

1. This Witness Statement is filed on behalf of the Claimants
2. Callum Galbraith
3. 33rd Witness Statement
4. Signed 30th November 2021
5. Exhibit "CG35" and Confidential Exhibit "CG35A"

Claim No: As listed in the Group Register of Costs Sharing Claims and the Group Register of New Costs Sharing Claims

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST

B E T W E E N:

VARIOUS CLAIMANTS

Claimants

-and-

NEWS GROUP NEWSPAPERS LIMITED

Defendant

THIRTY-THIRD WITNESS STATEMENT OF CALLUM DAVID GALBRAITH

I, **CALLUM DAVID GALBRAITH**, of Hamlins LLP, Roxburghe House, 273/287 Regent Street, London W1B 2AD **WILL SAY** as follows:

1. I make this Witness Statement from matters within my own knowledge or belief, save where the contrary appears, in which case those matters are true to the best of my knowledge and the source of information appears. There is now produced and shown to me marked Exhibit "CG35", and Confidential Exhibit "CG35A", two paginated bundles of true copy documents. All

references to documents in this statement are to Exhibit “CG35” or “CG35A” unless otherwise stated.

2. I make this statement in response to NGN’s application notice issued on 12 November 2021 (“NGN’s Application”) and the thirty-eighth witness statement of Maxine Mossman dated 12 November 2021 (“Mossman 38”).
3. NGN seeks an order that there be a final cut-off date in the MTVIL of 29.07.2022, with the effect that any individuals who wish to bring claims have to issue and serve a claim form by that date, otherwise those claims will not fall within MTVIL. NGN accepts, as it necessarily must, that such an order would not mean that claims brought after that date which arise from the same or similar activities would be precluded (see paragraph 12 of Mossman 38 for example). However, NGN states that those Claimants would not be able to rely upon the procedural and costs-related advantages afforded by the orders which exist within the MTVIL.
4. It is important to note at the outset that if NGN’s Application is successful, the effect of the order sought they will argue should extend beyond simply denying future claimants purely “procedural and costs-related” advantages, and, as they will contend, to prevent any reliance on the generic case. If it did, then that would have a number of consequences. Of course, this would mean that if a trial does not determine generic issues relevant to an individual’s claim, such matters would need to be fully pleaded and determined in that individual case, i.e. issues which in the MTVIL are generic issues would need to be pleaded and then determined in every such individual case.
5. Again, if NGN are successful in what they contend for, then any claimant who issued a claim after the cut-off date would not automatically be able to rely upon the generic pleadings or the generic disclosure in support of their claim as they are currently able to do. This would not only be an extreme consequence (if accepted) but it would also result in the costs of any such individual being far more substantial than usual, with the potential necessity of having to apply for specific disclosure and for previously generic pleadings to be re-pleaded as part of individual claims. Further, generic witness statements would need to be prepared once again and those witnesses could need to give evidence at multiple trials.
6. These are just some of the wide-ranging implications of the order which NGN seeks. In this context, it is telling that NGN does not explain how the order would decrease costs or lead to fewer hearings after MTVIL and there is no support for this at all in the evidence which NGN

relies upon in support of this application.

7. Given its far-reaching nature and the important consequences it will have on a substantial number of potential victims of this illegal or unlawful activity by a national media organisation, it is obviously important for NGN's application to be put into proper context. In particular, it is vital that the Court understands that there are a very large number of such victims who will still be unaware of the claims they are entitled to bring if they wish to do so.

8. For the avoidance of doubt, the Claimants accept that the managed litigation cannot go on indefinitely. However, if the Court is minded to adopt NGN's approach of imposing a final Cut-Off Date at this stage, as opposed to letting the claims progress in rounds of managed litigation until they reach a natural tailing off, then we respectfully submit that they should be case managed to a fair and reasonable conclusion, fair and reasonable for potential claimants when judged against the importance of their claims, and the public interest in this litigation (as the previous Managing Judge repeatedly recognised), and not just for NGN. Critically, this would include providing directions that are necessary so as to fairly ensure (i) that potential Claimants can bring their claims (having first acquired knowledge of them) and (ii) that the Court is not overburdened in the future by a large number of individual claims which are much more difficult to manage because the managed litigation has been dismantled and there is no opportunity for appropriate findings to be made on a generic basis which will assist in the resolution of these individual claims.

9. In addition to considering issues relating to the Court's resources, the Court will also need to have regard for the position of potential Claimants in circumstances where these claims emanate from NGN's wholesale unlawful activity ("UIG") over the course of 15 years and, equally importantly, a deliberate and concerted effort by NGN (including those in the most senior positions) to conceal these activities from Claimants both at the time and since that date. It will not be lost on the Court that NGN's own financial interests, which are relied upon heavily in support of the application, lie very heavily in preventing as many claims being brought as possible. In the circumstances, the Claimants will contend that such a consideration should carry very limited weight indeed.

