IN THE HIGH COURT OF JUSTICE **Claim no. Various**

BUSINESS & PROPERTY COURTS OF ENGLAND AND WALES

BUSINESS LIST (ChD)

IN THE MATTER OF THE MIRROR NEWSPAPER HACKING LITIGATION

BETWEEN

VARIOUS CLAIMANTS

Claimants

and

MGN LIMITED

Defendant

GENERIC DEFENCE

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Summary of MGN's case

1. In this Defence:

1.1 Save where otherwise appears, references to paragraphs are to the numbers of paragraphs in the Generic Particulars of Claim ("GPOC") dated 24 March 2020.

1.2 On many occasions, frequently but not always in response to allegations in the GPOC which constitute impermissible attempts to rely upon or explore or draw inferences in relation to the practice or deliberations or advice or investigations or actions of in-house lawyers and communications between those in-house lawyers and/or between one or more of them and one or more officers or employees of the companies by which they were employed as professional legal advisers, reference is made below to matters which are protected by legal professional privilege, in particular because they relate to (a) communications which were made confidentially and were made and received by individuals acting in their professional capacity as legal advisers to MGN and for the purpose of providing legal advice to MGN and the obtaining of legal advice by MGN, further or alternatively to (b) communications which came into existence and/or to evidence which (if it was gathered) was gathered by those individuals after adversarial proceedings were reasonably contemplated and for the purposes of

defending those proceedings and/or for the purpose of providing legal advice to MGN and the obtaining of legal advice by MGN with regard to those proceedings. In each and every such instance MGN asserts, and does not waive, that privilege.

2. Save that MGN publishes the *Sunday People* not the *People* (being the title the paper was known between August 2002 and late 2012) and does not operate a website *www.people.co.uk*, paragraph 1 is admitted.

3. As to paragraph 2:

3.1 The findings made in the Gulati Judgment are not disputed.

3.2 It is denied that the alleged unlawful information gathering activities were habitual and widespread across all three of MGN's titles not only for the times and to the extent found in the Gulati Judgment but also "*starting as early as 1991"* and *"continuing until even as late as at least 2011"*.

3.3 The expressions *"starting as early as 1991"* and *"continuing until even as late as at least 2011"* are vague and obfuscating. The earliest in time of the examples pleaded from paragraph 10 onwards upon which the Claimants rely as demonstrating (a) that unlawful information gathering was both habitual and widespread across the *Daily Mirror*, *Sunday Mirror*, and the *People* and (b) that this was known to *"Senior Executives"* (a term which is not defined in the GPOC) relates to an article which was published in March 1999, in which regard reference is made to an earlier article published in October 1998 entitled *"ALL RATE FOR SOME"*. The latest date which is mentioned in the GPOC in relation to those matters is 2011. In these circumstances, MGN pleads to the allegations of knowledge by reference to the period from 1 October 1998 to 2011. MGN reserves the right to plead further if and when the Claimants provide proper particulars of the case (if any) that it is expected to meet in relation to any dates outside that period.

4. As to paragraph 3, MGN's case is set out below in respect of paragraphs 7 to 9, where these allegations are made with greater particularity.

5. Paragraphs 4 and 5 are denied. On the contrary:

5.1 The expression *"Senior Executives"* is not defined in the GPOC and it is unclear to which individuals it is intended to refer. MGN pleads below to what it understands to be alleged in paragraphs 4 and 5, and reserves the right to plead further to those paragraphs in the event that the Claimants provide a proper explanation of the expression *"Senior Executives"* which, on analysis, is not fully responded to below.

5.2 Members of the board of Trinity Mirror Group PLC ("TM") (now "Reach PLC") (the "Board") did not know and were not aware of the habitual and widespread use of unlawful information gathering activities across all three MGN titles alleged in paragraphs 2 and 3 from *"at least as early as 2002 (and certainly by 2007)"*.

5.3 The Board did not, in spite of the alleged knowledge and awareness, either (a) fail to take steps to stop such unlawful activities or (b) seek to conceal the same or (c) deliberately lie to and mislead either the public or the Leveson Inquiry by falsely denying their existence.

5.4 In so far as these allegations are made against members of the MGN Legal Department (the "Legal Department"), it is denied that even if they had the alleged knowledge of widespread and habitual use of unlawful information gathering activities, (a) there was any duty on any legal adviser to MGN to somehow prevent or stop such activities, as opposed to providing legal advice; (b) stopping such activities was within their power; (c) disclosing details of such activities would have been consistent with their legal and professional duties to maintain their client's legal professional privilege and the confidentiality of their affairs; and (d) they made any statements to the public or to the Leveson Inquiry. It is accordingly denied, if that is intended to be alleged, that the Claimants may seek damages for any such matters. Rather than repeat the foregoing in respect of each instance, wherever such allegations are or may be being made in the GPOC, MGN repeats and relies upon this paragraph below.

6. MGN pleads as follows without limiting the generality of paragraph 5 above.

7. So far as concerns the Directors of the Board between 1 October 1998 and 2011:

7.1 Margaret Ewing ("Ms Ewing") was an Executive Director of TM (which only came into existence following the merger between Mirror Group Plc and Trinity Plc in October 1999) between 4 January 2000 and 28 June 2002. She does not work for either TM or MGN, and she has no email mailbox capable of being restored by MGN, although MGN has been able to obtain her evidence in response to the allegations which coincide with her time as an Executive Director. The Claimants have made no direct allegation against Ms Ewing.

7.2 Charles Philip Graf ("Mr Graf") was an Executive Director of TM between 23 April 1987 and 2 February 2003. He does not work for either TM or MGN, and he has no email mailbox capable of being restored by MGN, although MGN has been able to obtain his evidence in response to the allegations which coincide with his time as an Executive Director. The Claimants have made no direct allegation against Mr Graf.

7.3 Paul Andrew Vickers ("Mr Vickers") joined Mirror Group Plc as Secretary and Group Legal Director in December 1992. Following the merger between Mirror Group Plc and Trinity Plc in October 1999, Mr Vickers became the Legal Director and Secretary of TM, a role he held until 17 November 2014. He does not work for either TM or MGN, but MGN has been able to restore his email mailbox and to obtain his evidence in response to the allegations which coincide with his time as an Executive Director of TM, including in relation to the direct allegations made in respect of his knowledge.

7.4 Sylvia Bailey ("Ms Bailey") was the Chief Executive of TM between 3 February 2003 and 15 June 2012. She does not work for either TM or MGN, but MGN has been able to restore her email mailbox and to obtain her evidence in response to the allegations which coincide with her time as an Executive Director including in relation to the direct allegations made in respect of her knowledge.

7.5 Vijay Vaghela ("Mr Vaghela") was the Finance Director of TM between 8 May 2003 and 1 March 2019. The Defendant has been able to restore his email mailbox and to obtain his evidence in response to the allegations which coincide with his time as Finance Director including in relation to the direct allegation made in respect of his knowledge.

7.6 Joseph Sinyor (“Mr Sinyor”) was an Executive Director of TM between 13 November 2000 and 10 January 2003. He does not work for either TM or MGN, had no email mailbox capable of restoration, and MGN has not yet been able to obtain his evidence in response to the allegations which coincide with his time as an Executive Director. The Claimants have made no direct allegation against Mr Sinyor.

7.7 Mark Derrick Haysom (“Mr Haysom”) was an Executive Director of TM between 1 January 1998 and 10 April 2003. He does not work for either TM or MGN, had no email mailbox capable of restoration, and MGN has not yet been able to obtain his evidence in response to the allegations which coincide with his time as an Executive Director. The Claimants have made no direct allegation against Mr Haysom.

7.8 Stephen Davenport Parker (“Mr Parker”) was an Executive Director of TM between 23 February 1993 and 26 July 2004. He does not work for either TM or MGN. MGN has been able to restore his email mailbox but it contained only contact details. MGN has not yet been able to obtain his evidence in response to the allegations which coincide with his time as an Executive Director. The Claimants have made no direct allegation against Mr Parker.

7.9 Cornel Carl Riklin ("Mr Riklin") was an Executive Director of TM between 6 June 1999 and 3 December 1999. He does not work for either TM or MGN, and MGN has not been able to restore his email mailbox. MGN has not yet been able to obtain his evidence in response to the allegations which coincide with his time as an Executive Director. The Claimants have made no direct allegation against Mr Riklin.

7.10 John Allwood ("Mr Allwood") was an Executive Director of TM between 6 June 1999 and 20 July 2000. He does not work for either TM or MGN, and MGN has not been able to restore his email mailbox. MGN has not yet been able to obtain his evidence in response to the allegations which coincide with his time as an Executive Director. The Claimants have made no direct allegation against Mr Allwood.

7.11 Michael Masters ("Mr Masters") was an Executive Director of TM between 17 July 1989 and 31 December 2000. He does not work for either TM or MGN, and MGN has not been able to restore his email mailbox. MGN has not yet been able to obtain his evidence in response to the allegations which coincide with his time as an Executive Director. The Claimants have made no direct allegation against Mr Masters.

7.12 Roger Eastoe ("Mr Eastoe") was an Executive Director of TM between 6 September 1999 and 13 September 2000. He does not work for either TM or MGN, and MGN has not been able to restore his email mailbox. MGN has not yet been able to obtain his evidence in response to the allegations which coincide with his time as an Executive Director. The Claimants have made no direct allegation against Mr Eastoe.

7.13 There were 12 Non-Executive Directors of TM who were appointed and resigned on the dates set out in Annex A.

8. So far as concerns the Legal Department of MGN between 1 October 1998 and 2011:

8.1 Charles Collier-Wright (“Mr Collier-Wright”) was employed by MGN and/or TM between 1 March 1982 and 31 December 2014. He does not work for either TM or MGN, but MGN has been able to restore his email mailbox and to obtain his evidence in response to the allegations which coincide with his time as an employee.

8.2 Martin Cruddace ("Mr Cruddace") was employed by MGN and/or TM between 16 July 1990 and 18 January 2002. He does not work for either TM or MGN, and MGN has not been able to restore his email mailbox, but MGN has been able to obtain his evidence in response to the allegations which coincide with his time as an employee.

8.3 Marcus Partington (“Mr Partington”) has been employed by MGN and/or TM since 22 November 1994. MGN has been able to restore his email mailbox and to obtain his evidence in response to the allegations which coincide with his time as an employee.

8.4 Paul Mottram (“Mr Mottram”) has been employed by MGN and/or TM since 3 June 1997. MGN has been able to restore his email mailbox and to obtain his evidence in response to the allegations which coincide with his time as an employee.

8.5 Rachel Welsh (“Ms Welsh”) was employed by MGN and/or TM between 15 July 2002 and 18 September 2008. She does not work for either TM or MGN, but the Defendant has been able to restore her email mailbox and to obtain her evidence in response to the allegations which coincide with her time as an employee.

8.6 Rhiannon James (“Ms James”) was employed by MGN and/or TM between 3 November 2008 and 24 May 2019. She does not work for either TM or MGN, but MGN has been able to restore her email mailbox and to obtain her evidence in response to the allegations which coincide with her time as an employee.

9. MGN’s pleaded case that is set out below is based upon the evidence that is presently available to MGN, as summarised in paragraphs 7 and 8 above, and the contents of the documents that MGN has been able to find and consider to date, including those referred to below. MGN’s ability to find and consider documents has been adversely affected by the Covid-19 pandemic, and MGN reserves the right to plead further to the GPOC in the event that further evidence later becomes available.

10. MGN pleads to the specific matters relied upon by the Claimants below. So far as concerns the Claimants’ general case, without limiting the generality of paragraph 5 above:

10.1 There is no mention of these unlawful information gathering activities at MGN’s newspapers in the available Minutes of the meetings of the Board from September 1999 (being the first TM Board meeting held following the merger between Mirror Group Plc and Trinity Plc) to December 2011 (inclusive).

10.2 There is no mention of these unlawful information gathering activities at MGN’s newspapers in any of the documents that MGN has been able to find, retrieve and review relating to the monthly reviews produced by Ms Bailey and the Risk Maps that were produced to identify risks to TM and MGN and which were discussed at least twice a year by the Audit and Risk Committee.

10.3 MGN has found no documents which support the allegation that the Legal Department knew or were aware of the habitual or widespread use of these unlawful information gathering activities at MGN's newspapers "by at least as early as 2002".

10.4 Without limiting the generality of the denial that Senior Executives lacked the alleged knowledge and awareness, MGN will rely on the awareness of Mr Vickers and Ms Bailey detailed below and on their evidence to the Leveson Inquiry.

10.5 Without limiting the generality of the denial that Senior Executives failed to take steps to stop these unlawful activities, MGN will rely on the steps taken by Mr Vickers and Ms Bailey detailed below and on their evidence to the Leveson Inquiry.

10.6 Without limiting the generality of the denial that neither the Board nor the Legal Department deliberately took steps to conceal these unlawful information gathering activities at any time:

10.6.1 It is admitted that the existence and extent of unlawful information gathering activities were only revealed to third parties by the Board or the Legal Department after 2011.

10.6.2 However, this was not due to the Board or the Legal Department deliberately taking steps to conceal these activities and in respect of the Legal Department, paragraph 5.4 above is repeated.

10.6.3 On the contrary, and as further detailed below, this was due to these activities being deliberately concealed from the Board and the Legal Department by the individuals who were involved in perpetrating them and/or who knew that these activities were being carried out, and moreover concealed in that way in spite of the express steps taken by the Board and the Legal Department:

(a) to make clear that unlawful conduct (of any sort) would not be tolerated by TM and MGN; and

(b) to ascertain whether since October 2000 editors and others or to their knowledge anybody on their staff or instructed by their staff had (among other things) intercepted any mobile or fixed line telephone messages.

10.6.4 Such concealment from the Board and the Legal Department continued until after 2 August 2011, as is illustrated by the following facts and matters:

(a) On 11 October 2010, Taylor Hampton sent a letter to MGN on behalf of Paul Marsden ("Mr Marsden") complaining that the *Sunday Mirror* had obtained private information concerning Mr Marsden *"because your then journalist, Dan Evans ("Mr Evans") or someone acting on his behalf had unlawfully accessed our client's voicemail through a process known as "phonehacking""*.

(b) In response to a request from Mr Partington for more information concerning this allegation against Mr Evans, Taylor Hampton replied by email dated 14 October 2010 stating that the third party

who had told Mr Marsden that he had been the victim of phone hacking had been notified by the police *"that their name was on a list of victims of Mr Evans which included Mr Marsden"*.

(c) On 6 February 2011, Sian Bundred of Blakeway Television sent an email to Mr Evans asking for his response to the same allegations in connection with a film that Blakeway Television was making for the Dispatches programme on Channel 4.

(d) On 7 February 2011, David Owen, a barrister and father of Mr Evans's long-term partner, replied to Sian Bundred on Mr Evans' behalf, denying the allegations made against Mr Evans, and making the following statement on Mr Evans's behalf for public release: *"I have never "hacked" into Paul Marsden's voicemail. Mr Marsden hasn't produced any evidence to support his belief and his allegations against me are completely denied"*.

(e) MGN will rely on the foregoing as demonstrating that even in 2011 Mr Evans was steadfastly denying the criminal conduct of which he was subsequently convicted on his own plea of guilty, and will invite the Court to draw the inference that Mr Evans' reaction of deliberate concealment was typical of the attitude of all those involved in similar unlawful conduct.

(f) On 2 August 2011 Mr Vickers wrote to 43 senior editorial executives on TM's national and regional titles, asking each of them whether since October 2000 that individual or to the knowledge of that individual anyone on his or her staff or instructed by his or her staff had intercepted any mobile or fixed line telephone messages, or made any payment to a serving police officer, or illegally accessed the police national computer system or the criminal records bureau, and each of those 43 individuals (together with one further individual who had asked to sign the letter) returned the letter signed with no issues raised.

10.7 Without limiting the generality of the denial that either the Board or the Legal Department deliberately lied to and misled both the public and the Leveson Inquiry by falsely denying the existence of these activities:

10.7.1 No member of the Legal Department provided a statement to the Leveson Inquiry.

10.7.2 The only members of the Board who provided statements to the Leveson Inquiry were Mr Vickers, Ms Bailey, and Mr Vaghela.

10.7.3 Mr Vickers' witness statement to the Leveson Inquiry is dated 13 October 2011. It contains no such false statement, and MGN notes that the Claimants do not identify where any such lies and false denials are contained in that witness statement. The contents of that witness statement are true, and, in particular, it truthfully states:

(a) At paragraphs 36 and 37, that TM re-emphasised the importance of compliance with the Press Complaints Commission ("PCC") Code and the law in 2006 following the publication of the Information Commissioner's Office Report *"What Price Privacy?"*

and again in 2007 following the criminal convictions of Mulcaire and Goodman at meetings led by Ms Bailey and Mr Vickers and attended by the three national editors of the *Daily Mirror* (Richard Wallace), the *Sunday Mirror* (Tina Weaver) and the *People* (Mark Thomas), Eugene Duffy (the Managing Editor of nationals) and Mr Partington; that everybody present said that they fully understood the position on both of those occasions; and that in about early 2011 Mr Vickers called another meeting to discuss TM's public response to phone hacking allegations which were emerging externally and that the editors of the *Daily Mirror* (Richard Wallace), the *Sunday Mirror* (Tina Weaver) and the *People* (Lloyd Embley) all confirmed that TM could say that its journalists worked within the criminal law and the PCC Code.

(b) At paragraph 50, that Mr Vickers had had no role in instructing, paying, advising on or having any other contact with private investigators and/or other external providers of information for stories, including the police, public officials, mobile telephone companies or others with access to these sources, including advising on any of these activities.

(c) At paragraph 51, that Mr Vickers was aware that journalists working on various of TM's newspapers had used private investigators over the years, and that he was also aware of the Information Commissioner's Office Reports *"What Price Privacy?"* and *"What Price Privacy Now?"*, and that in line with the general theme that had been taken from the Information Commissioner TM had adopted a forward-looking approach.

(d) At paragraph 52, that Mr Vickers was aware that TM's titles made payments to external sources of information, and that this was governed by strict policies and procedures.

(e) At paragraph 53, that Mr Vickers had no personal knowledge of any person paying or receiving payment for information from the police, public officials, mobile phone companies or others with access to them.

(f) At paragraph 55, that although Mr Vickers did not know to what extent in practice TM's policy of compliance with the PCC Code and the law was followed prior to the time of the above meetings in 2006 and 2007, to the best of his knowledge since those meetings that policy had been followed in relation to the use of private investigators and other external sources of information for stories.

(g) At paragraphs 57 and 58, that on 2 August 2011 Mr Vickers had written to 43 senior editorial executives on TM's national and regional titles, asking each of them whether since October 2000 that individual or to the knowledge of that individual anyone on his or her staff or instructed by his or her staff had intercepted any mobile or fixed line telephone messages, or made any payment to a serving police officer, or illegally accessed the police national computer system or the criminal records bureau, and that each of those 43 individuals (together with one further individual who had

asked to sign the letter) had returned the letter signed with no issues raised.

10.7.4 Ms Bailey's witness statement to the Leveson Inquiry is dated 13 October 2011. It contains no such false statement, and MGN notes that the Claimants do not identify where any such lies and false denials are contained in that witness statement. The contents of that witness statement are true, and, in particular, it truthfully states:

(a) At paragraphs 62 to 64, that prior to 2008 Risk Action Plans were used as part of TM's year-end process, and that since 2008 Risk Maps had been produced which were formally updated three times a year, and which were an essential day-to-day tool in TM's risk identification.

(b) At paragraph 65, that, in addition, as part of the end year process, about 70 senior personnel, including the editors of the *Daily Mirror*, the *Sunday Mirror* and the *People*, were required to sign declarations assuring the Board that systems were functioning effectively in identifying, evaluating and managing risk in an appropriate manner, and stating that they have brought any significant matters to the attention of the Board.

(c) At paragraph 71, that Ms Bailey had firmly reiterated TM's policies in respect of conduct, for example by (together with Mr Vickers) calling the above meeting in 2006 following the publication of the Information Commissioner's Report *"What Price Privacy?"* to reiterate that TM's policy was that TM and its staff did not break the law, that there would be no tolerance of this, and that each editor would be held responsible and would be dismissed if the editor or any of his or her journalists broke the law.

(d) At paragraph 72, that Ms Bailey had repeated the same message at the above meeting in 2007 following the criminal convictions of Goodman and Mulcaire, and had sought and obtained confirmation from each Editor that he or she understood that message.

(e) At paragraphs 71, 72 and 73, that to the best of Ms Bailey's knowledge and belief TM's policy that TM and TM's staff did not break the criminal law was adhered to in practice, not only at the time of each of those meetings but also at the time that she made that witness statement.

(f) At paragraph 75, that Ms Bailey's belief was supported by the fact that in early August 2011 Mr Vickers had sought and obtained confirmations from 44 senior editorial executives that during their employment since October 2000 to their knowledge neither they nor anyone on their staff or instructed by them or their staff had intercepted any mobile or fixed line telephone messages, or made any payment to a serving police officer, or illegally accessed the police national computer system or the criminal records bureau.

(g) At paragraphs 93 and 94, that sources were ultimately a matter for editors, and not for the Board; that Board members, including Ms

Bailey, expected that editors and their journalists were operating within the law and the Editors' Code (also known as the PCC Code); that, beyond that, the Board did not expect, and could not expect, to be aware of the sources of information for stories featuring in TM's titles; and that even on the rare occasions when Ms Bailey was made aware of stories in advance of publication she did not expect to be told the source and she did not review the underlying material.

(h) At paragraphs 95, 96 and 97, that Ms Bailey had no role in instructing, paying or having any other contact with private investigators; that to the best of her knowledge any private investigators who might have been used in connection with stories in TM papers acted lawfully; and that in so far as private investigators were used, how they were used was a matter for editors, within the overarching framework that their newspapers had to comply with the Editors' Code and the law.

(i) At paragraph 98, that to the best of Ms Bailey's knowledge, there had been no instances of *"hacking"*, whether of computers, telephones, or any other devices.

(j) At paragraphs 99, 100 and 103, that TM's policy was one of strict adherence to the law; that to the best of Ms Bailey's knowledge, there had been no payments to or from police, public officials, mobile phone companies or otherwise in connection with improperly or unlawfully sourced information for stories or in connection with *"hacking"*; that where external providers of information were used, how they were used was a matter for editors, within TM's policies of compliance with the Editors' Code and the law; and that unless Ms Bailey's authority level was engaged to authorise a contribution in relation to a particular story, she was not involved in the decision-making in practice concerning contributions payments other than in expecting authority holders to fulfil their responsibilities in approving any payment, which would include not authorising any payment connected with unlawful activity or that breached TM's policy.

10.7.5 Ms Bailey also gave oral evidence to the Leveson Inquiry, which also contains no such false statement. In this regard:

(a) When asked whether *"it's right that you've not actually sought to investigate whether the allegations of phone hacking in your group are true or false"*, Ms Bailey replied: *"We have only seen unsubstantiated allegations and I have seen no evidence to show me that phone hacking has ever taken place at Trinity Mirror"*. That evidence was true.

(b) When asked *"Do you think on reflection that it would be a good idea to have a look to satisfy yourself whether or not there has been phone hacking?",* Ms Bailey replied *"No, I don't"*, and when then asked *"Why is that?"* she answered: *"I don't think it's the way to run a healthy organisation is to go around conducting investigations when there is no evidence to say that our journalists have hacked phones"*. That evidence was also true.

(c) When asked: *"Can I take it then that your personal knowledge is you've no personal knowledge of phone hacking at the Daily Mirror or any other Trinity Mirror title"*, Ms Bailey replied *"I have not"*. That evidence was also true.

10.7.6 Mr Vaghela's witness statement to the Leveson Inquiry is dated 14 October 2011. It contains no such false statement, and MGN notes that the Claimants do not identify where any such lies and false denials are contained in that witness statement. The contents of that witness statement are true.

10.7.7 On the Claimants' own case, the findings in paragraphs 213 and 214 of the Gulati Judgment do not include any finding that any member of the Board or the Legal Department deliberately lied to and misled both the public and the Leveson Inquiry by falsely denying the existence of these activities, because:

(a) The Claimant has relied on the findings in paragraphs 213 and 214 of the Gulati Judgment in paragraph 2.

(b) MGN has expressly admitted those findings in the MNHL.

(c) Yet the Claimants have pleaded the GPOC for the express purpose of alleging knowledge on the part of members of the Board and the Legal Department.

10.7.8 Further and in any event:

(a) there is no finding in paragraphs 213 and 214 of the Gulati Judgment that Ms Bailey (or any other member of the Board who made a statement to the Leveson Inquiry) had falsely claimed not to have seen any evidence of phone hacking; and

(b) nor is there or could there be any finding in paragraphs 213 and 214 of the Gulati Judgment concerning evidence given to the Leveson Inquiry by the Legal Department, as no member of the Legal Department provided a statement to the Leveson Inquiry.

10.8 It is denied that as a result of their knowledge or awareness the Board or the Legal Department could have prevented these unlawful information gathering activities from being carried out at the time or could have reduced their habitual and widespread use. Without limiting the generality of that denial:

10.8.1 Paragraphs 10.1 to 10.4 inclusive above are repeated with regard to the contention that the Board and the Legal Department had the knowledge or awareness alleged.

