

Witness Name: **Kit Malthouse**

Statement no: **First**

Exhibit: **KM15**

Date: 29 February 2012

**THE LEVESON INQUIRY**

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Exhibit KM15 to the  
Witness Statement of **Kit Malthouse**

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SPECIALIST OPERATIONS

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Your ref:  
Our ref: ACSO/311/2011

11th July 2011

*John K.Y.*

RE: Phone Hacking Inquiry

Following the events of last week, I thought it appropriate that I write to you concerning my role in these matters. You have sought certain assurances from me during a number of meetings that the initial inquiry had been thorough. I briefed you on the basis of what I had established and what I knew at the time. The responses I gave you were always in good faith.

The reason that a new investigation has been commenced, and the situation has subsequently changed so markedly, is that in January 2011 News International began to co-operate properly with the police. It is now evident that this was not the case beforehand. This has caused the new team to look more closely at information contained within the original material. The emerging findings are rightly a matter of great concern and have led me to make the very public apology you will have seen yesterday.

It is a matter of great regret that this level of co-operation from News International was not forthcoming earlier. Had it been, my decisions and my briefing to you would inevitably have been very different.

It may be helpful if I briefly set out the time-line concerning my role. The facts are that following some reporting in *The Guardian* in July 2009, as the then newly appointed Assistant Commissioner in charge of Specialist Operations, I was asked by the Commissioner to 'establish the facts around the case and to consider whether there (was) anything new arising in the *Guardian* article'. This was specifically not a review.

At this juncture (July 2009), the case had remained closed for over 2 years since the sentencing of Mulcaire and Goodman in January 2007. Following detailed briefings from the Senior Investigating Officer it was apparent that there was no new material in *The Guardian* article that would justify either re-opening or reviewing the investigation.

A short while later, this view was endorsed independently by the Director of Public Prosecutions, Keir Starmer QC, who had simultaneously 'ordered an urgent examination of the material supplied to the CPS'. The Crown Prosecution Service acknowledged that Prosecution Counsel had seen all the unused material during the original investigation in addition to the actual evidence utilised in the case itself. It is appreciated that such a review is always undertaken in relation to any relevance in respect of matters on the indictment. However, in a written memorandum, dated 14<sup>th</sup> July 2009, Counsel stated this: (the underlined aspects are my emphasis),

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...we did enquire of the police at a conference whether there was any evidence that the Editor of the News of the World was involved in the Goodman-Mulcaire offences. We were told that there was not (and we never saw such evidence). We also enquired whether there was any evidence connecting Mulcaire to other News of the World journalists. Again, we were told that there was not (and we never saw such evidence).'

In other words, Counsel had considered the unused material and stated in unequivocal terms that they were neither told about nor did they see any matters that appeared to merit further investigation.

On 16th July 2009, in his own statement on the matter, the DPP stated 'It would not be appropriate to re-open the cases against Goodman and Mulcaire, or to revisit the decisions taken in the course of investigating and prosecuting them'. This led to the case remaining closed until January this year when new evidence was provided by News International which resulted in the commencement of Operation Weeting.

Therefore, as can be seen, in relation to events that took place in 2009, I was provided with some considerable reassurance, (and at a number of levels), that led me to a view that this case neither needed to be re-opened or reviewed. It was on this basis that I briefed you.

Just over 12 months later, on 1st September 2010, there was some further reporting in the New York Times. This led to a new Senior Investigating Officer being tasked to ascertain if there was any additional information that might require investigation. A number of interviews were conducted in the ensuing months and advice was again sought from the CPS.

In their final written legal advice on this matter provided on 10th December 2010, the Head of the CPS Special Crime Division concluded that he did 'not consider that there is now any evidence that would reach the threshold for prosecution. In my opinion there is insufficient evidence to provide a realistic prospect of conviction against any person identified in the New York Times' article'. This, again, was not a review of the original case.

In summary, my briefings to you on these matters have always been based upon what I knew at the time. I have acknowledged now that with hindsight and with what we are currently seeing, my decisions would have been different. If this has placed you in a difficult position then I very much regret this. However, I reiterate, the catalyst for the new investigation (and the level of resources now applied) is the new evidence being produced by News International since January of this year.

I am writing in similar terms to the Mayor, Boris Johnson, as well as the previous Home Secretary, the Rt Hon Alan Johnson MP and am copying this letter to the Home Secretary, Dame Helen Ghosh and the Shadow Home Secretary.

I hope you find this helpful.

  
John Yates  
Assistant Commissioner