA, interception occurs *in the course of transmission* **BUT** the Act specifically includes the accessing of voicemails as a criminal act.
- so recording telephone conversations at either end of the communication is not interception and is lawful. Unlawful interception can include *modifying* or *interfering* with a telecommunications system.

Data Protection Act 1998 ("DPA")

- Section 55 of the DPA makes it a criminal offence, knowingly or recklessly and without the consent of the data controller (which effectively means the owner of the data storage system) to:

- (1) obtain or disclose personal data covered by the DPA; or
- (2) procure the disclosure to another person of personal data covered by the DPA; or
- (3) sell personal data covered by the DPA.

"Personal data" means information which relates to a living individual who can be identified from those data which are either processed electronically or manually.

* there is a 1) *crime detection/prevention* and 2) *public interest justification* defence to section 55.

Computer Misuse Act 1990

This Act is aimed at computer hackers. Under the Act a person is guilty of an offence if:

- a) he causes a computer to perform any function with intent to secure access to any program or data held in any computer
- b) the access he intends to secure is unauthorised; and
- c) he knows at the time when he causes the computer to perform the function that that is the case.

Protection from Harassment Act 1997

- The Act introduced a criminal offence which may affect journalists. This offence catches harassment which must "alarm the person or cause them distress" but which may not cause the victim to fear that violence will be used. The action must occur at least twice. The offence carries a maximum penalty of six months in prison, or a £5,000 fine, or both.

Other legal issues

- Additional offences which should be borne in mind include theft, taking possession of stolen property, and obtaining pecuniary advantage by deception.

Tom Crone May 2007