10.8.2 Paragraphs 10.6.3, 10.6.4, 10.7.3(a) and 10.7.4(a)-10.7.4(d) above are repeated. MGN will contend that if and to the extent that journalists and others were not in fact deterred from behaving unlawfully by the steps which were in fact taken by or with the involvement of the Board and the Legal Department, and if journalists and others were prepared to conceal their unlawful activities from the Board and the Legal Department and to deceive the Board and the Legal Department in the manner and to the extent that in fact occurred, then such individuals would not have been

prevented from acting as aforesaid by any other preventative steps that the Board and the Legal Department could or ought reasonably to have taken.

10.9 Ms Ewing did not know and was not aware of any of these unlawful information gathering activities at MGN's newspapers, has no recollection of the same being discussed in any Board meeting and has no recollection of any of the specific events relied on in the GPOC which allegedly took place while she was an Executive Director.

10.10 Mr Graf was not aware of any of these unlawful information gathering activities at MGN's newspapers, has no recollection of the same being discussed in any Board meeting, was not at the lunch on 20 September 2002 that is referred to in paragraphs 42 to 43, has no recollection of that lunch ever being mentioned to him, to the best of his recollection first learned about that lunch when he saw mention of it in the press, and has no recollection of any of the specific events relied on in the GPOC which allegedly took place while he was an Executive Director.

10.11 With regard to the knowledge or awareness of Mr Vickers, paragraph 10.7.3 above is repeated. Paragraph 1.2 above is also repeated. Without limiting the generality of the foregoing, to the best of his recollection:

(a) Mr Vickers had no knowledge of phone hacking or any other unlawful information gathering activities at MGN's newspapers *"from at least as early as 2002 (and certainly by 2007)"*, save as set out in (b) and (c) below.

(b) In relation to phone hacking, Mr Vickers did not consider that he had been made aware of any evidence that this had taken place within TM or MGN until he saw the evidence which Mr Evans had provided to the police and which the police started to provide to TM subject to confidentiality undertakings from 19 December 2013. At that stage, and in light of the amount of detail that Mr Evans had provided to the police and the fact that Mr Evans had incriminated himself by providing it, Mr Vickers thought that the basis of what Mr Evans was saying was likely to be true.

(c) In relation to the use of private investigators:

(i) Mr Vickers had some awareness that they were used by TM or MGN before 2004, but he believed (rightly, as MGN will contend) that such use was not unlawful in and of itself.

(ii) When Mr Vickers saw the Information Commissioner's Office report *"What Price Privacy Now?"* in 2006, he realised that there had been widespread use of at least one private investigator by TM or MGN; but by that time the Board and the Legal Department had already taken the steps in response to the Information Commissioner's Office report *"What Price Privacy?"* earlier in 2006 which are referred to in paragraph 10.7.3(a) above.

10.12 With regard to the knowledge or awareness of Ms Bailey, paragraphs 10.7.4 and 10.7.5 above are repeated. Without limiting the generality of the foregoing, to the best of her recollection:

10.12.1 Ms Bailey had no knowledge of phone hacking or any other unlawful information gathering activities at MGN's newspapers *"from at least as early as 2002 (and certainly by 2007)"*.

10.12.2 The information and materials that were provided to the Leveson Inquiry by TM and MGN about the conduct of journalists and what TM and MGN did to regulate that conduct were truthful and accurate.

10.12.3 Further, that information and those materials reflect that, as is in fact the case, there is no substance in the allegation that Ms Bailey and the Board did not take appropriate steps to investigate, deter and uncover wrongdoing. On the contrary, if Ms Bailey had considered that she was aware of anything that amounted to evidence of wrongdoing she would have acted immediately. As set out in greater detail above, Ms Bailey repeatedly made it very clear to editors and others that TM would not tolerate wrongdoing. Moreover, while focussing on the future, Ms Bailey specifically did not give any amnesty (using that word) for past illegality.

10.12.4 Even in 2007, following the criminal convictions of Glenn Mulcaire and Clive Goodman, the *News of the World* was still running its *"one rogue reporter"* defence, and Ms Bailey had no reason to question that. Nevertheless:

(a) Ms Bailey made clear to editors at TM and MGN that anything like the conduct of Mr Mulcaire and Mr Goodman would not be tolerated.

(b) When questions arose as to MGN's information-gathering activities in the context of the Leveson Inquiry, Ms Bailey asked Mr Partington and others to do a full search to see whether MGN had ever used Mr Mulcaire (which established that MGN had not used him).

10.13 With regard to the knowledge or awareness of Mr Vaghela, paragraph 10.7.6 above is repeated. Without limiting the generality of the foregoing, to the best of his recollection:

10.13.1 Mr Vaghela had no knowledge of phone hacking or any other unlawful information gathering activities at MGN's newspapers *"from at least as early as 2002 (and certainly by 2007)"*, save as follows:

(a) The Information Commissioner's Office report *"What Price Privacy?"* which was published in 2006 raised concerns about potentially inappropriate practices involving private investigators.

(b) It was Mr Vaghela's understanding that in response to that report appropriate action would be taken: Mr Vaghela was not involved in the detail of how that action would be implemented, as that was a matter of editorial management for Ms Bailey and Mr Vickers upon which he would be kept informed in his capacity as a member

of the Board of TM, but it was his understanding that it was decided that TM and MGN would stop the use of private investigators.

10.13.2 Even at the time of the Leveson Inquiry, Mr Vaghela was not aware of the existence of practices such as phone hacking at MGN's newspapers.

10.13.3 Although there was pressure on editors to be profitable, at no time did the Board state or suggest that editors (or journalists) should break the law or engage in any inappropriate activity to get results, and nor did the Board at any time condone such an activity.

10.13.4 Prior to the Leveson Inquiry no one ever came to Mr Vaghela to express concerns about unlawful practices within TM or MGN.

10.13.5 Mr Vaghela first became aware of the witness statement of Mr Brown dated 16 May 2007 in his Employment Tribunal claim that is referred to in the GPOC during the course of the Leveson Inquiry.

10.13.6 Mr Vaghela was aware of the lunches that were hosted by Sir Victor Blank and Piers Morgan, but:

(a) Mr Vaghela never attended those lunches and never received any feedback from them; and

(b) Mr Vaghela first became aware of what is alleged to have transpired at the lunch on 20 September 2002 that is referred to in the GPOC when an account of those events entered the public domain on or about 23 May 2012, when Jeremy Paxman gave oral evidence to the Leveson Inquiry.

10.13.7 Mr Vaghela was not aware of Operation Glade in 2004.

10.13.8 It was Mr Vaghela's understanding and belief that there was no reason for the Board to investigate phone hacking or other unlawful information gathering activities at MGN's newspapers because there was no evidence which would warrant an investigation.

10.14 With regard to the knowledge or awareness of Sir Victor Blank, to the best of his recollection neither phone hacking nor blagging were ever mentioned at any Board meeting.

10.15 With regard to the knowledge or awareness of the Board and the Legal Department as to what transpired at the lunch on 20 September 2002 that is referred to in the GPOC, Sir Victor Blank did not at any time discuss this lunch at any Board meeting or (for the avoidance of doubt) with the Legal Department.

10.16 Mr Collier-Wright had no knowledge or awareness of these unlawful information gathering activities until they were made public.

10.17 With regard to the knowledge or awareness of Mr Partington, MGN repeats and relies upon:

10.17.1 MGN's case in respect of the specific examples pleaded in the GPOC in which mention is made of Mr Partington.

10.17.2 The claims to privilege asserted in respect of those specific examples below, which apply also to any like communications made by or to Mr Partington and any evidence that he may have gathered on other occasions for the like purposes or in the like circumstances as relate to those specific examples.

10.18 With regard to the knowledge or awareness of Mr Mottram:

10.18.1 MGN repeats and relies upon:

(a) MGN's case in respect of the specific examples pleaded in the GPOC in which mention is made of Mr Mottram.

(b) The claims to privilege asserted in respect of those specific examples below, which apply also to any like communications made by or to Mr Mottram and any evidence that he may have gathered on other occasions for the like purposes or in the like circumstances as relate to those specific examples.

10.18.2 To the best of Mr Mottram's recollection and belief:

(a) from about 2003, the many stories and allegations that were in circulation in the newspaper industry included claims that phones could be hacked;

(b) however, Mr Mottram was never made aware, whether by being told or by working on stories or at all, that any story published by MGN's newspapers had been obtained from phone hacking; and

(c) Mr Mottram had no knowledge that MGN was involved in phone hacking until after 2011.

10.19 With regard to the knowledge or awareness of Ms Welsh:

10.19.1 MGN repeats and relies upon:

(a) MGN's case in respect of the specific examples pleaded in the Generic Particulars of Claim in which mention is made of Ms Welsh.

(b) The claims to privilege asserted in respect of those specific examples below, which apply also to any like communications made by or to Ms Welsh and any evidence that she may have gathered on other occasions for the like purposes or in the like circumstances as relate to those specific examples.

10.19.2 To the best of Ms Welsh's recollection and belief:

(a) she had no awareness that phone hacking was going on at MGN's newspapers at any time while she was employed by MGN; and

(b) she was not aware of allegations or findings relating to the use of private investigators by MGN's newspapers until Mr Partington told her about Operation Motorman on a date that she cannot recall save to say that it was a long time after the Operation Motorman investigation.

10.20 With regard to the knowledge or awareness of Ms James:

10.20.1 MGN repeats and relies upon claims to privilege asserted in respect of those specific examples pleaded in the Generic Particulars of Claim below, which apply also to any like communications made by or to Ms James and any evidence that she may have gathered on other occasions for the like purposes or in the like circumstances as relate to those specific examples.

10.20.2 To the best of Ms James's recollection and belief, she had no awareness of any unlawful information gathering activities at MGN's newspapers until after 2011, save that she was made aware at some time after she commenced her employment with MGN (on 3 November 2008) of the existence of the Operation Motorman investigation.

10.21 With regard to the knowledge or awareness of Mr Cruddace:

10.21.1 MGN repeats and relies upon claims to privilege asserted in respect of those specific examples pleaded in the GPOC below, which apply also to any like communications made by or to Mr Cruddace and any evidence that he may have gathered on other occasions for the like purposes or in the like circumstances as relate to those specific examples.

10.21.2 To the best of Mr Cruddace's recollection and belief, he had no awareness of any unlawful information gathering activities at MGN's newspapers during his term of employment.

10.22 In the premises, and for the avoidance of doubt:

10.22.1 It is admitted that Mr Vickers knew the facts and matters admitted in paragraph 10.11 above and that Mr Vickers and Mr Partington knew the facts and matters expressly admitted below in respect of the specific examples pleaded in the GPOC in which mention is made of Mr Vickers and Mr Partington, but save as aforesaid privilege is claimed in respect of both any evidence that they may have gathered and communications between them (as well as in respect of communications between other members of the Legal Department and between any member of the Legal Department and the Board).

10.22.2 It is denied that members of the Board or the Legal Department were otherwise aware of those matters, and without limiting the generality of that denial MGN will contend that Mr Vaghela's awareness in respect of both the general allegations and the specific examples that are relied upon by the Claimants was the same if not greater than, alternatively reflected that of, other members of the Board.

10.22.3 It is admitted that the Board and the Legal Department were aware of the contents of the Information Commissioner's Office reports *"What Price Privacy?"* and *"What Price Privacy Now?"* at or about the times that those reports were published.

10.22.4 At those times and thereafter, as set out in detail herein, the Board and the Legal Department took or participated in the taking of steps to prevent the activities identified in those reports, and indeed any other form of unlawful information gathering activity, being carried out.

10.22.5 Further, as also set out in detail herein, the Board and the Legal Department received express and repeated assurances, some of which were in writing, from editors and others: (i) that they understood and accepted that unlawful conduct (of any sort) would not be tolerated; and (ii) (among other things) that since October 2000 neither they or to their knowledge anybody on their staff or instructed by their staff had intercepted any mobile or fixed line telephone messages.

10.22.6 If and to the extent that the Claimants' case of knowledge or awareness *"certainly by 2007"* is based on the allegations made by Mr David Brown in his witness statement dated 16 May 2007 in his Employment Tribunal claim that is referred to in one of the specific examples in the GPOC, it is denied that these allegations fixed the Legal Department and still less the Board with the alleged knowledge or awareness for the reasons pleaded in detail below in answer to that specific example.

11. MGN disputes paragraph 6 in its entirety, both as regards the validity of its reasoning and as regards the proportionality of introducing into the MNHL, contesting and trying the lengthy and multifarious issues raised by the GPOC for the purposes alleged. Without limiting the generality of the foregoing:

11.1 As to paragraph 6.1, the contention that the *"only reason"* to *"lie about or conceal evidence of these unlawful activities"* is because they were known to be *"widespread and habitual"* is unsustainable, for at least the following reasons:

11.1.1 First, it assumes what it seeks to prove, namely that the activities were indeed *"widespread and habitual"*, as otherwise there would be nothing material to *"lie about or conceal"*.

11.1.2 Second, it is wrong in any event, because if and to the extent that anyone lied about or concealed anything there would plainly be a reason to act in that way, namely to prevent disclosure and prevention of the activities, however widespread (or not) those activities may have been.

11.2 As to paragraph 6.2, the like points apply.

11.3 As to paragraph 6.3, the only limitation defence raised in the MNHL claims is in respect of the aspect which relates to the publication of private information in the articles complained of. Deliberate concealment of wrongdoing (already found in the Gulati Judgment) does not apply to the publication of information in articles in national newspapers: that wrongdoing was plainly apparent from the publications.

11.4 As to paragraph 6.4, the Gulati Judgment at [211] states that facts relating to the knowledge and complicity of *"senior MGN officers"* had already been found. It is denied that any additional finding of *"knowledge or awareness"* or *"lies and concealment"* on the part of the Board and still less on the part of the Legal Department would have any or any material aggravating effect on the damages to which any successful Claimants would in any event be entitled. Other aspects of this paragraph are already pleaded and are not dependent on the plea of Board (or, for that matter, Legal Department) knowledge or concealment (for example in the Amended Particulars of Claim in John Leslie's claim at paragraph 26(7)).

The alleged widespread and habitual use of unlawful activities by MGN

12. As to paragraph 7:

12.1 It is admitted, as found in the Gulati Judgment, that voicemail interception was widespread and habitual at each of MGN's newspapers between mid-1999 and August 2006. It is denied that this was so outside of this period.

12.2 As to the allegations in respect of the use of private investigators and 'blaggers', these are addressed in respect of paragraph 8.3, where they are pleaded with greater particularity, below.

12.3 In so far as the claim relates to the period prior to 2 October 2000, when the Human Rights Act 1998 came into force, misuse of private information was not a cause of action known to English law. The 1998 Act did not retrospectively render acts tortious. It is therefore denied that MGN can be liable to the Claimants for misuse of private information for acts prior to this date.

13. As to paragraph 8.1, MGN has admitted during the MNHL that there were many individuals who were the subject of voicemail interception or unlawful private investigator activity.

13.1 Paragraph 8.1(a) is denied. Mr Evans has repeatedly made clear in witness statements that the mere inclusion of an individual's name or contact information in his Palm Pilot did not mean that the individual was a target for voicemail interception.

13.2 Paragraph 8.1(b) is denied. It is denied that the mere fact that an individual's name or contact information was entered into Mr Buckley's Palm Pilot meant that the individual was a target for voicemail interception. Mr Evans did not allege this, and the device contains numbers that are obviously not such targets. Indeed, this pleading is inconsistent with the Claimants' own references to entries in this device at paragraphs 8.3(e)(i), (ii), and (iii).

13.3 As to paragraph 8.1(c), there have been 8 successful claims in the MNHL. It is denied that the fact that threatened claims have settled pre-action (or that claims have settled post-issue) can be relied upon in the way that the Claimants seek to, save where admissions have been made. It is denied that the jobs or careers of such Claimants, or whether they have ever been victims of crime, are of any relevance to paragraph 8.1.

14. As to paragraph 8.2:

14.1 It is not admitted that there were a substantial number of calls to the Orange platform number prior to 2002.

14.2 It is admitted that there were a substantial number of calls made to the Orange platform number from 2002 until August 2006.

14.3 It is denied that there were a substantial number of calls after August 2006. At that time, upon the announcement of the arrest of Clive Goodman and Glenn Mulcaire, journalists took fright and cut back on phone hacking and there was a dramatic fall off in the number of calls (as the Court ruled in the Gulati Judgment).

14.4 It is denied that this paragraph, even if established, advances the Claimants' case beyond the findings in the Gulati Judgment, which MGN has already admitted.

15. As to paragraph 8.3:

15.1 It is admitted that on occasions some of the journalists acting for each newspaper instructed private investigators or similar agents to unlawfully obtain personal information about individuals. In respect of most such instances MGN does not now have any reliable way of ascertaining the information sought or obtained.

15.2 As to paragraph 8.3(a):

15.2.1 It is denied that the TV, Pictures or Sports Desks of any of the three newspapers ever made such *"extensive"* and *"habitual"* unlawful use of private investigators. Without limiting the generality of the foregoing, in respect of ELI and TDI, which account for the majority of the relevant invoices, there are no invoices at all addressed to the TV Desk of any of the newspapers, or the Pictures or Sports Desks of the *Daily Mirror*, and very few to these Desks of the *People* or *Sunday Mirror*.

15.2.2 It is admitted that, in some periods from 2000 to 2006, the Features Desks of each of the three newspapers, the News Desks of the *Sunday Mirror* and the *People*, and the Showbiz Desk of the *Daily Mirror,* made such use of private investigators or agents in a manner that could be described as *"extensive"*. Otherwise the allegation in the first sentence is not admitted.

15.2.3 The second sentence is noted. There are relatively few such invoices or contribution requests in the period 1996 to 1998, or after 2007. It is not admitted that any Desk made *"extensive"* and *"habitual"* use of such private investigators before 1999. It is denied that any Desk did so after 2007, save for the *Sunday Mirror* News Desk, which made *"extensive"* use of one third party, BDI (UK) Consultancy Ltd, which it is not admitted were instructed to unlawfully obtain private information, until 2010.

15.2.4 Otherwise the paragraph is not admitted. It is denied that the fact that some journalists on different Desks employed such methods reveals or contributes towards the total volume, as is pleaded.

15.3 As to paragraph 8.3(b):

15.3.1 Paragraph 8.3(b)(i) is admitted. This paragraph relates to an admission made by MGN on 5 December 2014, as to which all relevant findings were made in the Gulati trial.

15.3.2 As to paragraph 8.3(b)(ii):

(a) It is not relevant to the case against MGN to establish whether or not each of the various third parties listed should be described as *"private investigators and blaggers"* and MGN therefore does not plead to this allegation.

(b) It is denied that MGN's journalists used individuals or entities under the particular names Warner News, Secret Steve, Lloyd Hart, John Boyall, Jackie Scott or Scott Tillen (whose name is not Spencer Tillen as pleaded). It is therefore denied that any such use could have been *"revealed"* in July 2019.

(c) It is admitted that the other individuals and entities listed (including Spencer Dove, not Scott Dove as pleaded) were used at least once by at least one of MGN's journalists.

(d) MGN's use of the photographers Spencer Dove and Scott Tillen and their companies was evident at the time by reason of the credits for their photographs published in the newspapers; and the use of JJ Services has been in the public domain since at least December 2006; such use was not therefore *"only revealed in July 2019"*. Otherwise this phrase is not admitted.

(e) It is denied that Gwen Richardson/Searchline, System Searches, Severnside Company Services, Spencer Dove, Unique Pictures and Lenslife were instructed to unlawfully obtain private information.

(f) It is denied that many of the instructions to any of the other third parties were unlawful. Many were, for example, for searches of public registers.

(g) It is admitted that a limited proportion of the instructions to Steve Whittamore/JJ Services, Christine Hart, Rachel Barry, Jonathan Stafford and Newsreel Limited were to unlawfully obtain private information.

(h) Otherwise it is not admitted that the third parties listed were instructed to unlawfully obtain private information. The Claimants have failed to provide any basis for these allegations.

(i) It is denied that the fact that different companies or individuals were used reveals or contribute towards the total volume, as is pleaded.

15.3.3 As to paragraph 8.3(b)(iii):

(a) TM disclosed schedules of payments to these persons to the Leveson Inquiry as payments to *"an individual or organisation that Trinity Mirror believes could be regarded as either a private investigator or an individual or organisation that has carried out work which could be regarded as the work of a private investigator. It is not necessarily the case that the payment is for private investigatory work as opposed to other services. For example, Trinity Mirror is aware that one of the organisations has on occasion been used to provide equipment such as cameras for investigations."*

(b) Despite the fact of this disclosure being given in 2011 and the Claimants using counsel who appeared in the Leveson Inquiry (and made applications in relation to the same), the Claimants did not deem these matters relevant to the MNHL until 2019.

(c) It is admitted that one of MGN's journalists occasionally instructed Hogan & Co (Investigations & Security) Limited; that a small number of journalists on the *Sunday Mirror* News Desk instructed BDI (UK) Consultancy Limited; and that there were instructions to

Steve Grayson and Global Net News (not 'Global News' as pleaded by the Claimants).

(d) It is denied that the instructions to Hogan & Co (Investigations & Security) Limited, a member of the Association of British Investigators since 1986, and a company which was hired by the McCann family to assist in the search for Madeleine, were to unlawfully acquire private investigation.

(e) Many of the invoices from Global Net News related to the hire of equipment, and so were not instructions to unlawfully obtain private information.

(f) It is not admitted that the remaining instructions to BDI (UK) Consultancy Limited or Steve Grayson/Global Net News were to unlawfully acquire private information.

15.3.4 Paragraph 8.3(c) is noted. MGN has pleaded to the use of JJ Services above.

15.3.5 As to paragraph 8.3(d):

(a) The reference to *"others"* and the description in brackets is hopelessly vague and MGN is unable to plead to it. It should be particularised or struck out.

(b) The blanket allegation that information obtained by the third parties was obtained *"unlawfully or illegally"* and that this was something that "its journalists were aware" is hopelessly vague and inadequate as an allegation of knowledge of unlawfulness and illegality. It should be particularised or struck out.

(c) The allegation that information that was not obtained unlawfully was nevertheless *"used by MGN journalists as part of its unlawful information gathering activities"* is hopelessly vague and is not understood. It should be particularised or struck out.

(d) The reference to *"Pending full disclosure"* is not understood. The invoices and contribution requests referred to have already been disclosed.

(e) As to the second sentence and the allegation that obtaining certain types of information was necessarily unlawful:

(i) It is admitted that the obtaining of criminal record checks and itemised phone bills were, unless provided with the consent of a relevant individual, likely to have been unlawfully obtained, although whether that was the case, and whether the individual journalist involved was aware of that, would depend upon the circumstances.

(ii) Otherwise it is denied that the Claimants have set out a proper case as to how the obtaining of telephone numbers and the various other categories of information referred to

was necessarily unlawful. Pending proper particularisation of the Claimants' case, that is denied.

(f) It is admitted and averred that location searches were not by their nature unlawful. The reference to "*misuse of credit reference agency licences"* and *"misuse of other access to the Electoral Roll"* is hopelessly vague and unparticularised and MGN is unable to plead to it.

15.3.6 As to paragraph 8.3(e), it is denied that the *"examples"* pleaded, even if proven, show *"systemic, extensive and routine"* use. As to those examples:

(a) As to paragraph 8.3(e)(i):

(i) The first sentence is not admitted. Ms Hart was paid by MGN for services reasonably regularly from 1998 – 2000, and occasionally in the two years either side of that period.

(ii) As to the second sentence, the Claimants have provided welcome and much needed clarification of the pleading in correspondence. Taking the instances in chronological order:

(A) It is admitted that Ms Hart was paid by the *Sunday Mirror* in August 1997 in respect of a football manager having therapy, as referred to in (d). The manager's agent and agent's brother both disclosed details of the therapy to the *Sunday Mirror* for publication. Otherwise this allegation is not admitted.

(B) It is admitted that Ms Hart invoiced the *Sunday Mirror* in August 1999 by reference to the woman referred to in (b). No information about a pregnancy was published. The couple had separated and the woman was in a homosexual relationship by this time. Otherwise this allegation is not admitted.

(C) It is admitted that Ms Hart was paid by the *Sunday People* in December 1999 in respect of the pop star referred to in (c) entering rehab. In fact this was at least the third time during that year in which the pop star had spent time at the same clinic, his addiction issues and previous stays for treatment having been widely reported. Otherwise this allegation is not admitted.

(D) It is admitted that Ms Hart was paid by the *Sunday People* in February 2000 for making enquiries relating to the presenter in (a). Otherwise this allegation is not admitted.

(iii) It is denied that any of MGN's journalists instructed Ms Hart regularly after 2000. It is admitted that Messrs Buckwell,

Kempster Rice, Bell and Hamer instructed Ms Hart (or arranged for her to be paid) on a basis that might be described as regular between 1998 and 2000. It is denied that the others named did so; indeed Mr Hyland, Ms Rowe and Mr Field only instructed Ms Hart (or authorised payment to her) once. Given that the Claimants have the relevant payment records, the basis for this allegation is unclear.

(b) As to paragraph 8.3(e)(ii):

(i) The reference to MGN's *"claims"* about private investigators is irrelevant and completely unparticularised such that MGN is unable to plead to it.

(ii) The alleged denial of the use of private investigators at the Leveson Inquiry is also irrelevant, but is denied. Mr Vickers stated that he was aware of the use of private investigators, and TM provided the Inquiry with schedules of payments to individuals or organisations (on the basis set out above). The allegation is inconsistent even with the final sentence of the paragraph of the GPOC in which it is pleaded.

(iii) Scott Tillen and Spencer Dove (of Unique Pictures Limited and Lenslife respectively) were photographers, not private investigators. It is denied that they were instructed on numerous occasions from July to December 2011. Unique Pictures Limited (a company of which Scott Tillen was a director) was paid - for photography - by the People on only four occasions between July and December 2011. Mr Dove and Lenslife were not paid at all.

(iv) It is denied that any payments were made to Jonathan Stafford personally during 2011. It is denied that the *Daily Mirror* (which never made extensive use of Mr Stafford or Newsreel Ltd) made any payments to Newsreel Ltd during 2011. It is admitted that the *Sunday Mirror* made 42 payments to Newsreel Ltd during 2011.

(v) It is admitted that payment records relating to Newsreel Ltd were released to the Leveson Inquiry. They were released by TM and not, as is alleged, by Mr Vaghela or Mr Vickers. It is denied, as appears to be alleged, that knowledge of such payment records, disclosed on the broad basis referred to above, amounted to knowledge of previous unlawful activity by MGN's journalists, let alone of ongoing unlawful activity.

(c) As to paragraph 8.3(e)(iii):

(i) It is denied that the Claimants have set out any basis upon which it is alleged that any member of the Legal Department was aware of any of the matters alleged in this paragraph.

(ii) The only press reporting of Rachel Barry's conviction was a short piece in the *Observer* on 2 November 1997, which referred to how she had admitted obtaining ex-directory telephone numbers and had been fined £1200. The use of her the day after her conviction was therefore before any reporting that might have informed any journalist that she had been convicted. It is not admitted that any of MGN's journalists were aware that she had been convicted, and denied that any member of the Legal Department had such awareness. Aside from as a result of any privileged communications in respect of the provision of legal advice, in respect of which paragraph 1.2 above is repeated, it is denied that there is any basis for inferring that any member of the Legal Department was aware that she had been convicted.

(iii) It is denied that Ms Barry *"continued to be used"* by the four named journalists *"until at least 2006"*. There are no invoices at all suggesting Mr Harpin used Ms Barry; only one invoice for Mr Jeffs; and only two invoices for Mr Jones (both in July 1998). It is admitted that Mr Thomas authorised payments to Ms Barry until 2004, and that he had occasional contact with her until 2007. Only the *People* of MGN's newspapers used Ms Barry after 2003.

(iv) As to Steve Whittamore, it is not alleged that the police raid on his premises, his arrest or his conviction were reported by the press, and the Information Commissioner's Office reports did not name him or his company. However, after the publication of the ICO report, *What Price Privacy Now?,* on 13 December 2006, which for the first time alleged publicly that MGN's newspapers were among those who had used the private investigator, MGN's journalists no longer used Mr Whittamore or JJ Services.

(v) In fact, MGN's journalists had made little use of Mr Whittamore or JJ Services after 2003, and made very little use after he pleaded guilty to data protection offences in April 2005 (for which he was given a conditional discharge). There are only 7 invoices (all to 2 journalists at the *People*) over the subsequent 18 months, and a single contribution request after this date, the last invoice being dated 29 October 2006.

(vi) It is not admitted that any of MGN's journalists were aware that Mr Whittamore had been convicted at the time of their instructing him or JJ Services. It is not admitted that any member of the Legal Department was aware of his conviction at the time that he was subsequently used. It is admitted that Mr Partington became aware of the conviction at some point, but he cannot now recall when, or how. After becoming so aware, he was not aware of any subsequent use made of Mr Whittamore at the time of such use.

(vii) As to Jonathan Rees, it is denied that he was convicted *"for illegally obtaining private information"*, as alleged. He was in fact convicted for conspiring with a police officer to pervert the course of justice by planting cocaine on an innocent woman. For this crime he was sentenced to 6 years imprisonment (increased to 7 years on appeal). His conviction therefore (1) did not relate to information gathering; and (2) led to his imprisonment, such that he could not subsequently have been instructed by MGN's journalists for several years (and was not thereafter).

(viii) It is denied that, as appears to be alleged, knowledge of use of a third party who has been convicted amounts to knowledge that that third party is or will again be acting unlawfully, despite their conviction.

(d) As to paragraph 8.3(f):

(i) The examples referred to later in the pleadings are responded to below.

(e) As to paragraph 8.3(g):

(i) The knowledge or complicity of staff at senior editorial level has already been the subject of findings in the Gulati Judgment. MGN therefore declines to plead to this paragraph about the knowledge of various individuals on the editorial side of the newspapers, which is not relevant or proportionate to the stated purposes of the GPOC.

15.4 Paragraph 8.4 is lacking in particulars to the point that it is meaningless and MGN is unable to plead to it. Relevant findings were made in the Gulati Judgment. As to the references to third party newspapers, MGN's employees did not work for such other newspapers at the same time as they worked at MGN's newspapers. What occurred at these other newspapers at different times is both irrelevant and a matter about which MGN has no knowledge and is unable to plead to.

15.5 Paragraph 8.5 is entirely self-serving. It is denied that a party can rely on the mere fact that they have pleaded an allegation as having any evidential weight. This is particularly so in the present context, where articles are listed without any particular evidential base, and when, on the only occasions on which the Court has considered articles since the Gulati trial, it has referred to the Claimants' case on them as *"seriously exaggerated"* (*Jordan v MGN Ltd* [2017] EWHC 1937 (Ch)) and as giving *"rise to particular concern as to the judgment which was brought to bear when it was pleaded"* (*Various v MGN Ltd* [2019] EWHC 2122 (Ch)).

16. Paragraph 9 is noted. MGN does not contest the findings of the Honourable Mr Justice Mann in the Gulati Judgment. If it is relevant, the Claimants' characterisation of the findings after the bracket in paragraph 9.4 is denied, as it does not reflect paragraph 78 of the Gulati Judgment.

(1) James Hewitt

17. As to paragraph 10:

17.1 As to the first sentence, the allegation of *"a campaign of vilification"* is (a) completely unparticularised; and (b) irrelevant, alternatively, would require disproportionate time and expense to investigate, plead to, give disclosure and evidence on and try (as the Honourable Mr Justice Mann ruled on 10 March 2020). MGN therefore declines to investigate and plead to it.

17.2 As to the second sentence, a *"newspaper"* is not a person and so cannot *"believe"* in anything. It is admitted that the fact that James Hewitt had sold his story was generally believed to be true by persons throughout the country at the time, including those working on the *Daily Mirror*, although its relevance is denied. Alternatively, if it is relevant, it is true that Mr Hewitt had disclosed details of his illicit affair with Diana, the late Princess of Wales (then wife to the heir of the British throne) to Ms Pasternak, and that he had received substantial payment for doing so. He has publicly admitted this; it was published in other newspapers, for example, the *Independent* on 5 October 1994; and it was referred to by Diana in her famous television interview with Martin Bashir broadcast in November 1995 (*"I was absolutely devastated when this book appeared, because I trusted him … it was very distressing for me that a friend of mine, who I had trusted, had made money out of me."*).

17.3 As to the third sentence:

17.3.1 The allegation in respect of *"commissioning articles from"* Ms Ferretti is not only unparticularised but wholly irrelevant to the supposed purposes of the GPOC. In so far as it might be relevant, when Ms Ferretti offered to *Daily Mirror* reporters what she claimed were letters from the late Princess of Wales to Mr Hewitt, the newspaper undertook a 'sting' operation and took the letters to Kensington Palace, who thanked the *Daily Mirror* for its assistance. Details were set out in the 2 April 1998 articles *"Diana Love Letters Scandal Exposed by Mirror"* and *"I am selling them before James does"*.

17.3.2 The allegation in respect of private investigators does not allege any unlawful activity and is therefore irrelevant. There are in fact only two potentially relevant invoices from these third parties for the entire 5-year period referred to as *"the campaign"*, both in 1999. There is a single invoice from Southern Investigations dated 15 March 1999, which states *"Ordered by e.g. Gary Jones, Mirror News Desk"* specifying *"confidential enquiries"* and *"HM Land Registry"*; and one from *"R Barry"* dated 17 January 1999, which did not relate to Mr Hewitt but rather appeared to relate to background checks on a thief who had stolen from him. As to the alleged knowledge of the *"newspaper"*, it is denied that a newspaper, not being a person, can know anything.

18. As to paragraph 11:

18.1 As to the allegation of a campaign, the immediately preceding paragraph above is repeated.

18.2 It is admitted that the *Daily Mirror* published an article in two parts with the specified titles, save that the late Princess of Wales' name was spelt correctly rather than the *"Dianna"* used in the Claimants' pleading, and that they contained the matters alleged.

18.3 It is denied that it is relevant whether Mr Morgan *"ordered"* Nic North to publish these articles. Alternatively, if it is relevant, it is not admitted that he did so *"order"* Mr North to publish them, any more than, as editor, he *"ordered"* the publication of every article in every edition of the newspaper.

18.4 It is admitted, although again irrelevant, that Mr Morgan saw the entire contents of the article prior to publication, including the details it included as to Mr Hewitt's bank account.

18.5 It is not admitted that Mr Morgan *"boasted"* about this to Mr Hewitt or in a subsequent book and denied that this is of any relevance.

19. As to paragraph 12, as set out above there are only two potentially relevant invoices, dated 17 January 1999 and 15 March 1999.

20. As to paragraph 13:

20.1 The term *"senior executives"* is not defined, is embarrassingly vague, and is irrelevant in so far as it may refer to individuals other than members of the Board or Legal Department.

20.2 *"The Legal Department"* is not a person and so cannot be *"aware"* of anything. It is denied, if that is intended to be alleged, that Mr Partington (or any other member of the Legal Department) or Mr Vickers or the Board were aware of the existence of Southern Investigations or, for the avoidance of doubt, either (a) that Southern Investigations was able to and had previously managed unlawfully to obtain private financial information about individuals from their banks and building societies or (b) that financial information had been obtained from Southern Investigations by Mr Jones (if such financial information was obtained in this way) in relation to the articles referred to. It is not alleged in respect of either of the two pleaded articles that information about Southern Investigations' alleged activities in respect of those articles was passed by the journalist to any member of the Legal Department or the Board.

20.3 With regard to the article pleaded at paragraph 13(a), it is admitted that there are two invoices from Southern Investigations, each dated 12 October 1998, which are entitled *"Bank of England"* and *"Mortgage Enquiries"*, each of which is addressed to Mr Jones, but is denied, if that is intended to be alleged, that the Legal Department or the Board knew of these invoices or that financial information in relation to that article had been obtained unlawfully whether by Southern Investigations or at all.

20.4 For the avoidance of doubt, paragraph 17.2 above is repeated with regard to any communications between journalists or others at MGN and members of the Legal Department, and any resultant knowledge gained by members of the Legal Department, in respect of the alleged matters referred to in this paragraph, and it is denied that the Claimants may seek to rely upon the content of such communications or knowledge whether by direct allegation or inferences as to the same.

20.5 The article at 13(b) is dealt with below.

21. As to paragraph 14:

21.1 As to the allegation of a *"campaign"*, the pleas above are repeated.

21.2 Mr Partington did not generally work on the *Daily Mirror* at this time. It is denied that he had any involvement with any of the *Daily Mirror* articles referred to in this section, or that the allegations in this paragraph have any application to him.

21.3 It is denied that Mr Vickers and Mr Partington operated a *"no surprises rule"* at this time. Mr Vickers similarly had no involvement with any of the *Daily Mirror* articles referred to in this section.

21.4 In the premises and in any event, it is denied that the Legal Department and still less the Board, including and in particular Mr Partington and Mr Vickers, either *"were"* or *"must have been"* aware of either the existence or contents of Mr Hewitt's bank records or the fact (if that was the case) that they had been obtained unlawfully by private investigators.

21.5 In these circumstances, the premise for the allegation that there was a deliberate failure to take steps to investigate or prevent unlawful activities is without foundation.

21.6 Further or alternatively, if and in so far as that allegation comprises an attempt to rely upon or explore or draw inferences as to the knowledge, advice, investigations and actions of the Legal Department, any communications between journalists or others at MGN and members of the Legal Department, and any resultant knowledge, advice, investigations and actions of the Legal Department, in respect of the alleged matters referred to in this paragraph would have been confidential and/or for the purposes of obtaining, giving and implementing legal advice, and so the subject of legal professional privilege. It is denied that the Claimants may seek to rely upon any such confidential and privileged matters whether by direct allegation or inferences as to the same.

22. As to paragraph 15:

22.1 It is admitted that Mr Morgan was interviewed in or about August 2000 in connection with Ms Ferretti's April 1998 offer to sell love letters written by Diana, the late Princess of Wales, to Mr Hewitt to the *Daily Mirror*.

22.2 It is admitted that Mr Morgan was accompanied by a member of the Legal Department. That member was not Mr Partington or Mr Vickers.

22.3 Any communications between Mr Morgan and the relevant (or any) member of the Legal Department, and any resultant knowledge gained by the latter, in connection with this police investigation and interview, and any related investigations by any member of the Legal Department, would have been confidential and/or for the purposes of obtaining, giving and implementing of legal advice, further or alternatively would have come into existence and/or would have been carried out after adversarial proceedings were reasonably contemplated and for the purposes of defending those proceedings and/or for the purpose of providing legal advice and the obtaining of legal advice with regard to those proceedings, and so the subject of legal professional privilege. It is denied that the Claimants may seek to rely upon any such confidential and privileged matters whether by direct allegation or inferences as to the same.

22.4 It is rightly not alleged that the police investigation or interview concerned the March 1999 *Daily Mirror* article about Mr Hewitt, or *"the nature and extent of the Daily Mirror's involvement in relation to Mr Hewitt"* (whatever that may mean). The inference sought is therefore entirely fanciful in any event, and is denied.

22.5 The police took no subsequent action against Mr Morgan.

(2) Prince Michael of Kent

23. Paragraph 16 is admitted, save that:

23.1 The premise of the use of the phrase *"once again"* is denied, the Claimants having only referred to a single prior article by the two by-lined journalists.

23.2 The article's title was not in capital letters.

23.3 It is denied that the article stated that Prince Michael of Kent was £2.5m in debt to his bank. That was given as the total extent of all of his debts.

23.4 It is denied that the article revealed confidential details of Prince Michael's bank account with Coutts & Co. The article stated *"… he ran up an unauthorised £220,000 overdraft … Coutts suspended three accounts linked to the prince's personal business consultancy, Cantium Services"*. The office of Prince Michael subsequently issued a statement making clear that the article *"is full of factual inaccuracies"* and *"Coutts have confirmed that they have never frozen any of the accounts of Prince or Princess Michael either personal or business and second they state that the accounts are not overdrawn. There are no sums due to the bank and all accounts with the bank are substantially in credit".* These matters were confirmed by letter from Coutts & Co to the PCC dated 11 May 1999, which stated (among other things) *"there have never been any unauthorised overdrawn balances on any of the accounts".* The law of confidentiality protects true information, not untrue allegations. Moreover, if the information contained in the article had come from unlawful information gathering it would have been correct and not wrong.

24. As to paragraph 17, the first sentence is admitted. The second is noted, but its significance for purposes of the present proceedings is denied. The immediately preceding sub-paragraph above is repeated. The Prince's denial was ambiguous in respect of whether the information in the articles may have been correct at an earlier date.

25. As to paragraph 18, it is denied that the story was obtained, and it is not admitted that it was corroborated or sought to be corroborated, by unlawful information gathering. MGN is aware of two Southern Investigations invoices dated 25 January 1999 referring to Cantium, both of which stated that they were for *"making enquiries of confidential contacts"* and a further Southern Investigations invoice dated 1 March 1999 which stated that it was for *"undertaking a company computerised credit search"*. It is therefore denied, if that is intended to be alleged, that any illegality, if there were any, was evident on the face of these invoices. Further, in subsequent correspondence with Biddle, solicitors for Prince Michael and Cantium Services Ltd, *Daily Mirror* editor Piers Morgan referred to the source of the information in these articles as being *"an impeccable source who has an intimate knowledge of [Prince Michael's and Cantium Services Ltd's] financial state."*

26. As to paragraph 19:

26.1 The first sentence is denied. Prince Michael did not bring a claim. As set out in the letter from Biddle to the dated 29 March 1999, Prince Michael made a complaint to the PCC.

26.2 The second sentence alleges communications which, if they took place, would have been for the purpose of obtaining and giving legal advice and in respect of anticipated litigation and the subject of legal professional privilege. It is denied that the Claimants may seek to rely upon the content of such communications whether by direct allegation or inferences as to the same.

26.3 As to the third sentence, there was no claim to settle. In fact, as set out above, Prince Michael made only a complaint to the PCC, via his solicitors Biddle, that there had been breaches of the PCC's Code of Practice. In correspondence with the PCC, Piers Morgan rejected the letter from Coutts & Co relied upon by the Prince as ambiguous, whereas the information in the articles *"had been obtained from two sources intimately connected with Coutts & Co."* He expressly denied Prince Michael's allegation that the *Mirror* or any of its staff had been involved in soliciting information by misrepresentation as *"completely unfounded"*. He emphasised the obligation not to reveal confidential sources but stated that *"the journalist's primary source has been known to him for a period of 10 years"* and referred to the *"reliability and continuity of the source"*. Biddle subsequently returned with a new letter from Coutts & Co, provided to MGN's Legal Department on 19 May 1999. After this second letter was provided, which for the first time left no doubt that the allegations in the article were false, an apology was agreed to be published in the *Daily Mirror* (and was eventually published on 12 June 1999) which accepted that the allegations were untrue.

27. As to paragraph 20:

27.1 In the circumstances there is no basis for the contention or inference sought. Without limiting the generality of the foregoing:

27.1.1 For the reasons and in the circumstances set out above, it is more likely than not that the information in the article (which was inaccurate) was not obtained by unlawful information gathering.

27.1.2 If, contrary to the foregoing, that information was obtained unlawfully, Mr Morgan nevertheless strenuously asserted the contrary.

27.1.3 No legal claim was issued, and the complaint to the PCC was contested only until Biddle produced a letter from Coutts & Co making clear that the allegations in the article were false.

27.1.4 For these reasons, and in any event, the allegation that either the Legal Department or the Board either *"was"* or *"must have been"* made aware that private information had been unlawfully obtained and/or that the alleged *"claim"* could not be defended lacks any logical, coherent, or persuasive foundation; and that contention is denied.

27.1.5 Mr Partington did not generally work on the *Daily Mirror* at this time. It is denied that he had any involvement with any of the *Daily Mirror* articles referred to in this section, or that the allegations in this paragraph have any application to him.

27.1.6 Mr Vickers does not recall having any involvement, with the articles or with Prince Michael's PCC complaint and its resolution, although he did approve the payment in respect of Prince Michael's solicitors' legal costs following resolution of the PCC complaint.

27.2 Any communications between journalists or others at MGN and members of the Legal Department, and any resultant knowledge or awareness gained in respect of the alleged matters referred to in this paragraph, as well as any communications between the Legal Department and Mr Vickers or the Board, would have been for the purpose of obtaining and giving legal advice and in respect of anticipated litigation and so the subject of legal professional privilege. It is denied that the Claimants may seek to rely upon the content of such communications or knowledge whether by direct allegation or inferences as to the same.

(3) The arrest (and release without charge) of Doug Kempster

28. As to paragraph 21:

28.1 The first sentence is admitted, save that Doug Kempster was simply a *Sunday Mirror* reporter, rather than *"a senior journalist at the Sunday Mirror"*, and MGN does not know and is therefore unable to admit or deny the precise scope of Operation Two Bridges.

28.2 As to the second sentence:

28.2.1 Mr Kempster was arrested on suspicion of conspiracy to corrupt police officers, in respect of a particular suspected conspiracy involving a former police officer, Jonathan Rees, of Law & Commercial (a total of 10 arrests were made at the same time).

28.2.2 The police Anti-Corruption Unit also suggested that Mr Kempster may have obtained (for payment) copies of the *Police Gazette*, and may have passed on to Mr Rees passwords to enable Mr Rees to access the *Sunday Times* computer system and carry out electoral roll and company searches at the expense of the *Sunday Times*.

28.2.3 The police therefore asked MGN for (a) details of the *Police Gazette* which the police believed to have been scanned on to MGN's computer system and (b) details of Mr Kempster's payments to Mr Rees. These requests were made in an unannounced visit to MGN's offices on 24 September 1999, when the police spoke to Mr Partington.

28.2.4 As Mr Partington informed the police by letter dated 28 September 1999 (i) the *Sunday Mirror*, being the newspaper which Mr Kempster worked for, did not have any copies of the *Police Gazette* scanned on to its system, and (ii) the *Sunday Mirror* had no record of having paid anything to either Mr Rees or Law & Commercial, and (iii) the *Sunday Mirror* also had no record of having paid anything to either Southern Investigations or Planman Limited.

28.2.5 Otherwise, MGN does not know what was believed and by whom, and accordingly is unable to admit or deny the second sentence.

28.3 As to the third sentence, MGN has no records of Mr Kempster having made a number of payments to Southern Investigations, whether to unlawfully obtain private information or at all (and, as set out above, did not have any such records at the time of Mr Kempster's arrest), but MGN does not know whether and therefore is unable to admit or deny that Mr Kempster did so independently of MGN. Mr Kempster was never charged with any offence.

28.4 Further to the immediately preceding sub-paragraph and for the avoidance of doubt:

28.4.1 The Claimants have disclosed copies of two invoices from Southern Investigations addressed to Mr Kempster at the *Sunday Mirror*, one dated 6 October 1998 for the sum of £100 in respect of *"Lakesiders Assist"*, and the other dated 2 November 1998 for the sum of £350 in respect of *"Missing child Blake Arthur"*.

28.4.2 MGN has no record of these invoices, or of any payment being made by Mr Kempster or the *Sunday Mirror* to Southern Investigations. Notably, neither of the invoices is stamped, as they would have been if they had passed through MGN's systems.

28.4.3 The Claimants have also disclosed remittance notes apparently showing that the sums mentioned in these invoices were paid by MGN.

28.4.4 The Claimants have refused to state how and from whom they obtained these documents relying, as MGN contends speciously as the Claimants are not journalists, on an entitlement to protect sources.

28.4.5 In these circumstances, MGN does not admit that these are genuine invoices which were issued to MGN, and requires the Claimants to prove those matters if and in so far as they rely on the same.

28.4.6 MGN does have, and has disclosed to the Claimants, two Contribution Requests: (a) one dated 11 August 1998 which has the description *"Lakesiders assist"* and emanates from the *Sunday Mirror* and is in the sum of £100 (all of which suggest correlation with the invoice dated 6 October 1998 disclosed by the Claimants) but which specifies the contributor as Media Investigations and not Southern Investigations (which does not correlate with that invoice); and (b) a second Contribution Request dated 5 October 1998 which has the description *"Missing child Blake Arthur"* and is in the sum of £350 and names the contributor as Southern Investigations (all of which suggests correlation with the invoice dated 2 November 1998 disclosed by the Claimants) but which emanates from the *Daily Mirror* as opposed to the *Sunday Mirror* (which does not correlate with that invoice).

28.4.7 If and in so far as it may be held at trial that the above invoices disclosed by the Claimants are genuine and/or that the above Contribution Requests relate to those invoices or to stories or requests for payment involving Mr Kempster or the *Sunday Mirror*, further or alternatively that Mr Kempster did (as alleged by the Claimants) make a number of payments to Southern Investigations to unlawfully obtain private information for the *Sunday Times*, MGN will invite the Court to infer from the fact that such invoices were processed in one instance for payment under a different name (Media Investigations) and in another by a different newspaper (the *Daily Mirror*) that MGN's procedures were subverted by Mr Kempster so as to conceal what he was doing.

29. As to paragraph 22:

29.1 Save that it is admitted that Mr Kempster was never charged with any offence, the first sentence is not admitted. These matters occurred more than 20 years

ago, and MGN is presently unable to locate records concerning any such suspension or internal investigation, which the Claimants are accordingly required to prove.

29.2 As to the second sentence:

29.2.1 As set out above, MGN had no record of payments or commissions being made by Mr Kempster (or indeed the *Sunday Mirror*) to Southern Investigations, or to any of the other persons mentioned by the police, namely Jonathan Rees, Law & Commercial and Planman Limited, and therefore neither the Legal Department nor the Board had any reason to investigate the same.

29.2.2 Neither the Legal Department nor the Board had any reason to investigate other payments that may have been made by the *Sunday Mirror* and/or MGN to Southern Investigations. There were no allegations to investigate in respect of any such payments.

29.2.3 Neither the Legal Department nor the Board had any reason to investigate payments which Mr Kempster may have made or commissioned to third parties other than the four the police had mentioned as set out above. There were no allegations to investigate in respect of any such payments.

29.2.4 As far as MGN is aware, no further action was taken by police in respect of Mr Kempster or Operation Two Bridges.

29.2.5 In the circumstances, (a) aside from any privileged matters (as to which see below), it is denied that the Board or Legal Department carried out any investigation; and (b) it is denied that the Board or Legal Department made the alleged *"discovery"*.

29.2.6 Any communications between journalists or others at MGN (including members of the Board) and members of the Legal Department, any related investigations by members of the Legal Department, and any resultant knowledge gained as a result of such communications or investigations, in respect of the alleged matters referred to in this paragraph would have been for the purpose of obtaining and giving legal advice and in respect of anticipated litigation and so the subject of legal professional privilege. It is denied that the Claimants may seek to rely upon the content of such communications or knowledge whether by direct allegation or inferences as to the same.

(4) Heather Mills

30. As to paragraphs 23 and 24:

30.1 Sir Paul McCartney and Heather Mills were married on 11 June 2002, and they separated in or about 2006. Accordingly, it is impossible in 2001 (a) for Mr Scott to have obtained and played to Mr Morgan a genuine voicemail which *"Sir Paul McCartney left for his then wife Heather Mills"* and (b) for details of *"the engagement, marriage and breakdown of [their] relationship"* to have *"attracted"* or to have been *"guaranteed to attract"* the alleged *"enormous press interest"*, and these allegations are therefore denied.

30.2 It is admitted and averred that no such article was published.

30.3 MGN has no record of any such complaint by Sir Paul McCartney or Ms Mills.

30.4 Ms Mills did not mention this alleged incident at all in correspondence relating to her proposed MNHL claim.

30.5 MGN otherwise has no knowledge of the truth or falsity of these matters, and is therefore unable to admit or deny the same, and requires the Claimants to prove the same.

31. As to paragraph 25:

31.1 It is denied that there was a legal complaint to MGN.

31.2 On the Claimants' own case (a) the alleged complaint from Sir Paul McCartney was made to Mr Morgan personally, and (b) Ms Mills' comments were made to Mr Wallis, and (c) neither Mr Morgan nor Mr Wallis decided to publish any story, and (d) instead the alleged story and underlying materials were passed from one journalist who was engaged in unlawful information gathering activities (Mr Scott) to another who was engaged in the same activities (Mr Hoare). In these circumstances, it is denied that there is any basis for the contention that the Legal Department and the Board, including and in particular Mr Partington and Mr Vickers, either *"were"* or *"must have been"* aware of the existence or contents of the alleged voicemail message and that it had been obtained unlawfully; and that contention is denied.

31.3 Further or alternatively, that allegation of knowledge and the final sentence of paragraph 25 comprise an impermissible attempt to rely upon or explore or draw inferences as to the knowledge, advice, investigations and actions of the Legal Department, in circumstances where, if the Claimants' case were correct, any communications between journalists or others at MGN and members of the Legal Department, and any resultant knowledge, advice, investigations and actions of the Legal Department, in respect of the alleged matters referred to would have been for the purposes of obtaining, giving and implementing legal advice, and so the subject of legal professional privilege. It is denied that the Claimants may seek to suppose and rely upon any such privileged matters whether by direct allegation or inferences as to the same.

(5) Amanda Holden and Les Dennis

32. Save for the unexplained and irrelevant word *"notorious"*, paragraph 26 is admitted.

33. As to paragraph 27:

33.1 It is denied that the solicitors' letter made a legal complaint. Instead it referred to the PCC Code of Practice and sought an apology.

33.2 It is denied that the solicitors' letter concerned the 24 March 2001 article. It alleged inaccuracies in, and sought an apology for, the 2 April 2001 article, mentioning the previous article only in passing.

33.3 MGN did not respond at all to the solicitors' letter.

33.4 The solicitors for Ms Holden and Mr Dennis wrote again on 20 April 2001. In that letter, the solicitors highlighted the fact that, in addition to their clients denying the accuracy of the 2 April 2001 article, the third party named in the article, Emily

Symons, had since given an interview that had been published in *The Sun* in which she had also contradicted the assertions made in the article. The solicitors stated that *"the article of 2nd April was distorted, inaccurate and misleading and should be corrected promptly in accordance with the PCC Code of Practice"* and that if a satisfactory response was not received then they *"would advise our clients to lodge a formal complaint [i.e. in context, with the PCC]"*. It was only after receipt of the second letter and consideration of the interview given by Ms Symons to which it referred (in which she said, in response to the allegations in the 2 April 2001 article: *"That is complete nonsense. There is no rivalry, jealously or envy. I've never even been on my own with Les"*), which obviously added considerable weight to the denial of the accuracy of the 2 April 2001 article, that MGN agreed to publish an apology. The apology related to the 2 April 2001 article and did not mention the earlier article.

33.5 Otherwise the paragraph is not admitted.

34. As to paragraph 28:

34.1 In her MNHL claim, Ms Holden did not make any complaint about or mention of the 2 April 2001 article, which had been the subject of the April 2001 correspondence.

34.2 In respect of the 24 March 2001 article, which was the subject of complaint by Ms Holden in the MNHL but not in the April 2001 correspondence, it is denied that MGN made the admission alleged in the MNHL in 2016, or any admission specifically in respect of voicemail interception. MGN's 2016 admission was expressed by the word *"Yes"* in response to the broad query as to whether the article was *"the product of voicemail interception and/or blagging of call and/or other data"*. The admission was in fact based upon the fact that there were 2 potentially relevant TDI invoices, i.e. private investigatory activity, rather than any evidence of voicemail interception.

34.3 Otherwise the paragraph is not admitted.

35. As to paragraph 29:

35.1 There was no *"claim"* or *"legal action"* to settle. The solicitors' correspondence related to alleged inaccuracy of a different article under the PCC Code, and a threat to lodge a formal complaint with the PCC.

35.2 Any communications between journalists or others at MGN and members of the Legal Department, and any resultant knowledge gained by the latter, in respect of any claim or legal action, and any related investigations by any member of the Legal Department, would have been for the purpose of obtaining, giving and implementing legal advice, and so the subject of legal professional privilege. It is denied that the Claimants may seek to rely upon such privileged matters whether by direct allegation or inferences as to the same.

(6) Garry Flitcroft

36. Save that (i) one of the women was called Helen Hammonds (not Hammond) and the other was called Pamela James and (ii) at the time Garry Flitcroft was a professional footballer not a *"former"* professional footballer and (iii) the title of the newspaper published by MGN at the material time was the *Sunday People*, the first sentence of paragraph 30 is admitted.

37. The second sentence of paragraph 30 is admitted. The judgment of the Court of Appeal was handed down on 11 March 2002 and is reported as *A v B and C* [2003] QB 195. The appeal related to 4 interim judgments of Jack J in the same proceedings. Jack J originally granted an injunction on 27 April 2001 for reasons set out in his first judgment of 30 April 2001. By a second judgment of 20 June 2001, Jack J discharged the injunction which he had granted on 27 April 2001 on the basis of Mr Flitcroft's material non-disclosure. In light of that decision, Jack J decided that it was unnecessary for him to consider on that occasion whether the injunction should be set aside on the merits. By a third judgment of 5 July 2001, Jack J reversed his decision of 20 June 2001, on the basis that he had jurisdiction to re-open his second judgment, that the exceptional circumstances of the case meant that he ought so to do, that new evidence submitted on behalf of Mr Flitcroft ought to be admitted, and that in the light of that new evidence the injunction should be re-imposed, subject to determination of the issue of whether the injunction should be set aside on the merits, which Jack J had not needed to decide on 20 June 2001, and upon which he reserved judgment. By a fourth judgment of 10 September 2001, Jack J granted an interim injunction in different terms to the injunction he had originally granted.

38. As to the first sentence of paragraph 31, it is admitted that in his claim against MGN the short reference and number of the record of which is Claim No HC12A04145 (the "2012 Claim"), Mr Flitcroft alleged that although "*At the time*" (i.e. at the time that MGN became aware of the story of Mr Flitcroft's extra-marital affair with Ms James) MGN contended that it had encountered Ms James through normal investigative journalism conducted by Alison Cock, it was to be inferred that MGN had in fact encountered Ms James through a process involving phone hacking.

39. As to the second sentence of paragraph 31, MGN does not know, and accordingly is unable to admit or deny, and so requires the Claimants to prove, why that case was advanced in the 2012 Claim. If and in so far as Mr Flitcroft believed (a) that the *Sunday People* had been contacted by Ms Hammonds before the *Sunday People* was contacted by Ms James, and (b) that Ms Hammonds did not know Ms James, those matters were true.

40. The third sentence of paragraph 31 is denied:

40.1 Ms James was not contacted by Ms Cock to sell her (Ms James') story about Mr Flitcroft.

40.2 On the contrary, Ms James contacted Ms Cock offering to sell her story, as set out at page 1 of exhibit MP1 to the witness statement of Mr Partington dated 26 February 2013 made on behalf of MGN in the 2012 Claim (i.e. the "memo" that is referred to in paragraph 32).

40.3 The only witness statement made by Ms James in Mr Flitcroft's claim in 2001 (“the 2001 Claim”) is one dated 18 May 2001, and in that witness statement Ms James nowhere states that she had been contacted by Ms Cock to sell her story about Mr Flitcroft, and nor would any such statement have been true.

40.4 If and in so far as the Claimants are relying on the reference in paragraph 33 of Ms James' witness statement to the fact that "*I was told by Alison Cock, who is a reporter on the Sunday People who I have known for two years, that another girl had come forward with a story that she had a sexual relationship with Mr Flitcroft*", that conversation between Ms Cock and Ms James occurred after Ms James had

contacted Ms Cock offering to sell her story, and indeed after Ms Cock had learned on 20 April 2001, as set out in paragraph 11 of Mr Partington's witness statement dated 26 February 2013, that Ms Hammonds had also (and earlier than Ms James) approached MGN with a story about her own relationship with Mr Flitcroft.

41. Paragraph 32 is admitted. That evidence was true, alternatively was believed by Mr Partington to be true at the time of both the 2001 Claim and the 2012 Claim.

42. As to the first sentence of paragraph 33:

42.1 Mr Partington stated at paragraph 11 of his witness statement: *"Ms Cock told me that on Friday 20 April [2001] she mentioned to James Weatherup that Pamela James was interested in selling her story about [Mr Flitcroft]. Mr Weatherup told Ms Cock that another woman had approached the Sunday People with a story about her own relationship with [Mr Flitcroft]"*.

42.2 Mr Partington's evidence related to what he had been told.

42.3 What Mr Partington was told was true, alternatively was believed by him to be true at the time of both the 2001 Claim and the 2012 Claim.

43. As to the second sentence of paragraph 33, it is denied there is any Starbase invoice dated 20 April [2001] relating to "*Consultancy re Flitcroft*" and "*DCS*", alternatively that any such invoice has recently been disclosed (the "Purported April Starbase Invoice").

44. It is admitted there is a Starbase invoice No SBI0788 dated 13 August 2001 addressed to James Weatherup which contains the following details: "*Your Ref: JW/20-4/DCS"; "Our Ref: SBJ0784"; "Consultancy Re: Filtcroft [sic] G"; "Tax Point 16/07/2001"*, and which is stamped *"Date received 23 Aug 2001"* (the "August Starbase Invoice**"**).

45. MGN contends that the dates of issue and receipt of the August Starbase Invoice are correct. MGN does not know, and accordingly is unable to admit or deny, whether the Claimants believe that 'DCS' refers to Mr Flitcroft's phone billing data from which the telephone numbers of Ms Hammonds and Ms James would have been ascertainable. The relevance of any such belief is in any event denied. If what is intended to be alleged is that 'DCS' does as a matter of fact comprise a reference to Mr Flitcroft's phone billing data from which the telephone numbers of Ms Hammonds and Ms James would have been ascertainable, that is not admitted.

46. If and in so far as the Claimants are intending to allege that the August Starbase Invoice shows or supports a case that MGN obtained or confirmed or corroborated the stories of Ms Hammonds and/or Ms James as a result of unlawfully accessing Mr Flitcroft's phone billing data, further or alternatively that (if this was so) this was known to Mr Partington or the Legal Department of MGN, whether at the time of the 2001 Claim or at the time of the 2012 Claim, then:

46.1 That allegation is not pleaded properly or at all.

46.2 That allegation is denied in so far as it concerns the knowledge of Mr Partington and/or the Legal Department of MGN.

46.3 That allegation is denied in so far as it alleges that the stories or either of them were obtained as result of unlawfully accessing Mr Flitcroft's phone billing data.

46.4 That allegation is not admitted in so far as it alleges that the stories or either of them were initially confirmed or corroborated by the journalist or journalists concerned as result of unlawfully accessing Mr Flitcroft's phone billing data.

46.5 That allegation is denied in so far as it alleges that the stories or either of them were confirmed or corroborated at any material time as result of unlawfully accessing Mr Flitcroft's phone billing data.

47. Without limiting the generality of the immediately preceding paragraph:

47.1 On or before 18 May 2001 and 21 May 2001 MGN obtained the phone records of Ms James and Ms Hammonds respectively (with their consent and assistance), and by letters of those dates gave disclosure of those records to Mr Flitcroft's solicitors, as set out at paragraph 48.3 below.

47.2 Mr Flitcroft's solicitors in the 2001 Claim disclosed his Orange telephone bill (in redacted form) under cover of their letter to MGN dated 29 May 2001 (revealing the extent of telephone and text contact between Mr Flitcroft, Ms Hammonds and Ms James). The Claimants subsequently disclosed the covering letter dated 29 May 2001 on 17 December 2019 in these proceedings but did not disclose the enclosure (the Orange telephone bill). MGN sought disclosure of the enclosure by solicitors' letter dated 15 May 2020 but received no response from the Claimants.

47.3 MGN accordingly had no need for any other information concerning what those telephone records showed, whether for the purpose of the hearing before Jack J which resulted in his second judgment of 20 June 2001, or for the purpose of obtaining, confirming or corroborating publication of the stories.

47.4 Neither the Legal Department nor Mr Partington had Mr Flitcroft's telephone records in their possession, nor had they seen such records, prior to their disclosure by Mr Flitcroft's solicitors on 29 May 2001.

48. As to the first and second sentences of paragraph 34:

48.1 It is admitted that, as appears from Mr Partington's letter to Mr Flitcroft's solicitors dated 1 May 2001 in the 2001 Claim, MGN considered (a) that the nature and duration of, and other circumstances relating to, his relationships with Ms Hammonds and Ms James were matters which were material to the 2001 Claim, (b) that Mr Flitcroft had not satisfied his obligation to make full and frank disclosure with regard to those matters at the 'without notice on notice' hearing before Jack J on 27 April 2001 (at which MGN was represented and Ms Hammonds was not represented, and to which Ms James was not made a party) which resulted in the Orders of Jack J dated 27 April 2001 and 30 April 2001, and (c) that Mr Flitcroft's phone records were relevant to both (a) and (b). By way of example, Mr Flitcroft's witness statement dated 26 April 2001 served before the hearing on 27 April 2001 stated that he had *"had a brief affair with the other girl, Pamela James,"* downplaying the duration and significance of this relationship.

48.2 MGN accordingly sought disclosure of those records from Mr Flitcroft both shortly before the hearing on 27 April 2001 (on the evening of 26 April 2001) and thereafter.

48.3 MGN will refer to the above letter dated 1 May 2001, and to the further letters from Mr Partington dated 8 May 2001, 11 May 2001, 18 May 2001 (with which MGN gave disclosure of Ms James' phone records), and 21 May 2001 (with which MGN gave disclosure of Ms Hammonds' phone records), and in which Mr Partington wrote: "*Could it be too cynical to suggest that if those records [i.e. Mr Flitcroft's phone records] supported what your client told the court in his witness statement of 26 April 2001 they would have been produced by now?*").

48.4 The third sentence of paragraph 34 is denied. Without limiting the generality of that denial:

48.5 The inference alleged by the Claimants lacks both logic and foundation.

48.6 The natural inference as to why the Legal Department was seeking Mr Flitcroft's phone records was that the Legal Department was not already in possession of the same and they believed that the phone records would assist MGN by contradicting what Mr Flitcroft had told the court in his first witness statement dated 26 April 2001 (for example, in relation to the nature and duration of his relationships with Ms James and Ms Hammonds).

48.7 The Claimants have no proper or sufficient basis, and none is pleaded, for making the grave and serious allegation against professional individuals, in particular Mr Partington, that they were in possession of documents which had been and which they knew to have been unlawfully obtained, and, moreover, wrote a series of letters which were designed to cover up those facts and mislead external solicitors and the court.

49. As to paragraph 35:

49.1 As set out above there is no Purported April Starbase Invoice, and it is denied that the August Starbase Invoice reveals that MGN had unlawfully obtained Mr Flitcroft's mobile phone billing data at the outset.

49.2 If, which is not admitted, the August Starbase Invoice relates to unlawful information gathering, whether at the outset or at all, it is nevertheless denied that this is apparent simply from reading the document.

49.3 In the circumstances, MGN could not mention the matters that it is alleged it did not mention, as it did not know about them.

49.4 It is admitted that MGN did not mention either in the 2001 Claim or at the time of Mr Partington's witness statement in the 2012 Claim that it had unlawfully obtained Mr Flitcroft's mobile phone billing data, whether at the outset or at all, but it is denied – if that is intended to be alleged – that Mr Partington knew (if that was in fact the case) that MGN had done this at either of those times.

50. The first sentence of paragraph 36 is admitted.

51. The second sentence of paragraph 36 is not understood:

51.1 As set out above, in the 2012 Claim Mr Flitcroft alleged that it was to be inferred that MGN had encountered Ms James through a process involving phone hacking. Mr Flitcroft made no claim in respect of Ms Hammonds and her story.

51.2 Mr Partington's witness statement in support of the application to strike out the 2012 Claim was prepared accordingly.

51.3 Mr Partington explained this and made it clear at the time. For example, in paragraph 4 of his witness statement he said: *"While the matter has not been pleaded with much precision, it appears to be [Mr Flitcroft's] case that the information alleged to have been obtained by phone hacking was the information that he was having an affair with Pamela James. He does not appear to allege that [MGN] obtained by phone hacking the information that he was having an affair with Helen Hammonds".*

52. In any event, as set out above:

52.1 Both Ms Hammonds and, subsequently, Ms James contacted MGN with the stories about their respective sexual affairs with Mr Flitcroft.

52.2 Further or alternatively, that is what Mr Partington was told, and believed to be true at the time of both the 2001 Claim and the 2012 Claim. For the avoidance of doubt, the Legal Department overall was in no different position. In particular, so far as concerns Mr Vickers, Mr Partington was the in-house lawyer with day-to-day responsibility for MGN's conduct of both the 2001 Claim and the 2012 Claim. There was no need for Mr Vickers to become significantly involved, and nor did he in fact become significantly involved, in the factual or evidential details of the 2001 Claim or in the factual or evidential details of the application to strike out the 2012 Claim.

52.3 Accordingly, if for some reason (and although Ms Hammonds' story formed no part of the 2012 Claim) Mr Partington had dealt with Ms Hammonds' contact details in his witness statement in support of the application to strike out the 2012 Claim, it is denied (if that is intended to be alleged) that his evidence would or should have been in any different terms than the evidence which he in fact gave concerning Ms James.

52.4 Without limiting the generality of the immediately preceding sub-paragraph, as set out in the letter from Ms Hammonds to the Editor of the *Sunday People* dated 2 May 2001, in which she expressed her disappointment at the outcome of the hearings before Jack J on 27 and 30 April 2001, Ms Hammonds accurately stated: "*I approached the Sunday People on Thursday 19th April with a story of an extra-marital affair in which I had been involved with Garry Flitcroft … A reporter, Adam Moss was sent out that same night with a photographer. I explained to Adam Moss my reasons for wanting to have this story published …I am still angry that this man who told me he loved me, asked me to marry him and move in together can conduct his life without consequences nor does his wife or anyone else get to find out. These were my sole reasons for 'selling my story*'".

53. As to paragraph 37, it is admitted that MGN was ordered to pay the costs of its unsuccessful application to strike out the 2012 Claim, and that the claim subsequently settled on terms that MGN agreed to pay compensation to Mr Flitcroft.

54. Save that it is admitted and averred that the settlement of the 2012 Claim was effected deliberately on the part of MGN, just as it was on the part of Mr Flitcroft, paragraph 38 is denied. Without limiting the generality of the foregoing:

54.1 The settlement of claims is a commonplace of contested litigation, and the settlement of the 2012 Claim formed part of negotiations in a number of claims which resulted in settlement of 6 other claims at or around the same time.

54.2 The bare contention relating to MGN's reasons for settlement comprises an impermissible attempt to rely upon or explore or draw inferences as to the knowledge and advice of the Legal Department relevant to MGN's decision to settle the 2012 Claim, which matters are protected by legal advice and litigation legal professional privilege, which is asserted and not waived by MGN.

(7) Sven-Goren Eriksson and Ulrika Jonsson

55. Save that Richard Wallace was not Piers Morgan's Deputy, the first and second sentences of paragraph 39 are admitted. As to the third sentence, it is denied that the story was obtained, and not admitted that the story was corroborated, through the interception by MGN's journalists of voicemail messages left by Mr Eriksson for Ms Jonsson. Without limiting the generality of the foregoing:

55.1 On 21 April 2002, the *News of the World* published a detailed story that included revelations that Ms Jonsson and Mr Eriksson had conducted an affair, and that while that affair was going on they had spoken to one another on the telephone only in Swedish (to conceal that affair from others, and in particular Mr Eriksson's then girlfriend).

55.2 The *Daily Mirror* learned of the affair between Ms Jonsson and Mr Eriksson and published a story about it before the News of the World published its story, but the *Daily Mirror* story contained no details of the kind that it might have been expected to contain if MGN had in fact been intercepting telephone conversations or voicemail messages between Ms Jonsson and Mr Eriksson.

55.3 The *Daily Mirror's* story was sourced as follows:

55.3.1 Lee Harpin (who was at the material time a journalist at the *News of the World*) disclosed to James Scott of the *Daily Mirror* that the *News of the World* was interested in Ms Jonsson's whereabouts.

55.3.2 Using that information, James Scott asked a friend of his at the *News of the World*, Sean Hoare, whether he could find out what story about Ms Jonsson the *News of the World* was pursuing.

55.3.3 Sean Hoare told James Scott that the *News of the World* believed that Ms Jonsson was having an affair with Mr Eriksson.

55.3.4 Using that information obtained by James Scott, Mr Morgan contacted Ms Jonsson's agent and asked whether it was true that Ms Jonsson was having an affair with Mr Eriksson, and the agent confirmed that this was true.

56. As to the first sentence of paragraph 40:

56.1 It is denied that the Legal Department or the Board, including and in particular Mr Partington and/or Mr Vickers, *"must have been aware"* (a) of the true source of the story about Ms Jonsson and Mr Eriksson and (b) (if that was in fact the case) that this source had been obtained unlawfully.

56.2 The contention that the Legal Department or the Board, including and in particular Mr Partington and/or Mr Vickers *"must have been aware"* is without any or any proper foundation, and, among other things, is based on a lack of knowledge and/or understanding on the part of the Claimants of (a) the way in which tabloid

newspapers operated at the material time, namely April 2002, (b) the way in which celebrities and their agents operated at the material time, and (c) the state of development of the law of misuse of private information at the material time, in particular in light of the judgment of the Court of Appeal in *A v B and C* [2002] EWCA Civ 337, which was handed down on 11 March 2002.

56.3 For the avoidance of doubt, although that is not alleged against MGN, it is also denied that the Legal Department or the Board, including and in particular Mr Partington and/or Mr Vickers, was or were in fact aware (a) of the true source of the story about Ms Jonsson and Mr Eriksson and (b) (if, which is not admitted, that was in fact the case) that this source had been obtained unlawfully.

56.4 Without limiting the generality of the foregoing denials:

56.4.1 To the best of Mr Partington's recollection and belief: (a) in advance of publication, he was not asked for any legal advice about this story, (b) indeed, he was not even aware that this story was going to be published prior to its publication, (c) after it had been published, no complaints were made about this story, and (d) he did not discuss this story with Mr Vickers or with any other member of the Board.

56.4.2 To the best of Mr Vickers' recollection and belief: (a) he first became aware of the story when it was published, (b) because he had known Ms Jonsson for some time, he took an interest in her, and accordingly took notice of this story, (c) as far as he was aware, it was a typical "scoop", and he had no reason to be concerned about how it had been obtained: in particular, there was to his knowledge at the material time a culture or frequent pattern of behaviour whereby celebrities or their agents would set up stories or photographs or tip off selected journalists or newspapers as to where they would be, and he presumed that this story was likely the product of a tip off from Ms Jonsson or her agent, and (d) he did not discuss this story with any member of the Board.

57. The second sentence of paragraph 40 is noted. It is denied, if that is intended to be alleged, that this invoice (and/or, for the avoidance of doubt, a similar invoice relating to Mr Eriksson) was communicated to or was known about by the Legal Department or the Board, including and in particular Mr Partington and Mr Vickers.

58. For the reasons and in the circumstances set out above, the premise of the third sentence of paragraph 40 is unfounded: there was no such *"awareness"*.

59. As to paragraph 41:

59.1 It is not admitted that the *Daily Mail* published an article entitled *"Piers Morgan: My Life and Other Celebrities"* on 28 May 2009, which contained the entry alleged (which is ostensibly from Mr Morgan's diary for 18 April 2009). However, it is admitted that the *Mail on Sunday* published an article on 26 April 2009 which contained the entry alleged (which is ostensibly from Mr Morgan's diary for 18 April 2009).

59.2 MGN does not know, and accordingly is unable to admit or deny, whether that entry is truthful, and so requires the Claimants to prove that (as they allege) it is truthful. Mr Morgan no longer worked for MGN at the time of this article, and the accuracy of many of his diary entries has been disputed by third parties.

59.3 It is denied, if that is intended to be alleged, that Mr Morgan knew (if in fact that was the case) that the story about Mr Eriksson and Ms Jonsson had been uncovered by phone hacking at or around the time when it was published on 19 April 2002.

60. As to paragraph 42:

60.1 It is admitted that there was a lunch on or about 20 September 2002, hosted by Sir Victor Blank and Mr Morgan, which was attended by (among others) Jeremy Paxman ("Mr Paxman") and Ms Jonsson.

60.2 It is further admitted that by the time that lunch took place Mr Morgan knew how to access people's voicemail messages, and that Mr Morgan may have explained to Mr Paxman how this could be done and may also have explained to Mr Paxman how he could prevent this.

60.3 As to Mr Paxman's oral evidence at the Leveson Inquiry that Mr Morgan teased Ms Jonsson by saying that he knew what had happened in conversations between her and Mr Eriksson:

60.3.1 Neither Sir Victor Blank nor Mr Morgan has any recollection of this taking place.

60.3.2 In any event, it is denied, if that is intended to be alleged, that Mr Morgan was thereby admitting or could reasonably be taken to have been admitting that he or anyone else acting for or on behalf of MGN had unlawfully accessed or intercepted telephone conversations or voicemail messages of Ms Jonsson or Mr Eriksson, for the following main reasons:

60.3.3 Mr Morgan's evidence and stance has always been that he has never hacked a phone, or ordered the hacking of a phone, or knowingly published a story based on evidence obtained through phone hacking.

60.3.4 In particular, Mr Morgan's evidence and stance has always been that he has never listened to telephone conversations or messages between Ms Jonsson and Mr Eriksson (or between either of them and anyone else).

60.3.5 As pleaded above, on 21 April 2002, well before the lunch on 20 September 2002, the *News of the World* had published a detailed story that included revelations that Ms Jonsson and Mr Eriksson had conducted an affair, and that while that affair was going on they had spoken to one another on the telephone only in Swedish (to conceal that affair from others, and in particular Mr Eriksson's then girlfriend).

60.3.6 Mr Morgan's evidence and stance is that any teasing of Ms Jonsson that may have taken place was based solely on the details provided in the *News of the World* story.

60.3.7 That account is consistent with, and is supported by:

(a) Mr Paxman's evidence that Mr Morgan's teasing was *"a rather bad parody"* and was *"probably"* based on a conversation that Mr Morgan was imagining (rather than one that he had heard).

(b) The facts and matters pleaded above as to how the Daily Mirror learned of the affair between Ms Jonsson and Mr Eriksson and

came to publish a story about it before the *News of the World* published its story.

(c) The fact that the Daily Mirror story contained no details of the kind that it might have been expected to contain if MGN had in fact been intercepting telephone conversations or voicemail messages between Ms Jonsson and Mr Eriksson.

(d) MGN relies upon the contents of the letter dated 29 October 2012 from Mr Morgan's solicitors, Gibson Dunn & Crutcher LLP, to the Solicitor to the Leveson Inquiry.

61. As to paragraph 43:

61.1 Subject to production, Mr Morgan's public tweet is admitted.

61.2 It is denied that it is properly or even reasonably to be inferred from the existence and contents of that tweet:

61.2.1 That Mr Morgan accepted the truth of Mr Paxman's account of what happened at the lunch.

61.2.2 Still less, that Mr Morgan accepted that he had made any admission or that Mr Paxman had truthfully stated that Mr Morgan had made any admission to those present at the lunch, including Sir Victor Blank, as to the knowledge and practice of voicemail interception within MGN.

62. As to paragraph 44:

62.1 It is admitted that:

62.1.1 An article in the *Daily Mail* of 19 October 2006 attributed to Mr Morgan contained the words *"… at one stage I was played a tape of a message Paul had left for Heather on her mobile phone"*.

62.1.2 In an article in the *Guardian* of 26 February 2007, it was reported that in an interview which Mr Morgan conducted with Naomi Campbell for GQ Magazine, Ms Campbell asked Mr Morgan whether he had ever allowed phone tapping when he was at the *News of the World*, and he replied: *"Well, I was there in 1994-95, before mobiles were used very much, and that particular trick wasn't known about. I can't get too excited about it, I must say. It was pretty well-known that if you didn't change your pin code when you were a celebrity who bought a new phone, then reporters could ring your mobile, tap in a standard factory setting number and hear your messages".*

62.2 Subject to production of the recording, what Mr Morgan said in his Desert Island Discs interview with BBC Radio 4 which was broadcast on 12 June 2009 is also admitted.

62.3 Save as aforesaid, MGN is unable to plead to the vague and wholly unparticularised allegations that Mr Morgan has made public admissions *"on a number of occasions"* that he *"was well aware of the practice of voicemail interception at the time and how widespread its use was",* but reserves the right to plead further to these allegations if and when proper particulars of these

alleged other occasions and of the time relied on are permitted to be pleaded against it.

62.4 MGN does not know, and accordingly is unable to admit or deny (a) whether the articles admitted above accurately repeat words written and spoken by Mr Morgan, and (b) if so, whether the statements made by him were true, and so requires the Claimants to prove those matters if that is their case. Mr Morgan no longer worked for MGN at the time of these articles, and, among other things, it is unclear what periods of time are being referred to in these alleged admissions.

62.5 It is denied, if that is intended to be alleged, that Mr Morgan's alleged public admissions comprised or could reasonably be taken to have been comprised:

62.5.1 admissions that he or anyone else acting for or on behalf of MGN had unlawfully accessed or intercepted telephone conversations or voicemail messages of Ms Jonsson or Mr Eriksson; and/or

62.5.2 admissions that the practice of voicemail interception was widespread at MGN (let alone as to when, and to whose knowledge, this occurred).

(8) The Shafta Awards 2002

63. Paragraphs 45 and 46 do not comprise an example of unlawful activity and do not make any allegation of knowledge against the Board or Legal Department and are therefore irrelevant. Without prejudice to that contention, MGN pleads to them as follows:

63.1 The Shafta Awards were an entirely light-hearted affair, celebrating the failures and invented information published in the showbusiness pages of tabloid newspapers. Their ethos was said to be *"Fuck the facts, just quote 'a friend' – the pub's open in 10 minutes."* They were not *"prestigious"* as alleged; quite the contrary.

63.2 Their name was The Shaftas or The Shafta Awards (a play on the Baftas for British television). The name 'the Princess Margaret Awards' by which one of the 'awards' or the ceremony as a whole, were occasionally also referred to, was another joke, a reference to a famously ridiculous story in the *Daily Star* in 1987, *'Princess Margaret to appear in Crossroads'*.

63.3 Dominic Mohan was not editor of the *Sun* in 2002 (although he did work there and not on any of MGN's newspapers.) He did not become editor of the *Sun* until 2009.

63.4 MGN does not know, and is therefore unable to admit or deny, what occurred at the Shafta Awards in April 2002, and these matters are accordingly not admitted, and the Claimants are required to prove the same. For example, it is not admitted that Mr Morgan co-presented at the event. The article in the *Guardian* of 1 May 2002 did not report that he had co-presented.

64. The *Guardian* report of the 2002 Shaftas did not state that Mr Mohan's alleged joke about the rival paper *"prompted the biggest laugh of the evening"* or anything similar. The premise for the inference as to the awareness of *"many or most of those present"* is therefore lacking and paragraph 46 is therefore denied.

(9) Reports of phone hacking in 2002

65. As to paragraph 47, this paragraph makes no allegation of knowledge by the Board or Legal Department and so is irrelevant to that issue. Without prejudice to that contention, MGN pleads as follows:

65.1 The first sentence is not admitted: MGN can only plead to the specific matters set out by the Claimants.

65.2 As to the second sentence:

65.2.1 It is admitted that a short article with such a headline was published on 14 October 2002. It was a minor piece in the 'Media' section of the *Guardian* website. It is not admitted that the article was published in the hard copy of the newspaper.

65.2.2 The article reported *"claims"* that journalists were increasingly attempting to *"hack into celebrities' mobile phones."* Notably:

(a) The article did not specifically mention MGN, although it did report a claim that the *"tabloids were not the only ones indulging."*

(b) It stated that such hacking was not possible where a person had changed their voicemail access code, and that this was therefore what PR agents advised their clients to do (including James Herring, who acted for John Leslie, among others).

(c) It stated that the practice was *"underhand"* but contained no suggestion that it was unlawful. It stated that the practice was *"not encouraged"*.

(10) Rio Ferdinand

66. As to paragraph 48:

66.1 On 23 September 2003, the Manchester United and England footballer Rio Ferdinand missed a drugs test. Manchester United released a statement about this on 6 October 2003, confirming the missed test and stating that Mr Ferdinand would be interviewed by the Football Association. There was a high level of interest in the story and there were numerous press articles published about it in the following days and weeks.

66.2 It is admitted that a front-page story was published about Mr Ferdinand in the *Sunday Mirror* on 19 October 2003 under the headline *"Rio Phone Sensation"*. It is denied that the story *"revealed"* that Mr Ferdinand *"had lied about a drugs test which he had missed."* It did not make any such *"revelation"* or allegation.

66.3 It is admitted that the story, an investigation into the circumstances surrounding Mr Ferdinand's missed drugs test, was described as an *"exclusive"*. However, its content was in fact similar to stories in other newspapers.

66.4 It is denied that the story was described as one *"which would leave football in crisis"*, as alleged. The words *"football in crisis"* were used as part of the title of the continuation of the article on pages 4 and 5. If it is relevant, it was fair to describe the unique event of a famous England international and Manchester United player facing a ban for missing a drugs test as a *"crisis"*.

66.5 It is admitted that the article was written by Mr Saville and Mr Weatherup. In 2013 Mr Weatherup pleaded guilty to voicemail interception, not at the *Sunday Mirror*, but later when he worked at the *News of the World*. It is denied that this has any relevance to the knowledge of the Board or the Legal Department in October 2003.

66.6 The article referred to how important information had been *"leaked"* to the *Sunday Mirror*. It stated that the *"Sunday Mirror, using sources close to Manchester United, the FA and Ferdinand, has been able to build up an extraordinary picture of the hours surrounding the controversial dope test."*

66.7 The article quoted *"a senior FA source"*, *"a source close to the inquiry"*, *"a member of Rio's [legal] team"*, *"a source close to Ferdinand"* (who defended the player's actions), as well as other unidentified *"sources"*. It also set out the account of one of Mr Ferdinand's friends, Eyal Berkovic, and quoted words Mr Ferdinand reportedly said within the Manchester United locker room. Similar sources were referred to in coverage of the story in other newspapers.

66.8 It is admitted that the article referred to Mr Ferdinand's use of his telephone, including various details, such as the content of text messages and the times of phone calls, that could not have been obtained by voicemail interception. It referred to how Mr Ferdinand's phone records were to be handed to the Football Association the following day and, on the front page, to how Mr Ferdinand believed that these records would support his case. Articles in various other newspapers had also referred to the same matters. There had been numerous reports that the Football Association would be examining Mr Ferdinand's phone records. On the day before the article (i.e. 18 October 2003), the *Daily Express* and the *Daily Star* had each published articles revealing the contents of Mr Ferdinand's phone records. The *Daily Star* article stated that these showed *"dozens of text messages"* and that he had made *"a number of calls"* in the period during which it had been reported his phone was off. The *Daily Express* article referred to *"around 40 text messages"* and quoted *"an FA insider"* as having provided information. The two papers both reported that Mr Ferdinand had told the Football Association that his phone had not been off, but on a *"divert"* setting. The *News of the World* published more details about Mr Ferdinand's phone usage on 19 October 2003.

66.9 Contrary to the Claimants' pleading, this article has never been admitted to in the MNHL.

66.10 In the premises, it is not admitted that this article was obtained through unlawful information gathering.

67. As to paragraph 49:

67.1 The article did not brand Mr Ferdinand a liar. Mr Ferdinand had been reported as having told the Football Association that his phone was not turned off, and various newspapers had reported similar matters, thereby reducing the likelihood of the *Sunday Mirror* being singled out for a libel claim. No libel claim was brought, or intimated.

67.2 It is denied that Mr Vickers' *"no surprises rule"* with Mr Partington meant that he was or expected to be informed about the particular sources of this particular article. Alternatively, even if there had been any such communications, (a) they would have been for the purposes of giving or seeking legal advice and so they,

and any resultant knowledge, would be protected by legal professional privilege; (b) this would not have amounted to communication to *"the MGN Board"*.

67.3 In the premises and in any event, it is denied that the Legal Department and still less the Board, including and in particular Mr Partington and Mr Vickers, either *"were"* or *"must have been"* aware of the true source of the story or the fact (if that was the case) that it had been obtained unlawfully.

67.4 In these circumstances, the premise for the allegation that there was a resultant failure to take steps to investigate or prevent unlawful activities is without foundation.

67.5 Further or alternatively, if and in so far as that allegation comprises an attempt to rely upon or explore or draw inferences as to the knowledge, advice, investigations and actions of the Legal Department, if the Claimants' case were correct, any communications between journalists or others at MGN and members of the Legal Department, and any resultant knowledge, advice, investigations and actions of the Legal Department, in respect of the alleged matters referred to in this paragraph would have been for the purposes of obtaining, giving and implementing legal advice, and so the subject of legal professional privilege. It is denied that the Claimants may seek to rely upon any such privileged matters whether by direct allegation or inferences as to the same.

(11) Michelle Collins

68. Save as set out below, paragraph 50 is denied:

68.1 It is noted that that the Claimants have abandoned the case originally pleaded in the Amended Particulars of Claim of John Leslie, in that they no longer allege that Michelle Collins complained to MGN through her solicitors, Carter Ruck, on 30 October 2003, but instead now allege nothing more specific than that she complained *"on a date late in 2003"*.

68.2 It is further noted that the Claimants do not allege that the only way in which Michelle Collins could have been confronted at the alleged *"secret location"* was *"through accessing her private voicemail messages somehow"* but merely that this is what she believed. MGN does not know, and accordingly is unable to admit or deny, whether that is what Michelle Collins believed, and so requires the Claimants to prove that it is what she believed. Without limiting the generality of the foregoing, MGN will rely on the fact that Michelle Collins made no complaint about these matters in the claim which she later brought against MGN in support of its case that it is to be inferred that she had no such belief.

68.3 It is admitted that Mark Thomson, a solicitor representing Michelle Collins, contacted MGN on a Saturday in 2003. What truly then occurred is as follows:

68.3.1 A call came in to Ms Welsh from Mark Thomson, who said words to the effect "*you have a story about Michelle Collins which is all private and you could only have known about this through listening to voicemails*".

68.3.2 Ms Welsh replied words to the effect "*I have no idea what story you're talking about. I'll call you back*".

68.3.3 Ms Welsh went to the office of Mark Thomas to ask him about the matter, and he called in James Scott. Ms Welsh asked the latter "*What is this*

story?" and Ms Welsh was told that the newspaper had photographs of Michelle Collins in a public street with a man who was believed to be her new boyfriend. Ms Welsh told Mark Thomas and James Scott that Mark Thomson was on the telephone accusing them of only knowing about this because they had listened to Michelle Collins' voicemail messages. They informed Ms Welsh that this was wrong, and that the photograph had come from a paparazzi photographer on a bike following Michelle Collins. Ms Welsh asked them whether they were sure about this, and they said words to the effect "*Rach, 100%*".

68.3.4 Ms Welsh had no reason to doubt this explanation. The version of events outlined to Ms Welsh did not strike her as unusual. Ms Welsh considered that Michelle Collins was pretty, she was famous at the time, she was not shy of being in the newspapers with the men she was with, her address was common knowledge, she was one of a group of people who would regularly appear in the tabloid press, MGN got tips all the time about such people, and the paparazzi would follow such people and take photographs of them. Ms Welsh had no reason to doubt, and she did not doubt, what she had been told.

68.3.5 Ms Welsh therefore went into the office of Alan Edwards (the then Deputy Editor) to call Mark Thomson back. At MGN's end, Ms Welsh used a landline and the call was not on a speaker phone, and Mark Thomas was not on the call. At Mark Thomson's end, the call was on his mobile telephone and Ms Welsh was not aware (if it be the case) that Mark Thomson put the call on a speaker phone. Ms Welsh was cross about Mark Thomson's stance, which was to the effect "*this is an outrage, this is a breach of privacy, your people have committed a criminal offence*", and she said in strong terms that Mark Thomson should not telephone her and accuse her colleagues of committing criminal offences without evidence. Ms Welsh said words to the effect "*What's your evidence? She was walking down the street*". The conversation then continued along the following lines. Mr Thomson said "*Don't start on me*", and Ms Welsh said "*Don't start on me, this is not pleasant*". Ms Welsh said "*If you have evidence, give me evidence*", to which Mr Thomson said "*I haven't got any*". Mr Thomson then said *"Anyway, you've got the wrong bloke*" and when Ms Welsh said "*Really?*" Mr Thomson said "*Yeah, and I'm not telling you who he is except he's a judge's son and it's not her new boyfriend*" and Ms Welsh said *"Oh right, thanks"*.

68.3.6 Ms Welsh then went back to Mark Thomas and James Scott and said words to the effect "*You haven't even got a story here, because this bloke is some judge's son; he's just her friend*" and they said words to the effect "*Oh, for God's sake*".

68.4 It was for these reasons and in these circumstances, and not those alleged in paragraph 50, that the proposed story was not published.

68.5 Ms Welsh reported the above events to Mr Partington and Mr Mottram on the Tuesday following the same.

68.6 For the avoidance of doubt:

68.6.1 If, which is not admitted, the explanation given to Ms Welsh by Mark Thomas and James Scott evidence was untrue, Ms Welsh nevertheless believed it to be true.

68.6.2 It is denied that Ms Welsh or any other individual in the Legal Department of MGN was aware that and/or checked or discovered that (if, contrary to the above, this was in fact true) the above story had been obtained through illegally accessing Michelle Collins' voicemail messages.

69. In the premises and in any event, paragraph 51 is denied. Without limiting the generality of the foregoing denial:

69.1 It is not admitted that the Editor and it is denied that the Legal Department, including and in particular Ms Welsh, either *"was aware"* or *"must have been aware"* (a) of the true source of the story about Michelle Collins and (b) (if that was in fact the case) that the story had been obtained unlawfully.

69.2 The contention that the Legal Department, including and in particular Ms Welsh, either *"was aware"* or *"must have been aware"* is without any or any proper foundation, and, among other things, is based on a lack of knowledge and/or understanding on the part of the Claimants of (a) the way in which tabloid newspapers operated at the material time, namely 2003, and (b) the state of development of the law of misuse of private information at the material time.

69.3 The immediately preceding two sub-paragraphs apply with even greater force to the Board. The inference alleged by the Claimants, namely *"that the Board was similarly aware"* lacks either logic or foundation. The natural and probable inference is that this incident would not have been reported any further than to Mr Partington and Mr Mottram, and even then only in terms which reflected what truly happened as set out above, in particular in light of the considerations that (a) it was an inconsequential event and (b) Mr Thomson was unable, when challenged by Ms Welsh, to back up the serious allegations that he was making. This incident provides no proper or sufficient basis for making the grave and serious allegation against professional individuals, in particular Ms Welsh, that they knew about unlawful information gathering techniques by MGN journalists.

69.4 For the reasons and in the circumstances set out above, the premise of the final sentence of paragraph 51 is unfounded: there was no such *"awareness"*.

(12) Culture, Media and Sport Select Committee in 2003

70. As to paragraph 52:

70.1 It is admitted that the Culture, Media and Sports Committee of the House of Commons ("the Select Committee") published a Report entitled *"Privacy and media intrusion"* on 16 June 2003 ("the CMSC Report").

70.2 It is noted that, contrary to what is set out in the Amended Particulars of Claim in the claims of John Leslie and Chantelle Houghton, and in accordance with the Order of the Honourable Mr Justice Mann dated 24 October 2017 requiring the Claimants to identify upon which parts of the 111 paragraph, 43-page CMSC Report reliance was placed as a condition of being granted permission to amend (pursuant to which paragraphs 92 to 97 of the CMSC Report were subsequently identified in those Amended Particulars of Claim) the Claimants now blandly refer, without any degree of particularisation, to the entirety of the CMSC Report.

70.3 As MGN is unable to understand what case it is expected to meet other than by reference to the Claimants' previously pleaded reliance on paragraphs 92 to 97 of the CMSC Report, MGN confines its present pleading to those paragraphs. MGN reserves the right to plead further to the Claimants' reliance on the CMSC Report if and when MGN is provided with proper particulars of any additional part(s) upon which the Claimants may seek to place reliance.

71. Paragraphs 92 to 97 of the CMSC Report were directed at the scope of the work undertaken by the PCC, and in particular the issue of payments to police officers. In this regard:

71.1 These paragraphs contain no findings against MGN.

71.2 It is denied that paragraphs 92, 94, 95, 96 and 97 of the CMSC Report made any reference to MGN or to any practices at MGN's newspapers. Further, in stating in paragraph 92 of that Report that the practice of making payments to the police (which, according to that paragraph, had been admitted by the editors of the Sun and the News of the World) was *"illegal for both parties and there is no public interest defence that any jury could legitimately take into account"* the Select Committee was wrong in law: the Defendant will rely on the decision of the Court of Appeal in *R v Chapman* [2015] QB 883. Accordingly, the CMSC Report was not, objectively, to be taken as entirely reliable.

71.3 The only mention of MGN's newspapers was in the summary of three newspaper articles at paragraphs 93(i) to 93(iii) of the CMSC Report. These mentions were in the context of summaries of articles in other newspapers reporting on the *"improper and intrusive"* activities of (i) one unnamed private detective convicted on 12 counts of selling ex-directory telephone numbers and telephone bills (reported in 1997), (ii) one solicitor's employee stealing information about a murder case (reported in 2002), and (iii) one detective agency (Southern Investigations) selling information from police sources (reported in 2002). In respect of each newspaper article mention was made of various newspapers, including but not limited to MGN's newspapers, as (allegedly) having received information from these two private investigators and this solicitor's employee.

71.4 At paragraphs 95 to 97 of the CMSC Report, the Select Committee called on the PCC, Home Office, police authorities and Information Commissioner to take appropriate action.

71.5 There were no mentions of phone hacking in the CMSC Report, although there were two mentions of telephone-tapping: one in paragraph 93(iv), in which reference was made to a newspaper article in December 2002 which *"reported that private detective agencies routinely tapped private telephone calls for the tabloid press"*, and one in paragraph 95 which suggested that illegal payments to policeman required to be investigated by the PCC as much as *"the example of illegal telephone-tapping highlighted by the Commission itself"*.

72. It is not admitted that the Board or the Legal Department of MGN (other than Mr Partington) read paragraphs 92 to 97 of the CMSC Report; those from whom MGN has so far obtained evidence do not recall doing so and MGN is not aware of any evidence that they did so. But even if they had, it is denied (a) that these brief mentions of newspaper articles constituted evidence of the habitual or widespread use of unlawful information gathering activities at MGN's newspapers, and/or (b) would have fixed the Board or the Legal Department with

knowledge of the habitual or widespread use of unlawful information gathering activities at MGN's newspapers.

73. It is admitted that Mr Partington read these paragraphs of the CMSC Report. It is denied that they (or that any of the materials referred to in them) fixed Mr Partington with knowledge of the habitual or widespread use of unlawful information gathering activities at MGN's newspapers. Without limiting the generality of the foregoing, to the best of Mr Partington's recollection and belief the CMSC Report was not referred to the Legal Department for action or advice, and it was not something with which the Legal Department was required or expected to become concerned.

74. Further and in any event, by the time of the CMSC Report, MGN had ceased using Law and Commercial Services (which was the successor to Southern Investigations): the last invoice in time which was raised to MGN by Law and Commercial Services is dated 26 March 2002. Accordingly, any need for action identified in response to the suggestion in the CMSC Report that Southern Investigations had provided unlawfully gathered information to MGN would not have resulted in a cessation of use of Southern Investigations by MGN as that cessation had already taken place.

(13) Operations Glade and Motorman

75. As to the first sentence of paragraph 53:

75.1 Operation Glade was an investigation into the unlawful disclosure by a civilian Metropolitan Police Service ("MPS") employee, Paul Marshall, of Police National Computer records, in the form of criminal record office histories and registered keeper details of privately-owned vehicles, which were alleged to have been unlawfully obtained and subsequently passed on to the national press in exchange for monetary payment.

75.2 Between 19 January 2004 and 31 January 2004, a total of 7 journalists, including one *Daily Mirror* journalist and two former *Sunday Mirror* journalists, were interviewed under caution in connection with Operation Glade. All these journalists attended police stations voluntarily at the invitation of the police. None were arrested or charged with any offence, as there was no evidence to suggest that the journalists knew that the investigators were acting unlawfully.

75.3 Four men later pleaded guilty: Paul Marshall and a former police officer, Alan King, to conspiracy to commit misconduct in public office; and two private detectives, Stephen Whittamore and John Boyall, to breaching section 55 of the Data Protection Act 1998. Each received a conditional discharge.

75.4 Operation Motorman was an ICO investigation which concerned the activities of private investigator Stephen Whittamore for clients who were found to include insurance companies; lenders and creditors, including local authorities chasing council tax arrears; parties involved in matrimonial and family disputes; and criminals intent on fraud, or seeking to influence jurors, witnesses or legal personnel; as well as various media organisations (including but not limited to MGN).

75.5 None of MGN's journalists were interviewed as part of Operation Motorman.

75.6 As the Information Commissioner himself acknowledged at the Leveson Inquiry, some of those instructing Stephen Whittamore may have had a public interest defence and so may not have acted unlawfully.

76. As to the second sentence of paragraph 53:

76.1 The allegation that the Legal Department and the Board were notified of this conduct by the ICO through the PCC is unclear and unparticularised. The conduct alleged appears from the first sentence of paragraph 53 to be the conduct of journalists from the *Mirror*, the *Sunday Mirror* and the *People* (as well as other newspapers) which was under investigation in Operation Glade and Operation Motorman, but MGN does not know the nature and extent of the conduct which was under investigation, save to the extent pleaded in the immediately preceding paragraph above. Nor are any particulars given in the second sentence of paragraph 53 as to when and by what means the Legal Department and the Board are alleged to have been given notice by the ICO through the PCC. In these circumstances, MGN pleads to these allegations as best it can below, and reserves the right to plead further if and when proper particulars of their case are given by the Claimants.

76.2 So far as concerns Operation Glade:

76.2.1 It is denied that the Legal Department and the Board were notified by the ICO, through the PCC, of the conduct investigated as part of Operation Glade (which was an investigation lead by the MPS).

76.2.2 On or about 28 August 2003, Mr Partington was informed and Mr Partington then informed Mr Vickers that three men had been arrested in connection with Operation Glade, namely two private investigators and a civilian employee of the MPS. Mr Partington cannot recall exactly how he was provided with this information, but it did not come to him from the ICO through the PCC. At some time or times which MGN cannot presently state, those three men were identified to Mr Partington or one or more other individuals for and on behalf of MGN as Stephen Whittamore, John Boyall and Paul Marshall.

76.2.3 On or before 20 January 2004, Operation Glade had extended to requests to interview one *Daily Mirror* journalist and two former *Sunday Mirror* journalists as Mr Partington was informed and as he in turn informed Mr Vickers on or about that date.

76.2.4 Mr Partington communicated with Mr Vickers about these matters both orally and in writing, but those communications were made confidentially and were made and received by Mr Partington and Mr Vickers in their professional capacity as legal advisers to MGN and for the purpose of providing legal advice to MGN and the obtaining of legal advice by MGN, further or alternatively those communications came into existence and any evidence that they may have gathered was gathered after adversarial proceedings were reasonably contemplated and for the purposes of defending those proceedings and/or for the purpose of providing legal advice to MGN and the obtaining of legal advice by MGN with regard to those proceedings. MGN asserts, and does not waive, that privilege.

76.2.5 To the best of his recollection and belief, Mr Vickers did not inform the Board about these matters.

76.2.6 MGN repeats and relies upon paragraphs 10.13.7, 76.2.1 to 76.2.4 above as to the knowledge of individual Board members concerning Operation Glade.

76.2.7 It is in any event denied that even if the voluntary interview under caution of the *Daily Mirror* journalist and the two former *Sunday Mirror* journalists had been notified to the Board this would have fixed the Board with knowledge of the habitual or widespread use of unlawful information gathering activities at MGN's newspapers.

76.3 So far as concerns Operation Motorman:

76.3.1 To the best of MGN's knowledge, neither the Board nor the Legal Department were notified of the findings of Operation Motorman prior to publication of the Information Commissioner's Office's report "*What Price Privacy?*" in May 2006, via the PCC or otherwise.

76.3.2 According to his witness statement in the Leveson Inquiry, the Information Commissioner (Richard Thomas) had two meetings and some brief correspondence with the PCC in 2003-2004, but MGN has found no evidence that this led to the PCC notifying the Board or the Legal Department what had been discovered prior to publication of the report "*What Price Privacy?*" in May 2006.

77. As to paragraph 54:

77.1 The first sentence is admitted to the extent set out in the immediately preceding paragraph and not otherwise. Two of the three journalists were former MGN journalists. The allegation that the information in question was *"then used to publish articles"* is irrelevant and wholly unparticularised, and MGN is unable to plead to the same. MGN reserves the right plead further if and when the Claimants provide particulars of the alleged articles, and when and by whom they were published.

77.2 Save as set out in paragraph 76.2 above, the second sentence is denied. Without limiting the generality of that denial:

77.2.1 Any communications to or from the Legal Department in connection with these matters was for the purposes of legal advice and litigation and so these communications and any resultant knowledge are the subject of legal professional privilege.

77.2.2 The Claimants have not pleaded any basis for the assertion that these matters, which related to only one current journalist and did not lead to any journalists being arrested, let alone charged, were notified to and considered by the Board.

77.2.3 The allegation that these matters *"must have been"* notified to and considered by the Board is without any or any proper foundation.

77.2.4 For the avoidance of doubt, it is denied that these matters were either notified to or considered by the Board.

77.3 As to the third sentence, the contention that *"such an investigation would have revealed extensive unlawful information gathering by MGN journalists"* is unclear and ambiguous, but:

77.3.1 If and in so far as it intended to allege that an investigation was carried out which did in fact reveal extensive unlawful information gathering by MGN journalists, then (a) in so far as it concerns the Board, that allegation is denied and (b) in so far as it concerns the Legal Department, that allegation comprises an impermissible attempt to rely upon or explore or draw inferences as to the knowledge, advice, investigations and actions of the Legal Department, and any communications between journalists or others at MGN and members of the Legal Department, and any resultant knowledge, advice, investigations and actions of the Legal Department, in respect of the alleged matters referred to in this sentence, would have been for the purposes of obtaining, giving and implementing legal advice, and so the subject of legal professional privilege. It is denied that the Claimants may seek to rely upon any such confidential and privileged matters whether by direct allegation or inferences as to the same.

77.3.2 If and in so far as it is intended to allege that if an investigation had been carried out it would have revealed extensive unlawful information gathering by MGN journalists, that allegation (a) is not relevant to the allegation of knowledge; and (b) is not admitted. Without limiting the generality of the foregoing, MGN will rely on the fact that, if the Claimants' case is held to be correct, for example with regard to the true source of the story concerning Michelle Collins, then journalists were plainly capable of misleading, and did at times mislead, in-house lawyers and others as to their involvement in unlawful information gathering.

77.4 For the reasons and in the circumstances set out above, the premise of the final sentence of paragraph 54 in respect of the Board is unfounded: there was no such *"awareness"*. In respect of the Legal Department, the immediately preceding sub-paragraphs are repeated.

(14) Abbie Gibson and the Beckhams

78. As to the first sentence of paragraph 55, it is admitted that the *News of the World* in the edition of 24 April 2005 published an article entitled *"Beckham I Want to Split"* which was or which claimed to be based on information provided by Ms Gibson. According to Ms Gibson's first witness statement dated 13 April 2013 in the proceedings which she brought against MGN, the short reference number of the record of which is Claim No HC12A04144, she was paid £125,000 for that story, and it is therefore denied that it was *"given"* to the *News of the World* by Ms Gibson.

79. As to the second sentence of paragraph 55, MGN does not know and is accordingly unable to admit or deny whether in her interview with the *News of the World* Ms Gibson described a number of affairs which David Beckham had engaged in, his treatment of his wife, and the arguments which had taken place between the couple, and the Claimants are required to prove that allegation. It is admitted that the *News of the World* article contained allegations concerning those or similar or related topics.

80. As to the third and fourth sentences of paragraph 55:

80.1 MGN does not know and is accordingly unable to admit or deny whether David and Victoria Beckham had sought unsuccessfully to injunct Ms Gibson from giving her interview to the *News of the World*, and the Claimants are required to prove that allegation.

80.2 It is admitted that the *News of the World* article reported that David and Victoria Beckham had applied for an injunction to restrain publication of the article and that the *News of the World* had won the right to publish at 8.30pm on 23 April 2005 following a hearing before the Honourable Mr Justice Langley.

80.3 It is admitted that the article, and that David and Victoria Beckham had applied for an injunction to restrain publication of the article (but not, for the avoidance of doubt that they had sought to injunct Ms Gibson from giving her interview to the *News of the World*), would have come to the attention of the Legal Department.

80.4 It is not admitted that these matters, further or alternatively that David and Victoria Beckham had sought to injunct Ms Gibson from giving her interview to the *News of the World* were *"well-known in the press"* or that David and Victoria Beckham were *"famously litigious"* or that *"the story attracted enormous press attention"*, and it is denied that these allegations are of relevance to the present proceedings.

81. As to the fifth and sixth sentences of paragraph 55:

81.1 It is admitted that the *People* in the edition of 10 July 2005 published an article entitled *"Becks Phone Fury"* which included the words quoted in the fifth sentence. It is denied that this article was published *"in the wake of"* the *News of the World* article, or that this allegation is of relevance to the present proceedings.

81.2 It is admitted that the *People* article included references to the matters alleged. It is denied, if that is intended to be alleged, that these references demonstrated or even indicated that the story in that article had been obtained through voicemail interception. Without limiting the generality of the foregoing:

81.2.1 The information attributed to the *"sources close to Abbie"* was that she had been *"left shocked and confused by the England soccer captain's messages".* That information could not have come from interception of voicemail messages left by David Beckham for Ms Gibson.

81.2.2 Similarly, statements attributed to *"a friend"* such as *"Abbie's been left in a state of shock over these calls she is getting from David"* and *"Abbie was about to watch the Live8 concert. All of a sudden her phone rang"* and to *"sources"* as to David and Victoria Beckham's reaction to Ms Gibson's *"betrayal"* such as *"Beckham is deeply hurt"* and *"Victoria's parents believe a foreign nanny may be the best option"* and *"Victoria is absolutely determined to get it right with any new nanny"* could not, or are most unlikely to, have come from interception of voicemail messages left by David Beckham for Ms Gibson.

82. As to the first sentence of paragraph 56, it is denied that the entire story, and it is not admitted that any part of the story, was obtained by MGN journalists through voicemail interception.

83. As to paragraph 56.1:

83.1 As to the first sentence, it is admitted that Ms Gibson brought a claim against MGN in 2012, and that the only article relied on in her Particulars of Claim was the above *People* article. It is denied that her claim was *"solely in relation to this story",* as appears, for example, from paragraph 14 of those Particulars of Claim.

83.2 As to the second sentence, it is admitted that MGN sought to strike out Ms Gibson's claim on the ground that the claim had no real prospect of success on the basis set out in the witness statement of Keith Mathieson of MGN's solicitors dated 26 February 2013, and specifically that by the terms of the Statement in Open Court to which Ms Gibson had agreed as part of the settlement of proceedings for libel which had been brought against her by David Beckham, she had expressly accepted that the *People* article *"falsely stated that David Beckham had made a number of insulting and threatening telephone calls to Abbie Gibson"* that she *"is happy to confirm that David Beckham did not at any stage make any such telephone calls to her"* and that she *"wishes to use this opportunity to confirm that Mr Beckham has not made any rude or threatening telephone calls to her"*.

84. As to paragraph 56.2:

84.1 As to the first sentence, it is admitted that the transcript of a recording of a conversation between Lee Harpin and Ms Gibson was exhibited to the witness statement of Kim Waite of MGN's solicitors dated 17 October 2013, and that in that conversation Mr Harpin told Ms Gibson *"we've got a source".* It is denied that it is relevant to the present proceedings whether or not Mr Harpin was *"a prolific phone hacker"* and MGN therefore declines to plead to the same.

84.2 As to the second sentence, MGN does not know and is accordingly unable to admit or deny what was clear to Ms Gibson, and the Claimants are required to prove that allegation.

84.3 As to third sentence, it is denied that Ms Gibson did not confirm that abusive messages had been left on her voicemails. In fact, when asked by Mr Harpin *"How long's it been going on for?"*, Ms Gibson replied *"Well, however long that I've not been there".* When Mr Harpin asked for confirmation of that reply (*"Right and they just keep ringing you with nasty messages?"*), however, Ms Gibson then sought to suggest that it was implausible that such messages would be left on her voicemail by saying *"Erm but they wouldn't leave me, if you think about it, it would be silly if they left voicemail messages because then there'd be proof of it …"*

85. As to paragraph 56.3:

85.1 As to the first sentence, it is admitted that the *People* published the story. It is denied that there was a lack of confirmation from Ms Gibson: see above. It is further admitted that Ms Gibson's solicitor told the duty lawyer for the *People* that there was a court order in place which protected confidential information touching or concerning David and Victoria Beckham disclosed by Ms Gibson or by a third party who had received information from Ms Gibson, and said that the duty lawyer should be aware of the terms of that order. It is denied that this comprised a warning that the newspaper should not publish the story, and not admitted that the litigiousness of the Beckhams was well known.

85.2 The second sentence is noted. The decision to publish the story was made almost 15 years ago, and MGN does not now know what reasoning led to that decision.

86. As to paragraph 56.4:

86.1 The first sentence is admitted and averred. By letter dated 12 July 2005, MGN was threatened with proceedings for libel by solicitors acting for David and Victoria Beckham on the basis that the allegations contained in the *People* article were *"untrue and defamatory"* and *"We have been asked by David Beckham to make it clear that he has not made any such calls to Ms Gibson, which is a fact that she has confirmed to us via her lawyers, Taylor Wessing"*. Accordingly, the unequivocal position of both David Beckham and Ms Gibson, as set out in that letter, was that he had made no abusive telephone calls to Ms Gibson.

86.2 As to the second sentence, it is admitted that MGN resolved the complaint by David and Victoria Beckham expeditiously. In a joint Statement in Open Court that was read out in David Beckham's proceedings for libel against MGN on 3 August 2005, MGN accepted that David Beckham had not made any telephone call of the sort described, and that he had not spoken to Ms Gibson since she resigned her employment in April 2005. On 7 August 2005, MGN published an apology in the *People*, which accepted that the allegations were untrue and that David Beckham had not made any such calls. MGN agreed not to republish the article, and it also agreed to pay damages (which it denies were a large sum of money) and costs. Save as aforesaid, this sentence is not admitted.

87. As to paragraph 56.5:

87.1 The inference alleged by the Claimants is noted.

87.2 It is denied that this is a natural, reasonable, probable or appropriate inference to draw, in particular as it would mean (a) that the libel proceedings threatened by David and Victoria Beckham were based on untrue assertions that he had not made abusive telephone calls to Ms Gibson, (b) that Ms Gibson's confirmation that David Beckham had made no abusive telephone calls was also untrue, (c) that MGN's apology was without foundation, and MGN's acceptance that the newspaper's allegations were untrue and that David Beckham had not made any such calls was untrue, and both were sought and accepted by David Beckham when he knew that they were untrue, and (d) that the agreed Statement in Open Court that was made in the proceedings brought by David Beckham against Ms Gibson was untrue both to the knowledge of Ms Gibson and to the knowledge of David Beckham.

88. As to paragraph 56.6:

88.1 As set out above, the principal witness statement in support of MGN's strike out application was made by Keith Mathieson of MGN's solicitors, and a further witness statement was made by Kim Waite of MGN's solicitors, as is entirely usual in relation to such applications and was sensible and appropriate in light of the grounds on which the application was made.

88.2 MGN did not *"steadfastly decline"* to provide a witness statement from Lee Harpin and/or one from Mr Partington. It is denied, if that is intended to be alleged, that any order for the production of witness statements from either of these individuals was either sought or obtained by Ms Gibson.

88.3 Accordingly, the Claimants' reliance on the fact alleged is entirely misplaced.

89. As to paragraph 56.7:

89.1 The immediately preceding paragraph is repeated.

89.2 In the premises, there was nothing *"highly incriminating"* about the matters alleged. The Claimants' assertion to that effect betrays the misguided and insubstantial nature of their case.

89.3 Without limiting the generality of the foregoing:

89.3.1 It is admitted that Mr Partington was present during the hearing.

89.3.2 It is admitted that Mr Partington had provided a witness statement in support of the application to strike out Mr Flitcroft's claim. As is apparent from that witness statement, Mr Partington had direct involvement in the underlying events with which Mr Flitcroft's claim was concerned. It is denied, if that is intended to be alleged, that the same evidential considerations applied to Ms Gibson's claim as applied to Mr Flitcroft's.

89.3.3 It is admitted that the Judge observed that MGN had not identified the source of the *People* article, but it is denied that the Judge stated that the strike out application would have succeeded if MGN had done so.

90. As to paragraph 56.8, it is admitted that MGN was ordered to pay the costs of its unsuccessful application to strike out Ms Gibson's claim, and that the claim subsequently settled on terms that MGN agreed to pay compensation to Ms Gibson.

91. As to paragraph 56.9:

91.1 Whatever steps were taken by members of the Legal Department to investigate the complaint from the solicitors for David and Victoria Beckham and anything that was said and done by members of the Legal Department in connection with settlement of the same (including the terms of settlement) were done and said confidentially and in their professional capacity as legal advisers to MGN and for the purpose of providing legal advice to MGN and the obtaining of legal advice by MGN, further or alternatively any such steps were carried out and any such communications came into existence after adversarial proceedings were reasonably contemplated and for the purposes of defending those proceedings and/or for the purpose of providing legal advice to MGN and the obtaining of legal advice by MGN with regard to those proceedings. MGN asserts, and does not waive, that privilege.

91.2 Without resiling from the foregoing, it is denied that Mr Partington had any involvement in these matters, or that they were communicated to or approved by the Board. In this regard:

91.2.1 The solicitor involved in these matters on behalf of MGN was Rachel Welsh, the lawyer with overall responsibility for the *People* at the material time, as appears from (a) the fact that she wrote the letter in response to the letter from the solicitors for David and Victoria Beckham dated 12 July 2005 and (b) she signed on behalf of MGN the Consent Order dated 1 August 2005 which records the terms of settlement of the libel proceedings which David Beckham commenced against MGN.

91.2.2 Ms Welsh had no awareness of phone hacking at the relevant time.

91.2.3 It is admitted that Ms Welsh obtained authority for the proposed settlement from Mr Vickers, who also had no knowledge of phone hacking at the material time.

91.2.4 The Board were not notified of any of these matters.

92. As to paragraph 56.10:

92.1 The inference asserted in the first sentence comprises an impermissible attempt to rely upon or explore or draw inferences as to the knowledge and advice of the Legal Department relevant to MGN's decision to settle David Beckham's claim. These matters are protected by legal advice and/or litigation legal professional privilege, which is asserted and not waived by MGN.

92.2 Without resiling from the foregoing, it is denied that either Mr Partington or Mr Vickers either *"were aware"* or *"must have been aware"* that the source that Mr Harpin had referred to was in fact Ms Gibson's voicemails and/or that the story had been obtained unlawfully and thus could not be defended.

92.3 For the reasons and in the circumstances set out above, the premise of the second sentence is unfounded: there was no such *"awareness"*.

93. As to paragraph 56.11:

93.1 It is admitted that MGN disclosed call data in or about January 2019 pursuant to the 15th CMC Order.

93.2 It is not admitted that this call data demonstrates voicemail interception by Mr Harpin and other MGN journalists, either plainly or at all.

93.3 In any event, it is denied that this call data supports the allegations that the Legal Department (a) investigated the source of the story in the *People* and/or (b) discovered or alternatively already knew that the story had been obtained by voicemail interception and that David Beckham's claim needed to be settled for that reason.

(15) "*What Price Privacy?*" and "*What Price Privacy Now?*"

94. The first and second sentences of paragraph 57 are admitted to the following extent but not otherwise:

94.1 The Information Commissioner's Office report *"What Price Privacy?"* was published on 10 May 2006. This did not name MGN or its newspapers but made clear that the evidence obtained from one private investigator agency (that of Stephen Whittamore) showed widespread use by the press, with a total of 305 journalists involved. The report also showed that other regular users of the agency included finance companies and local authorities wishing to trace debtors, estranged couples seeking details of their partner's whereabouts or finances, and criminals intent on fraud or witness or juror intimidation.

94.2 The Information Commissioner's Office report *"What Price Privacy Now?"* was published on 13 December 2006. This report revealed, amongst other matters, that among the many journalists who had used Mr Whittamore's services (prior to the Commissioner's raid on his offices in March 2003) were a large number of journalists for MGN's newspapers.

95. As to the third sentence of paragraph 57:

95.1 It is admitted that the Board and the Legal Department of MGN became aware of the contents of the Information Commissioner's Reports *"What Price Privacy?"* and *"What Price Privacy Now?"* at or about the times that those Reports were published.

95.2 After publication of *"What Price Privacy?"* the Board and the Legal Department of MGN took the above findings very seriously.

95.3 As set out in Mr Vickers' witness statement to the Leveson Inquiry dated 13 October 2011 at paragraphs 36 and 37:

95.3.1 TM re-emphasised the importance of compliance with the PCC Code and the law (a) in 2006 following the publication of the Information Commissioner's Report *"What Price Privacy?"* and (b) again in 2007 following the criminal convictions of Mulcaire and Goodman on their own pleas of guilty in November 2006 at meetings led by Ms Bailey and Mr Vickers and attended by the three national editors of the *Daily Mirror* (Richard Wallace), the *Sunday Mirror* (Tina Weaver) and the *People* (Mark Thomas), Eugene Duffy (the Managing Editor of nationals) and Mr Partington.

95.3.2 Everybody present at those meetings said that they fully understood the position on both of those occasions.

95.4 As set out in Ms Bailey's witness statement to the Leveson Inquiry dated 13 October 2011:

95.4.1 (See paragraphs 62 to 64), prior to 2008 Risk Action Plans were used as part of TM's year-end process, and that since 2008 Risk Maps had been produced which were formally updated three times a year, and which were an essential day-to-day tool in TM's risk identification.

95.4.2 (See paragraph 65), in addition, as part of the end year process, about 70 senior personnel, including the editors of the *Daily Mirror*, the *Sunday Mirror* and the *People*, were required to sign declarations assuring the Board that systems were functioning effectively in identifying, evaluating and managing risk in an appropriate manner, and stating that they have brought any significant matters to the attention of the Board.

95.4.3 (See paragraph 71) Ms Bailey firmly reiterated TM's policies in respect of conduct, for example by (together with Mr Vickers) calling the above meeting in 2006 following the publication of the Information Commissioner's Report *"What Price Privacy?"* to reiterate that TM's policy was that TM and its staff did not break the law, that there would be no tolerance of this, and that each editor would be held responsible and would be dismissed if the editor or any of his or her journalists broke the law.

95.4.4 (See paragraph 72), Ms Bailey had repeated the same message at the above meeting in 2007 following the criminal convictions of Goodman and Mulcaire, and sought and obtained confirmation from each Editor that he or she understood that message.

(a) After publication of *"What Price Privacy Now?"*, and indeed the criminal convictions of Mulcaire and Goodman which were referred to in it, the Board and the Legal Department of MGN again took the above findings very seriously, as set out in the immediately preceding sub-paragraphs.

(b) Any discussions within the Legal Department concerning these matters and any communications concerning these matters between the Legal Department and the Board were made confidentially and were made and received by members of the Legal Department in their professional capacity as legal advisers to MGN and for the purpose of providing legal advice to MGN and the obtaining of legal advice by MGN. MGN asserts, and does not waive, that privilege.

96. As to the first and second sentences of paragraph 58, the Claimants' reference to and reliance on the above statements of Mr Vickers and Ms Bailey to the Leveson Inquiry, and in particular their evidence concerning the above meetings, is noted. In light of that reliance, the allegations in the third sentence are contradictory and unsustainable. For the avoidance of doubt, the third sentence is in any event denied. On the contrary, serious and repeated steps were taken to stop the continued use of unlawful information gathering techniques by MGN journalists, as detailed in those witness statements (which are referred to and relied on by the Claimants), and MGN journalists had ceased using the services of Mr Whittamore and his agency prior to the publication of *"What Price Privacy Now?"*.

(16) Arrest and conviction of Mulcaire and Goodman

97. The first sentence of paragraph 59 is admitted. The expressions *"picked up"* and *"other tabloid newspapers"* and *"caused serious concerns"* in the second sentence are too vague to be capable of being pleaded to, and that sentence is not admitted.

98. As to paragraph 60, it is admitted (a) that an article in the *Guardian* of 11 August 2006 reported that James Hipwell, a former MGN journalist and convicted criminal who (as mentioned in the *Guardian* article) had been sacked by MGN in early 2000, and then later sentenced to a term of imprisonment for using his column in the *Daily Mirror* to manipulate the stock market, had made the allegations contained in the *Guardian* article, and (b) that the *Daily Mirror* declined to comment on that story. Save as aforesaid, this paragraph is not admitted.

99. As to paragraph 61:

99.1 It is admitted that the Board and the Legal Department of MGN became aware of the arrests of Messrs Goodman and Mulcaire and of the allegations made by Mr Hipwell which were published in the *Guardian* in or about August 2006.

99.2 Any discussions within the Legal Department concerning these matters and any communications concerning these matters between the Legal Department and the Board were made confidentially and were made and received by members of the Legal Department in their professional capacity as legal advisers to MGN and for the purpose of providing legal advice to MGN and the obtaining of legal advice by MGN. MGN asserts, and does not waive, that privilege.

99.3 The steps taken by the Board in consequence of these matters are set out below.

99.4 It is admitted that those steps were preceded by, and were the result of, discussions between members of the Board, but MGN is unable to give further particulars as to precisely when and between which individuals those discussions took place some 14 years after the event, better than to say that they were not the subject of discussion at any full meeting of the Board.

100. As to paragraph 62:

100.1 It is denied that Mr Mulcaire and Mr Goodman were convicted in January 2007. Both men pleaded guilty in November 2006.

100.2 What did happen in January 2007 is that (a) the PCC notified Mr Partington that the Select Committee was proceeding with a public hearing into issues associated with the Clive Goodman case and the Information Commissioner's report and (b) Mr Partington notified this to Ms Bailey and Mr Vickers.

100.3 As to the third sentence, the allegation in brackets that Mr Duffy had *"chaired the investigation into David Brown's dismissal and his evidence of widespread use of these activities at MGN's newspapers"* is both irrelevant and denied. Mr Duffy did not chair any investigation into Mr Brown's dismissal or his allegations of unlawful information gathering (the latter being a matter which Mr Brown had not raised at this time). See further in respect of Mr Brown's employment claim below.

100.4 Further to the above, with regard to the fourth sentence of paragraph 62, it is admitted that in her evidence to the Leveson Inquiry when Ms Bailey was asked whether she had been aware in 2007 of Mr Hipwell's allegations about the Showbusiness Desk at the *Daily Mirror* during his time at the newspaper she replied *"I might have been. I'm not sure."*

100.5 The steps which were taken by MGN following the events pleaded in paragraphs 59, 60 and 61 are (a) as set out in Mr Vickers' witness statement to the Leveson Inquiry dated 13 October 2011 at paragraphs 36 and 37 and Ms Bailey's witness statement to the Leveson Inquiry dated 13 October 2011 at paragraphs 62 to 64, 65, 71, and 72 and (b) as pleaded above under the heading *"What Price Privacy?"* and *"What Price Privacy Now?".*

100.6 As to the second and third sentences of paragraph 62, the Claimants' reference to and reliance on the evidence contained in the statements of Mr Vickers and Ms Bailey to the Leveson Inquiry, and in particular their evidence concerning the meeting that was held following the above events, is noted. In light of that reliance, the allegations in the fifth sentence are contradictory and unsustainable.

100.7 For the avoidance of doubt, the fifth sentence is in any event denied. On the contrary, serious and repeated steps were taken to stop the continued use of unlawful information gathering techniques by MGN journalists, as detailed in those witness statements (which are referred to and relied on by the Claimants). As the Judge ruled in the Gulati Judgment, voicemail interception stopped, or was largely cut back, in August 2006.

(17) David Brown's Employment Claim

101. As his witness statement makes clear, Mr Brown was dismissed in April 2006, not *"late 2006"* as alleged. Otherwise paragraph 63 is admitted.

102. As to paragraphs 64 to 67, it is admitted that Mr Brown made a witness statement dated 16 May 2007 in his Employment Tribunal claim which contained Mr Brown's account of a number of facts and matters, his assertions as to what was evidenced by or could be deduced from those facts and matters, and a number of allegations against MGN and various individuals. That account, those assertions, and those allegations are apparent from the witness statement itself. Contrary to paragraph 65, those allegations focused on the *People*, and the only reference to unlawful information gathering on other MGN titles was the vague assertion that *"Reporters on all of the Trinity Mirror titles used illegal information supplied to them by private eyes"*, which reflected information that had been published by the Information Commissioner's Office the previous year. Otherwise it is admitted that Mr Brown's statement included material that is or is to the effect of what is pleaded in paragraphs 64 to 67.

103. With regard to the contents of that witness statement:

103.1 These allegations were made by Mr Brown (a) after express steps had already been taken on two occasions by the Board and the Legal Department of MGN (i) in 2006 following the publication of the Information Commissioner's Report *"What Price Privacy?"*, and (ii) in 2007 following the criminal convictions of Mr Mulcaire and Mr Goodman, to ensure that editors and those working under them were in no doubt that unlawful conduct (of any sort) would not be tolerated by TM and MGN, and (b) after the editors had expressly and repeatedly stated that they understood and accepted this.

103.2 None of these allegations related to events which Mr Brown alleged to have taken place after the second of those occasions.

103.3 Accordingly, even if Mr Brown's allegations had had the appearance of being first hand or reliable, appropriate steps had already been taken by the Board and the Legal Department to ensure that unlawful activities of the kind alleged by Mr Brown to have taken place in previous years should not be carried out in future.

103.4 In fact, however, save in respect of the allegations in relation to MGN's use of Steve Whittamore which had been published to the world at large in 2006 in the Information Commissioner's Report *"What Price Privacy Now?",* the fact of which Mr Brown subsequently referred to in his witness statement to the Leveson Inquiry*,* Mr Brown's allegations did not have the appearance of being first hand or reliable, and nor were they. He had not raised these matters previously, including at the time of his disciplinary hearings relating to his dismissal in April 2006, or at any time prior to his witness statement being served over a year later. His sudden assertion of these matters at this time, after the Information Commissioner's Reports and the Goodman and Mulcaire convictions, had the appearance of an attempt by an experienced journalist and his media law solicitors to use topical matters to seek to embarrass MGN into a more favourable settlement. Further, Mr Brown subsequently admitted in his witness statement to the Leveson Inquiry dated 28 November 2011 that:

(a) his allegations about phone hacking *"were largely based on anecdotal information"*; and

(b) he only claimed to have had personal involvement in one story that he believed had an element of phone hacking and even with regard to that he stated *"I do not know who hacked the phone"*.

103.5 Further, other than the unparticularised reference to Ms Jonsson's phone message bank that is contained in paragraph 23 of his witness statement, the only specific allegation of phone hacking made by Mr Brown is contained in paragraph 29 of his witness statement and relates to an article entitled *"Beckham's Hate Calls to Nanny"* that was published in the 10 July 2005 edition of the *People*. In respect of that article Mr Brown alleged that MGN sourced this story, about David Beckham leaving abusive calls to his former nanny Abbie Gibson, by listening to voicemail messages left for Ms Gibson by David Beckham. However, this lacked credibility:

103.5.1 Following publication of the article on 10 July 2005, by letter dated 12 July 2005 MGN was threatened with proceedings for libel by solicitors acting for David and Victoria Beckham, who confirmed in that letter that the solicitors for Ms Gibson, Taylor Wessing LLP, had confirmed on her behalf that David Beckham had made no abusive telephone calls.

103.5.2 In a joint Statement in Open Court that was read out in those proceedings on 3 August 2005, MGN accepted that David Beckham had not made any telephone call of the sort described, and that he had not spoken to Ms Gibson since she resigned her employment in April 2005.

103.5.3 On 7 August 2005, MGN published an apology in the *People*, which accepted that the newspaper's allegations were untrue and that David Beckham had not made any such calls.

103.5.4 Further, Ms Gibson confirmed in separate proceedings brought against her by David and Victoria Beckham that no such calls had ever taken place. An agreed Statement in Open Court read in June 2009 in settlement of those proceedings stated: *"Ms Gibson is happy to confirm that David Beckham did not at any stage make any such telephone calls to her. She apologises if anything said to the People gave them a false impression that such calls had been made."*

103.5.5 Ms Gibson's reference to what she had said to the *People* was a reference to what she had told Lee Harpin, a journalist with that newspaper, for the *People* article.

103.5.6 Accordingly, if Mr Brown's allegation that MGN sourced the *People* story by listening to voicemail messages left for Ms Gibson by David Beckham was true then (a) the libel proceedings threatened by David and Victoria Beckham were based on untrue assertions that he had not made abusive telephone calls to Ms Gibson, (b) Ms Gibson's confirmation that David Beckham had made no abusive telephone calls was also untrue, (c) MGN's apology was without foundation, and MGN's acceptance that the newspaper's allegations were untrue and that David Beckham had not made any such calls was untrue, and both were sought and accepted by David Beckham when he knew that they were untrue, and (d) the agreed Statement in Open Court that was made in the proceedings brought by Ms Gibson was untrue to her knowledge and that of David Beckham. This was and is not credible.

104. As to the first sentence of paragraph 68:

104.1 In the premises and in any event, although the findings in the Gulati Judgment are accepted, it is denied that the specific examples that Mr Brown gave have

been proved to be correct either by the findings in that Judgment or during the course of the MNHL, and denied that whether or not those specific examples were or have been proven correct is relevant to the present proceedings.

104.2 It is admitted that Mr Partington became aware of Mr Brown's witness statement on or about the date that the same was served on MGN, and that Mr Vickers became aware of this witness statement then or shortly thereafter. MGN is unable at present to state those dates better than aforesaid.

104.3 Mr Partington communicated with Mr Vickers about these matters both orally and in writing, but those communications were made confidentially and were made and received by Mr Partington and Mr Vickers in their professional capacity as legal advisers to MGN and for the purpose of providing legal advice to MGN and the obtaining of legal advice by MGN, further or alternatively those communications came into existence and any evidence that they or any other member of the Legal Department may have gathered was gathered after adversarial proceedings were reasonably contemplated and for the purposes of defending those proceedings and/or for the purpose of providing legal advice to MGN and the obtaining of legal advice by MGN with regard to those proceedings. MGN asserts, and does not waive, that privilege.

105. As to the second sentence of paragraph 68 and the allegation in respect of knowledge of unlawful information gathering:

105.1 No basis is set out for the inference the Claimants seek to invite the Court to draw.

105.2 It is denied that Mr Partington, Mr Vickers or Ms Bailey had the awareness alleged as to the widespread use of unlawful information gathering techniques.

105.3 As set out above, as a matter of objective fact Mr Brown's allegations neither appeared nor were first hand or reliable, further or alternatively they lacked credibility.

105.4 Accordingly, the inference which the Claimants assert (a) involves an impermissible attempt to rely upon or explore or draw inferences as to the knowledge and advice of the Legal Department relevant to Mr Brown's Employment Tribunal claim, which matters are protected by legal advice and/or litigation legal professional privilege, which is asserted and not waived by MGN, (b) is without foundation, and (c) is in any event denied.

106. As to the second and third sentences of paragraph 68 and the allegation in respect of the publicising of Mr Brown's allegations being damaging:

106.1 Whether such evidence would be admissible, and whether any hearing would be in public or in private, would be matters for determination by the Employment Tribunal.

106.2 Whether, if it did become public, Mr Brown's evidence would be damaging to MGN was not dependent on whether it was true, still less whether any member of the Board or Legal Department knew it to be true. This allegation is therefore irrelevant to the present proceedings.

106.3 Any communications on these matters for the purposes of legal advice and/or litigation are the subject of legal professional privilege.

107. As to paragraph 69, there are numerous markings and highlightings on that copy of Mr Brown's witness statement, on or around many more sections of text than those referred to by the Claimants. The allegation that these markings demonstrate *"particular concern"* about the alleged (or any) matters involves an impermissible attempt to rely upon or explore or draw inferences as to the advice and deliberations of the Legal Department relevant to MGN's decision to settle Mr Brown's Employment Tribunal claim, which matters are protected by legal advice and/or litigation legal professional privilege, which is asserted and not waived by MGN.

108. In the premises, save that it is admitted that Mr Brown's Employment Tribunal claim was settled and that he and MGN entered into a settlement agreement signed by Mr Brown on 22 May 2007 and for and on behalf of MGN on 23 May 2007, paragraph 70 is denied. Without limiting the generality of the foregoing:

108.1 It is denied that Mr Brown's claim for unfair dismissal was *"weak"*. The Claimants have failed to explain the basis on which they assert this.

108.2 The settlement of claims, and the inclusion of confidentiality clauses, are entirely commonplace in contested litigation, including and in particular in relation to claims in the Employment Tribunal, where irrecoverable costs make such claims expensive for employers to contest even if they are defeated, and where allegations can cause harm even if they are baseless. It is therefore denied that the settlement of the claim by agreement, including a (mutual) confidentiality clause, provides any basis for the inference alleged.

108.3 The asserted conclusion as to MGN's reasons for settlement comprises an impermissible attempt to rely upon or explore or draw inferences as to the knowledge and advice of the Legal Department relevant to MGN's decision to settle Mr Brown's claim, which matters are protected by legal advice and/or litigation legal professional privilege, which is asserted and not waived by MGN.

109. Paragraph 71 is denied. The Claimants have no proper basis for the contention that the alleged matters either *"were"* or *"must have been"* discussed with and approved by the Board, further or alternatively by "*at least*" Mr Vickers and Ms Bailey. In fact the allegations made in the witness statement were not drawn to the attention of the Board until they cropped up in the Leveson Inquiry. The reference to Mr Duffy is misconceived. Mr Brown had not raised any of these allegations relating to unlawful information gathering in his initial disciplinary hearing with Mr Duffy.

110. For the reasons and in the circumstances set out above, the first sentence of paragraph 72 is denied.

111. The second sentence of paragraph 72 is also denied. Without limiting the generality of that denial:

111.1 The premise of this allegation is flawed. It is pleaded without regard to the events which preceded the service of Mr Brown's witness statement in May 2007, and without regard to the dates of the events which he alleged.

111.2 In particular, as set out above:

111.2.1 Mr Hipwell had been dismissed from the *Daily Mirror* in February 2000 and so at this time his allegations related to events over 7 years earlier.

111.2.2 Mr Brown had been dismissed from the *People* in April 2006. By the time that Mr Brown made his allegations in May 2007 (a) steps had already been taken on two occasions by the Board and the Legal Department of MGN to ensure that editors and those working under them were in no doubt that unlawful conduct (of any sort) would not be tolerated by TM and MGN, and (b) the editors had expressly and repeatedly stated that they understood and accepted this.

111.2.3 None of the allegations made by Mr Brown related to events which he alleged to have taken place after the second of those occasions.

(18) Sean Hoare

112. It is admitted that in September 2010 Sean Hoare was quoted in media reports stating that he had hacked phones when he worked at the *News of the World*, and that Andy Coulson had been aware of and *"actively encouraged"* this. Mr Hoare's comments were focused on the *News of the World* and Mr Coulson and he was not quoted as having mentioned MGN or its newspapers. It is denied that Mr Hoare *"confirmed"* anything as regards phone hacking outside of the *News of the World*, although it is admitted that during an interview for an afternoon programme on Radio 4, Mr Hoare alleged that *"Phone tapping hadn't just existed on the News of the World: it was endemic in the whole industry."* It is denied, if it be alleged, that members of the Board or Legal Department knew Mr Hoare's comments to be true. At the time, Mr Coulson worked for the Prime Minister, and a Downing Street spokeswoman said that he totally and utterly denied the allegation. He said that he *"never condoned the use of phone-hacking and nor do I have any recollection of incidences where phone-hacking took place".*

113. The second sentence of paragraph 73 is admitted.

114. Paragraph 74 is noted. It is not admitted if or when Mr Hoare decided to become a whistle-blower in respect of Mr Coulson and the *News of the World*. It is admitted that there is a print-out of an apparent email chain between Mr Hoare and Ms Harris, which appears to have been printed from Mr Hoare's Yahoo email account, but which is dated 27 November 2017 (when Mr Hoare died in 2011). One of the emails contains the words quoted, along with an apparent complaint that Ms Harris's firm were not paying him for his evidence as they had promised. The subject line of this email is odd and does not seem to match the content of the email or the other emails to which it was apparently a response.

115. As to paragraph 75:

115.1 Mr Hoare worked for the *People* from January 1999 until he left in August 2001 to join the *News of the World*, where he worked for several years thereafter.

115.2 Mr Partington was legal adviser to the *People* at that time. Any communications he had with Mr Hoare or others at MGN about Mr Hoare's gathering of information for the *People* were for the purpose of legal advice and/or litigation, and so the subject of legal professional privilege.

115.3 Mr Partington only spoke to Mr Hoare very occasionally after he had left the *People.* Mr Partington recalls the following topics of conversation that he had with Mr Hoare but cannot now recall (i) when he had these conversations with Mr Hoare or (ii) whether these conversations took place at the same time or on two separate occasions:

115.3.1 One of these conversations involved Mr Hoare asking Mr Partington for advice by telephone. Mr Partington told Mr Hoare that he could not formally provide him with advice, but Mr Hoare persisted, and premised his request for advice on the basis that he was asking on behalf of a 'friend'. The conversation continued with Mr Hoare representing that he was asking on behalf of a 'friend' and Mr Partington replying on the basis that he suspected Mr Hoare was in fact asking for himself and there was no 'friend'. Mr Hoare explained that his 'friend' had a large amount of tobacco in Spain that Mr Hoare's 'friend' wanted to import into the UK, the clear implication being that Mr Hoare's 'friend' wanted to avoid paying any custom duties (or any other taxes) due as a consequence of the importation of tobacco. To the best of Mr Partington's recollection, after Mr Hoare had explained this to him, Mr Partington said to Mr Hoare, in a light-hearted manner, words to the effect of, *"you're just a criminal, Sean."*

115.3.2 In another conversation (which may or may not have taken place on the same telephone call as the above conversation), Mr Hoare asked Mr Partington for informal advice about a witness statement he said he was being pressured into signing, and about whether he could be paid for doing so. Mr Hoare explained that the statement was to do with the events that were taking place at 'News International' (which Mr Partington assumed related to the current stories relating to phone hacking at one of its titles).

115.3.3 It is denied that Mr Partington ever referred to Mr Hoare as a criminal in reference to his time at the *People*.

115.3.4 The inference sought by the Claimants is denied. It is more likely that he chose to speak to Mr Partington because he was one of the few lawyers Mr Hoare already knew who did not work for News International. Mr Hoare was clearly happy to talk to journalists and other solicitors such as Ms Harris about his activities.

116. As to paragraph 76:

116.1 There is another print-out of an apparent email chain between Mr Hoare and Mr Hanning, which appears to have been printed from Mr Hoare's Yahoo email account, but this time is dated 20 November 2017 (when Mr Hoare died in 2011). The title of the apparent email is *'Re: Ripples and Waves'*, making it clear that it was a reply. The page is marked '1 of 2' but all of the other emails from the chain have been blanked out (without any explanation or justification) so it is entirely unclear what Mr Hoare was apparently replying to.

116.2 The print-out contains the words quoted, save that the Claimants have inserted the word *"(Partington)"* which does not appear in the print-out of the apparent email at all.

116.3 As to the third sentence, this makes no allegation against the Board or Legal Department and its relevance is unclear. It is admitted that Mr Harpin and Mr

Hoare both worked for the *News of the World* at the time of the Sven-Goran Eriksson and Ulrika Jonsson story. If, which is not admitted, one of them had *"boasted … to a MGN journalist … that he had listened to Mr Eriksson's voicemail message"*, as alleged, that is not suggestive of any voicemail interception by MGN's journalist, let alone knowledge of such wrongdoing by the Board or Legal Department. Nor do the words of the apparent email that *"Piers knows the source too"* support that allegation.

(19) Operation Weeting

117. Paragraph 77 is admitted. Mr Weatherup pleaded guilty in 2013. Mr Edmondson and Mr Evans pleaded guilty in 2014. Mr Weatherup and Mr Edmondson's convictions related only to their activities at the *News of the World*.

118. The first sentence of paragraph 78 is admitted. This meeting was addressed by Mr Vickers in paragraph 37 of his statement to the Leveson Inquiry, as set out in paragraph 10.7.3(a) above.

119. The meeting referred to in 2011 was to discuss TM's public response to the phone hacking allegations which were emerging externally and to agree a response to enquiries being made of TM by the media. The three newspaper editors all confirmed that TM could say that their journalists work within the criminal law and the PCC Code. Otherwise the second sentence of paragraph 78 is denied.

120. As to paragraph 79, MGN does not contest the findings in the Gulati Judgment referred to, but, as the Judge has made clear, the findings of making wrong statements did not relate to members of the Board or Legal Department. The allegation of awareness by "it", ie TM, is unparticularised, impermissible and in any event irrelevant.

(20) David Montgomery

121. This section of the GPOC amounts to repetition of matters alleged earlier, and the pleading of what is at best second-hand hearsay evidence of unknown origin.

122. Save that it is admitted that Mr Montgomery appears to have written an (unsigned) letter referring to the matters mentioned on 14 November 2011, paragraph 80 is not admitted. Mr Montgomery's motivations are unknown and are irrelevant, however the letter suggests that Mr Montgomery's overarching concern was *"the commercial case for enhancing value through re-structure and consolidation at Trinity Mirror."* This letter was never sent to the Board or Legal Department; indeed, it is unknown whether it was ever sent to anyone. Its addressee was 'Guy', whose identity is unknown. MGN was unaware of the existence of this letter and the accompanying document until the Claimants suddenly disclosed it when proposing to adjourn the trial of John Leslie and Chantelle Houghton's claims in January 2018. The Claimants did not provide a Disclosure Statement and have since refused to identify who provided the documents to them.

123. As to paragraphs 80.1-6, what Mr Montgomery may have written in a letter to a third party in November 2011 is irrelevant.

124. As to paragraphs 80.1-4:

124.1 See generally the pleading above in respect of Mr Brown's employment proceedings.

124.2 Mr Montgomery wrote that Mr Brown's statement was drawn up by DLA Piper. This was false; DLA Piper acted against Mr Brown, for the Defendant. As this demonstrates, Mr Montgomery was willing to make false assertions about matters he did not know about and had not verified.

124.3 Mr Montgomery did not write that Ms Bailey or Mr Vickers had discussed the settlement of Mr Brown's claim, only that they were *"aware"* of it.

124.4 Mr Montgomery did not write what is alleged in paragraph 80.2 about Mr Partington. Anything Mr Montgomery may have communicated about the content of any legal advice to MGN about Mr Brown's employment claim would be the subject of legal professional privilege.

124.5 Mr Montgomery was correct to state that the Brown claim had not been discussed at Board level.

124.6 Mr Montgomery was in possession of a witness statement that he was not authorised to have in his possession, let alone disclose (or have the intention of disclosing) to 'Guy'. Further, he was not authorised to report on privileged matters to an external party.

124.7 Mr Partington retained his own copy of Mr Brown's witness statement (and other related papers) with his legal files. His file relating to Mr Brown was not stored differently to files retained for any other legal matter that Mr Partington had been involved in.

125. As to paragraph 80.5:

125.1 It is denied that the matters referred to at (a) and (b) are true. Ms Bailey did not make any such request and Sir Victor does not recall making any such request at any time.

125.2 It is unclear what basis, if any, Mr Montgomery had for writing about the matters at (a) and (b), or why he wrote about them in such incredibly vague terms. He does not purport to have witnessed anything himself.

125.3 In respect of (a), it is unclear that Mr Montgomery was intending to refer to Ms Bailey, or why, if he was, he did not name her as he had earlier in the same document. Nor did he name the editor or editors supposedly involved, state what response they gave, or even give an approximate time frame, for either (a) or (b).

125.4 Sir Victor had left MGN more than 5 years earlier, in May 2006.

125.5 The third sentence is irrelevant.

126. As to paragraph 80.6, the Claimants do not define the *"concerns"*. If this is intended to refer to a supposed *"cover-up by the Board"*, this is denied and is not supported by the matters referred to.

(21) Dan Evans' evidence

127. The Claimants' intention to rely on the evidence referred to in paragraphs 81 and 82 is noted. As to that evidence:

127.1 It is denied that the evidence supports the overall allegations concerning the Board or the Legal Department.

127.2 It is denied that all or any of the third, fourth and fifth paragraphs on page 3 of Mr Evans's witness statement dated 27 September 2013 contain any evidence that the Board or the Legal Department had the knowledge that the Claimants allege that they had or took the steps that the Claimants allege that they wrongfully took or did not take the steps that the Claimants allege that they wrongfully failed to take.

127.3 It is denied that all or any of the second, third and fourth paragraphs on page 7 of Mr Evans's witness statement dated 27 September 2013 contain any evidence that the Board or the Legal Department had the knowledge that the Claimants allege that they had or took the steps that the Claimants allege that they wrongfully took or did not take the steps that the Claimants allege that they wrongfully failed to take, save as follows:

127.3.1 If and in so far as the Claimants seek to contend that Mr Evans's assertion that the Legal Department had to be sure of the provenance and reliability of stories (which is said in reference to the *Sunday Mirror* paying for stories) comprises or includes an assertion that where stories were the result of phone hacking or other unlawful information gathering the Legal Department had to be informed of that fact, that is denied. That would be inconsistent with Mr Evans's evidence in the second paragraph of page 8.

127.3.2 Alternatively, if that is Mr Evans's contention, it is inaccurate:

(a) As the second paragraph of page 8 of his witness statement dated 27 September 2013 makes clear, Mr Evans did not reveal his activities to a lawyer. On the contrary, as set out above at paragraph 10.6.4, the phone hacking activities of Mr Evans and others were deliberately and systematically concealed from the Legal Department.

(b) In addition, not only did the Legal Department not need to know the source of stories but also it was the view of Mr Partington and Mr Mottram in particular that in-house lawyers ought not to know the identity of journalists' sources.

127.4 It is denied that all or any of the first and second paragraphs on page 8 of Mr Evans's witness statement dated 27 September 2013 contain any evidence that the Board or the Legal Department had the knowledge that the Claimants allege that they had or took the steps that the Claimants allege that they wrongfully took or did not take the steps that the Claimants allege that they wrongfully failed to take, save as follows:

127.4.1 Mr Evans's claims that (i) there were 2 or 3 lawyers responsible for editorial output for the *Sunday Mirror*; and (ii) they reviewed every story are denied, as they are incorrect. At the time Mr Evans was working at the *Sunday Mirror*, there were three editorial lawyers in MGN's Legal Department. Each had responsibility for one of MGN's titles, although they would occasionally provide legal advice in relation to each other's titles (for example if one of the team was on holiday or in a meeting). There were also external 'night lawyers' who occasionally worked on the Sunday titles during normal working hours to cover the absence of the regular lawyer. The *Sunday Mirror* lawyer would not advise or even *"cast an eye over"* every article prior to publication. It was a decision for journalists and

editors whether to seek legal advice on any particular article and the editors had the final decision as to whether to publish (not the Legal Department).

127.4.2 Mr Partington has no recollection of the incident involving him and Nick Buckley that Mr Evans alleges to have taken place *"after [Mr Evans] had been appointed to staff in 2003"*. However, Mr Partington accepts that this could have happened. Although Mr Partington only worked on Saturdays (doing pre-publication work on the *Sunday Mirror*) occasionally, he sometimes did so. When Mr Partington did this, he would work near the news desk on the editorial floor, and accordingly if he was dealing with an outside lawyer in the previous week he would ask that lawyer to call him on the news desk. Others at the newspaper would also know to contact the Saturday lawyer, and direct any queries to them, via the news desk. Accordingly, Mr Partington may have said to Mr Buckley *"Nick, have I got any messages this morning"* because Mr Partington wanted to know whether any outside lawyer, or anyone else, had been trying to reach him. Mr Partington accepts that an alternative possibility is that he was making a sarcastic comment, but, if so, this would have been based on the reports of phone hacking which were by that time in the public domain and the suggestion that Sunday newspapers were more likely to be engaged in this unlawful activity. It is denied that Mr Partington was referring to phone hacking activities at MGN's newspapers, not least because he had no knowledge of that at that time.

127.4.3 Mr Evans's interpretation of Mr Partington's alleged enquiry of Nick Buckley as to whether Mr Partington had *"got any messages"* as a facetious implication that Mr Buckley may have been listening to Mr Partington's voicemail messages constitutes an entirely inadequate evidential basis for the allegation that Mr Partington was aware of unlawful information gathering activities at MGN's newspapers and was guilty of deliberately taking steps to conceal those activities both at the time and subsequently or was guilty of providing false statements to the public by denying the use of those activities or had knowledge upon which he failed to act so as to prevent those activities from being carried out at the time or so as to reduce their habitual and widespread use.

127.5 It is denied that any or all of the last paragraph on page 11 or page 12 or the first and second paragraphs of page 13 of Mr Evans's witness statement dated 27 September 2013 contain any evidence that the Board or the Legal Department had the knowledge that the Claimants allege that they had or took the steps that the Claimants allege that they wrongfully took or did not take the steps that the Claimants allege that they wrongfully failed to take. Without limiting the generality of that denial:

127.5.1 Mr Evans's entirely general assertion that newspapers were subject to *"boardroom pressure to be successful and profitable"* constitutes an entirely inadequate evidential basis for the allegation that the Board and the Legal Department were aware of unlawful information gathering activities at MGN's newspapers and were guilty of deliberately taking steps to conceal those activities both at the time and subsequently or were guilty of providing false statements to the public by denying the use of those activities or had knowledge upon which they failed to act so as to prevent those activities from being carried out at the time or so as to reduce their habitual and widespread use.

127.5.2 Mr Evans is wrong in his belief that Ellis Thomas was the managing director of MGN. In any event, Mr Evans does not allege that any mention was made of unlawful information gathering activities in the presence or hearing of Ellis Thomas (or, for that matter, Ellis Watson, who had the title of managing director, but who was not at any time a member of the Board or indeed at the think tank in Barcelona).

127.6 It is denied that any or all of page 29 or page 30 or the first four new paragraphs on page 31 of Mr Evans's witness statement dated 27 September 2013, or paragraphs 24 to 29 of Mr Evans's witness statement dated 9 December 2014 relied upon at the Gulati trial, contain any evidence that the Board or the Legal Department had the knowledge that the Claimants allege that they had or took the steps that the Claimant alleges that they wrongfully took or did not take the steps that the Claimants allege that they wrongfully failed to take. On the contrary, paragraphs 24 to 29 of Mr Evans's witness statement dated 9 December 2014 emphasise the steps Mr Evans and others took to conceal their activities.

(22) Graham Johnson

128. The Claimants' intention to rely upon paragraphs 13 to 16 of the witness statement of Graham Johnson dated 16 June 2017, served in the actions brought by Eddie Jordan, Michael Ambrose, Rupert Lowe and Stephen Rider, is noted.

129. It is denied that Mr Johnson's evidence is reliable. At his sentencing hearing on 17 December 2014, Judge Brian Barker QC, Recorder of London, at the Central Criminal Court, gave Mr Johnson a suspended custodial sentence on the basis that he had engaged in voicemail interception for only *"a few days"* telling him that *"It is to your credit that you ceased [hacking] fairly quickly…"* His counsel had told the Court, as Mr Johnson had previously told police, that he had intercepted voicemails for only *"three to seven days in the autumn of 2001"*, and that he had *"felt it was wrong and he stopped it"*. In fact, as the Honourable Mr Justice Mann ruled in the Gulati Judgment, Mr Johnson was one of the most prolific phone hackers across MGN's newspapers, and one of 5 journalists who made 40% of all of the calls to the Orange platform number over several years. His case before the Central Criminal Court was false and no weight should be placed on his evidence in the present claims.

130. It is in any event denied that paragraphs 13 to 16 of Mr Johnson's witness statement contain any evidence that the Board or the Legal Department had the knowledge that the Claimants allege that they had or took the steps that the Claimants allege that they wrongfully took or did not take the steps that the Claimants allege that they wrongfully failed to take, save as follows:

130.1 Paragraph 13 of the witness statement of Mr Johnson is pleaded to below.

130.2 Paragraph 15 of the witness statement of Mr Johnson contains an allegation that John Honeywell, described as the Managing Editor, *"was also fully aware of the 'dark arts' and PIs because he signed-off the massive bills and often queried them and cost-cutted or amended usage"*. Mr Honeywell's position was Group Editorial Manager, a position below rather than above the Editors. On occasions he provided secondary authorisation for payments to third parties, including some of those alleged in these proceedings to be private investigators. MGN is otherwise unable to admit or deny these allegations because John Honeywell died on or shortly before 17 October 2017 and MGN did not obtain his evidence on these matters before he died.

130.3 Paragraph 16 of the witness statement of Graham Johnson contains allegations concerning John Honeywell and the Legal Department, namely that *"his job was to liaise with the legal department on complaints and corporate matters"* and that *"Those complaints were often resolved using evidence from bills"* and that *"He was the direct link between news, PIs and legal"*. These allegations are denied. Without limiting the generality of that denial:

130.3.1 Mr Vickers, Mr Partington and Mr Mottram had limited contact with John Honeywell, and it is denied that it was his job to liaise with the Legal Department on complaints or 'corporate matters'. Mr Partington and Mr Mottram dealt with the editors on legal matters, not John Honeywell.

130.3.2 Complaints were not *"often resolved using evidence from bills"* (whatever this may mean).

130.3.3 John Honeywell was not the, or a, direct link between news, PIs and the Legal Department.

131. As to the matters raised in paragraph 13 of Mr Johnson's statement, and paragraph 84:

131.1 No date is given in respect of the events alleged.

131.2 Mr Mottram has no recollection of Mr Johnson showing him phone bills which showed that two people had been speaking to one another. However, he accepts that this could have happened. If Mr Johnson had told Mr Mottram that the alleged phone bills had been obtained by deception (or by any unlawful means) for the purpose of seeking legal advice then it is likely Mr Mottram would have given Mr Johnson advice about that. Otherwise, if Mr Johnson had shown Mr Mottram phone bills without asking for advice Mr Mottram may not have thought anything.

131.3 It is denied that the alleged occasion (even if it happened) fixed Mr Mottram with knowledge of the habitual or widespread use of unlawful information gathering activities.

131.4 The Claimants' characterisation of Mr Johnson's evidence in paragraph 84 is incorrect in that his statement:

131.4.1 Does not state that the article related to Ms Diamond.

131.4.2 Does not state that he showed Mr Mottram the bills *"to confirm his source"*; although the statement alleges that the phone bills referred to in that paragraph had been blagged by Mr Stafford, it does not allege that Mr Johnson informed Mr Mottram of this fact.

131.5 Mr Johnson's witness statement also makes clear, at paragraph 14, that he concealed evidence of his unlawful information gathering even from his own Editor, who disapproved of such activity.

131.6 Further, for the reasons set out in paragraph 129 above, it is denied that Mr Johnson's evidence at paragraph 13 of his witness statement is reliable.

(23) Legal Department practice

132. As to paragraph 85:

132.1 The allegation in respect of *"the Editors"* is irrelevant to the claim now being made and MGN therefore declines to plead to it.

132.2 The allegation in respect of *"the Legal Department"* is denied. Journalists have professional and ethical duties, recognised in law, to maintain the confidentiality of sources, and it was the view of Mr Partington and Mr Mottram in particular that in-house lawyers ought not to know the identity of journalists' sources. For the avoidance of doubt, any communications between journalists and members of the Legal Department for the purposes of legal advice and/or actual or anticipated litigation is the subject of legal professional privilege.

132.3 As to the matter relied upon in support of this allegation:

132.3.1 The extract referred to from the witness statement of James Hipwell, who worked for only one of MGN's newspapers (the *Daily Mirror*) and only from April 1998 until February 2000, is inadmissible opinion evidence and speculation about what would be privileged communications.

132.3.2 The allegation now made in respect of the Legal Department was not part of the case of any of the Claimants at the Gulati trial. This paragraph of Mr Hipwell's witness statement was not relied upon for the purpose for which the Claimants now seek to rely upon it. There was therefore no need for this part of his evidence to be challenged. No findings were made in respect of it in the Gulati Judgment.

133. Paragraphs 86 to 88 repeat allegations and speculation from earlier in the GPOC, which have already been responded to above.

134. As to paragraph 89:

134.1 It is denied that Mr Partington reported all legal complaints, still less all potential risks, of which he became aware to Mr Vickers. Where communications on such matters did take place they were for the purposes of the seeking or giving of legal advice and/or anticipated or actual litigation and so the subject of legal professional privilege.

134.2 The position as to Mr Brown's May 2007 witness statement in his Employment Tribunal claim is set out above.

134.3 The words quoted from Mr Grigson in the short extracts from the transcript of the recorded conversation in the post-AGM reception in paragraph 89(a) (which it is denied were said in front of *"a circle of journalists and others"*) were not Mr Grigson confirming Mr Johnson's allegations, but rather acknowledging what Mr Johnson was saying to him, and the stages of Mr Johnson's argument. Further, Mr Johnson's allegation that *"[Mr Partington] was told in 2006 that phone hacking was going on in the employment tribunal involving David Brown"* could not, even on the Claimants' case, be correct, given that Mr Brown's witness statement was not served until May 2007.

134.4 Mr Grigson, who did not join TM until 2012, had no knowledge whatsoever of what Mr Partington had done in respect of David Brown's allegations. He was in no position to confirm or admit Mr Johnson's allegations, and did not intend to do so.

134.5 The meaning of the words quoted from Mr Grigson in the transcript of the recorded conversation in the post-AGM reception in paragraph 89(b) is entirely unclear. As Mr Grigson confirmed in his witness statement dated 14 January 2019, he has never seen any evidence that any members of the Legal Department were aware of voicemail interception at the time that it was occurring.

135. It is denied that paragraph 90 has any relevance to the matters alleged in the GPOC. Without prejudice to that contention, it is admitted that Mr Grigson stated the quoted words at the previous year's AGM, in 2014, save for the words *"of phone hacking]"* (sic) which the Claimants have inserted. It is denied that this related to *"phone tracking"*, as alleged, which is not understood and is presumably a typographical error in the Claimants' pleading. Otherwise the paragraph is not admitted.

Conclusion

136. As to paragraph 91:

136.1 The allegation about expenditure by MGN is introduced without explanation in this 'Conclusion' paragraph, is vague and wholly unparticularised, and does not support the allegations at the end of the paragraph. It is the Claimants' own case, pleaded in paragraph 98 of the GPOC, that Mr Vickers only discovered the level of expenditure on private investigators in 2011. MGN does not otherwise plead to the allegation.

136.2 It is denied that members of the Legal Department, including Mr Partington and Mr Mottram, or members of the Board, including Paul Vickers and Sly Bailey, were aware of habitual and widespread use of the unlawful information gathering activities at the time they were taking place, as set out above.

136.3 As to the allegation of taking no steps to prevent the activities continuing:

136.3.1 This is premised on having knowledge of their habitual and widespread use, which is denied.

136.3.2 In so far as this relates to the Legal Department, paragraph 5.4 above is repeated.

136.3.3 It is in any event denied that no such steps were taken. On the contrary, as set out above, members of the Board and Legal Department took serious and repeated steps to stop the use of unlawful information gathering techniques by journalists (see for example paragraphs 10.7.3(a), 10.7.4(c)-(d), 95.3, 95.4 and 100.5).

TM/MGN's alleged "lies and concealment"

137. This section is largely repetitive of matters alleged earlier in the GPOC, as to which MGN has pleaded above.

138. As to paragraph 92(b) (and paragraph 94 which repeats the same point), it is denied as a matter of policy that the mutually agreed settlement of legal claims (or actual or threatened PCC complaints) is a matter the Claimants can rely upon. Parties are encouraged to settle claims before trial, and the vast majority of claims and complaints do so settle. It is in any event denied that, if any such claim had reached trial, the journalists would have revealed the unlawful information gathering techniques complained of.

139. Paragraph 92(d) (and paragraph 97 which repeats the same point) is improperly vague for such a serious allegation. It is denied. MGN has set out above how no member of the Board lied to or deliberately misled the Leveson Inquiry. MGN set this out in the Defences to the first formulation of the Claimants' Board knowledge plea in John Leslie and Chantelle Houghton's claims in December 2017, yet the Claimants have never identified any part of the evidence they contend amounts to lying or deliberately misleading. The allegation should be particularised or withdrawn. As to the evidence of editorial staff, the relevant findings have already been made in the Gulati Judgment.

140. Paragraph 92(e) is vague and unparticularised as to the *"press or market statements"* put out by the Board; and is in any event premised upon knowledge which is denied as above.

141. As to paragraph 92(f) and 100:

141.1 It is admitted that over time documents have been deleted, destroyed or lost. This is true of almost every business; indeed, it is contrary to generally accepted practice to retain documents indefinitely. Indeed, contrary to the premise of the Claimants' allegation, MGN has retained and disclosed during the course of the MNHL a huge volume of material relevant to the claims brought against it, which prior to the proceedings it was under no duty to preserve including:

141.1.1 An enormous volume of call data from MGN's landline phones and MGN issued mobile phones from 2002 (the precise quantity of call records that have been disclosed to the Claimants throughout the MNHL is unknown but they are voluminous) as set out further in subparagraph 141.4 below.

141.1.2 Emails and electronic documents extracted from backup tapes onto the Clearwell Database (of which there are currently almost 2.7 million emails and over 3 million documents in total) and from which relevant documents are disclosed, as set out further in subparagraph 141.3.1 below.

141.1.3 Accounts Payable Invoices to third party suppliers, approximately 19,400 of which have already been disclosed to the Claimants, set out further in subparagraph 141.5 below.

141.1.4 Contribution Request Payment forms to third party contributors, approximately 2,800 of which have already been disclosed to the Claimants, set out further in subparagraph 141.5 below.

141.1.5 Copies of articles published in MGN's titles throughout the Relevant Period, tens of thousands (if not hundreds of thousands) have been disclosed to Claimants.

141.1.6 Further documents that are set out in Disclosure Lists and Statements (including EDQs) that have been served throughout the MNHL.

141.2 Further, as Mr Evans stated in evidence and as the Court has ruled, the practice of voicemail interception was carried out in such a manner that it was designed not to leave documentary traces, particularly on email. The availability of particular emails or documents, if they ever existed, is therefore of far less

significance than it might otherwise be. If anything, therefore, any missing emails are generally more problematic for MGN in seeking to establish the lawful genesis of articles, than they might be for Claimants.

141.3 As to paragraph 100(a):

141.3.1 MGN took a 'snapshot' of its entire system in August 2011 for the Leveson Inquiry ("the 2011 Back Up"). This captured all data which existed on its IT server infrastructure as at that date. This data was saved to 57 back up tapes which were processed and restored. The total amount of data on these tapes is approximately 12.6 terabytes ("TB") (or 12,600 gigabytes ("GB")). Further back-up tapes, located on 26 February 2014, which appear to come from the end of 2004 and beginning of 2005, have also been restored. There are currently a total of 2,757,723 emails on the Clearwell database. It is denied that this is a *"striking paucity"* as alleged.

141.3.2 MGN's email system generally allowed a maximum capacity of 150MB per user. In order to keep under this limit users would have to regularly delete emails. This would undoubtedly have occurred prior to the system back-ups which have been restored from 2004/05 and 2011. Nonetheless, the Clearwell system holds around 2,000 emails to or from the three named individuals during the stated period.

141.3.3 It is denied that there is any real prospect that any unlawful conduct would have been evidenced only by emails existing only in the inboxes of the three named individuals.

141.3.4 The vast majority of emails to or from Mr Partington are likely to have been the subject of legal professional privilege and so not disclosable in any event.

141.3.5 The period referred to is within the period in respect of which the Court had already made extensive findings, in the Gulati Judgment.

141.4 As to paragraph 100(b), it is admitted and averred that MGN has retained, and disclosed as relevant, call data going as far back as June 2002. It is remarkable that MGN has retained telephone call data which dates back 18 years, to when MGN first introduced Oak Telecom's 'Advance 2002' call logging technology to its systems. If, as the Claimants seem to imply, MGN was intent on destroying evidence of voicemail interception, this data – and the data relating to mobile phone usage, also going back to 2002 - would not have been retained.

141.5 As to paragraph 100(c):

141.5.1 It is admitted and averred that MGN has retained payment records going back some 22 years, including payment records relating to private investigators. If MGN was intent on destroying evidence of its unlawful activities these records would not have been retained and disclosed.

141.5.2 MGN ceased making copies of invoices on microfiche in May 1998 when it began electronically scanning them instead. Given the passage of time it is not known what happened to the microfiche copies, but the tapes on which they were stored would have been taking up space for no apparent purpose, and would only be accessible via increasingly

antiquated technology. It is denied, if it be alleged, that it was unreasonable not to keep such copies.

141.5.3 MGN has kept Contributions Requests forms from 1996 although there were minor IT malfunctions during an archiving process which appear to have led to the loss of a small number of such forms from 1996 to 1998.

141.6 As to paragraph 100(d), it is denied that there has been any loss of backups other than in the ordinary course of business. From 2005 MGN's backup tapes, on which daily backups were made, operated on a rolling 6-month basis, each fresh backup overwriting the oldest data, as is standard business practice. (When the 2011 Back Up was taken that data was of course kept separate and not overwritten.) As referred to above, MGN has not only kept and restored the 2011 Back Up for these proceedings but in fact restored additional 2004/05 backup tapes that were discovered in 2014.

141.7 The matters referred to in paragraph 100(e) are admitted but it is denied, if it be alleged, that it was unreasonable of MGN to switch to the Mac platform in 2010 and to reuse, or dispose of, what were otherwise incompatible old hard drives for which it had no purpose. As the Claimants' solicitor Mr Heath said in his witness statement dated 13 March 2014, the Claimants' e-disclosure expert had told him that in his experience *"companies usually dispose of old hard drives rather than keeping them and using storage space that could be used for better purposes."*

141.8 As to paragraph 100(f), the hard drives referred to were retained, even where they had failed in use, and kept in heavy duty containers so that they could be safely handled. They were protected from the elements by being kept in a secure, dry storage facility. Their contents were safeguarded. There has been a very high success rate of data acquisition from the drives, above what would be expected for hard drives that are as old as these even if they had been stored in ideal conditions. The hard drives are being searched and all disclosable material will be disclosed; although the vast majority have been found to be entirely irrelevant to these claims. The inference sought in the final sentence is therefore denied.

141.9 It is denied that any of the matters set out in paragraphs 100(a) to (f) have or ought reasonably to have caused any Claimant any distress, or are a matter for which aggravated damages should be awarded.

142. As to paragraph 92(g), while MGN may not always have consented to the Claimants' increasingly broad disclosure requests, MGN has given the generic disclosure as ordered and it is denied that this is a matter that advances the Claimants' case. The seven private investigators that were the subject of admissions in 2014 were identified based on the Claimants' pleading and Mr Evans's evidence. The payments disclosed to the Leveson Inquiry were disclosed on a quite different basis, as set out above. The Claimants, and particularly their counsel, were well aware that TM had made disclosures to the Leveson Inquiry relating to payments to possible private investigators, yet did not seek any disclosure in this regard until 2019.

143. The Claimants' speculation as to motive in paragraph 96 is noted. It is denied that any of the members of the Board or Legal Department acted from these motives. In fact, as set out above, the members of the Board and Legal Department did not have the alleged knowledge, and took serious and repeated steps to stop journalists using unlawful information gathering techniques.

144. As to paragraph 98:

144.1 It is admitted and averred that Mr Vickers did not know prior to his involvement in TM's Review of Editorial Controls and Procedures in 2011 that MGN's journalists had in the past paid large sums to private investigators or other agents. It is denied that he discovered this in carrying out the Review; he only discovered this from the documents relating to potential private investigators that TM disclosed to the Leveson Inquiry.

144.2 The Review related to various aspects of practice at MGN's various national and regional newspapers. In so far as it considered possible wrongdoing, 44 senior editorial staff each gave Mr Vickers a signed statement that neither they nor their staff had ever intercepted voicemails or instructed anyone else to do so, had not made any payments to serving police officers, nor illegally accessed the police national computer system or the criminal records bureau.

144.3 The Review also noted in this connection that it was a requirement of each journalist's contract of employment that they work within the PCC Code.

144.4 It is denied that the Review made any discovery or findings of *"wrongdoing"*, or the unlawful activity complained of in the MNHL, and so denied that, even if the Review had somehow been 'concealed', this is of any relevance to these claims.

144.5 It is denied that this Review or its findings were *"concealed"*. This was an internal review, the results of which were not intended to be widely disclosed. Moreover, the results of the Review were in fact disclosed to the Leveson Inquiry (as tab 2 of the bundle of additional information provided by TM, as referred to in Mr Vickers' evidence to the Inquiry). Mr Vickers made specific reference to the Review, and described various findings and recommendations that it made, in Part 3 of his witness statement to the Inquiry.

144.6 It is denied that the Review found *"that there was inadequate controls over the sourcing of stories from external sources"* (whatever that may mean). The Review recommended that editorial staff be reminded of their existing responsibilities, including to understand provenance, and that a training plan be implemented. It is denied that this constituted a change in company policy, let alone one so significant that MGN ought to have announced it publicly, or that it amounts to any relevant 'concealment' that MGN did not do so. In any event, Mr Vickers referred to these recommendations, among others, when referring to the Review in paragraph 63 of his witness statement to the Inquiry.

145. As to paragraph 99, the relevant findings have been made in the Gulati Judgment.

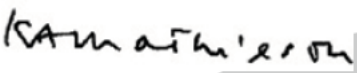
146. As to paragraph 101, the admissions of liability and other matters referred to all pre-date the Gulati trial, well before any of the current Claimants issued their claims (the earliest by some distance being John Leslie, who issued his claim on 6 March 2015, followed by Chantelle Houghton, who issued her claim on 11 November 2016). MGN has given generic disclosure as ordered. It is denied that the historic interlocutory matters alleged are of any relevance to the current Claimants or are capable of aggravating their damage.

RICHARD SPEARMAN QC

RICHARD MUNDEN

STATEMENT OF TRUTH

The Defendant believes that the facts stated in this defence are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed 

Name Keith Mathieson

Position Partner, RPC

Date 12 June 2020

Annex A

Non-Executive Directors of Trinity Mirror
1 October 1998 to 31 December 2011

Name	Appointed	Resigned
Desmond Roger Wingate Harrison	25/04/1991	08/05/2003
David Ellis Marlow	01/07/1992	05/05/2005
Penelope Lesley Hughes	06/09/1999	05/05/2005
Maurice Victor Blank	14/09/1999	04/05/2006
Angus McFarlane McLeod Grossart	06/09/1999	10/05/2007
David Peter John Ross	24/02/2004	10/05/2007
Peter Gibbs Birch	18/03/1998	10/05/2007
Laura Katharine Wade-Gery	04/08/2006	10/05/2012
Ian Gibson	04/05/2006	28/05/2012
Kathleen Anne O'Donovan	11/05/2007	16/05/2013
Gary Andrew Hoffman	03/03/2005	13/03/2014
Jane Elizabeth Stuart Lighting	02/01/2008	27/12/2015