Likely number of potential claimants

10. As NGN's evidence states, more than 1,000 claims have been made to date. In this regard, 64 claims were issued in Tranche 1; 1,230 in Tranche 2, 91 in Tranche 3 and 184 in Tranche 4

(so far). There are currently 22 T4 claims on the register (the stay having been lifted in September 2021). Having liaised with the Claimant group, I am aware that there are 43 extant claims (i.e. outstanding letters of claim) and 93 further claims in the pipeline (of those I understand up to 25 claimants intend to send letters of claim before the CMC), i.e. a total of 136 claims.

11. One important point to note is that rather than this litigation slowing down in some way, there are likely to be more claims in this tranche than in Tranche 2 by a significant margin. As Mossman 38 suggests, a number of claims arise from associates of Claimants. But the significance of that is that these types of claimants only become aware of evidence in support of their claims through them being approached to be potential witnesses.
12. I will explain below, through some worked examples how such claims arise. Some of them initially began through the Metropolitan Police Service notifying claimants whose details obviously in the notes of the private investigator, Glenn Mulcaire, and, subsequently, in the Palm Pilot of Dan Evans. Even there, it is important to remember that those notifications principally related to the News and Features Desks of the NOTW but not other desks of that newspaper or The Sun (because there was no formal notification process in regard to The Sun).
13. Further explanation about the nature and extent of even this (rather limited) notification process is necessary. For example, Mark Thomson, a partner at Thomson Heath (formerly Atkins Thomson and the Lead Solicitor in the MTVIL between 2011 and 2014), has informed me of numerous conversations he had with Metropolitan Police officers during the course of Operation Weeting in respect of the MPS' process of notifying those potential victims. I set out a summary of Mr Thomson's knowledge in respect of the MPS' notification process below, which I believe to be true:
 - (a) The MPS first started contacting potential victims of unlawful information gathering at the NOTW in around February 2011 as a result of the MPS obtaining Glenn Mulcaire's notebook (the Mulcaire Notes");
 - (b) The MPS' first priority was to contact individuals whose details appeared in the Mulcaire Notes and who were then bringing claims against NGN in order to ensure that those victims had seen the material relating to them. The MPS would sometimes take statements from these victims and some of them became prosecution witnesses;

- (c) The MPS' second priority was to contact individuals whose PIN numbers or Direct Dial Numbers ("DDNs") featured in the Mulcaire Notes and there was therefore clear evidence that the individual was a victim of unlawful information gathering at NOTW;
- (d) However, despite the MPS' efforts, it was not possible for them to contact all of the individuals listed in the Mulcaire Notes. Just by way of example, if only a potential victim's first name was listed (e.g. "John") it may not have been possible to identify the individual. Similarly, if a potential victim had changed their phone number from the one listed in the Mulcaire Notes it was often not possible to locate and notify them.
- (e) Further, identification and therefore notification of potential victims by the MPS relied very heavily on the cooperation of the initial victim identified. For example, although it may have been possible to identify and contact one victim from the Mulcaire Notes, once that individual was shown the relevant pages of the Mulcaire Notes, they would be asked if they could help identify any other individuals mentioned on those pages on the assumption that they may have been associated with the initial victim. Many victims were not willing to identify other potential victims, where for example they were concerned about the implications or results of these newspapers intruding into their private lives and what they obtained both for themselves and for those with whom they were associated.
- (f) Only a small number of the victims who were notified by the MPS through this process did not want to take legal action.

14. The result of all this, and his conversations with the MPS in his position as Lead Solicitor, is that Mr Thomson firmly believes that there are a substantial number of individuals who appear in the Mulcaire Notes who were not notified by the MPS due to the understandable limitations of their notification process as set out above. By way of confirmation of that belief, Mr Thomson has experienced this in respect of claimants that he acted for in their claims against NGN. For example:

- (a) **Kelly Hoppen** – during 2009 to 2010, the MPS told Kelly Hoppen that her name did not appear in Mr Mulcaire's notes, which was incorrect. This was later

corrected in February 2011 when DAC Sue Akers met Ms Hoppen and Mr Thomson and explained that her name did in fact feature in the notes.

- (b) **Richard Fleeshman** – Mr Fleeshman was not notified by the MPS that his details appeared in the Mulcaire Notes. During the course of Mr Fleeshman's claim against NGN, Mr Thomson contacted the MPS to enquire whether there was disclosure relating to his client as part of Operation Weeting. The MPS subsequently disclosed a page from the Mulcaire Notes containing Mr Fleeshman's name which Mr Fleeshman later relied on in his claim against NGN; and
- (c) **Dane Bowers** – Mr Thomson asked the MPS several times whether there was any disclosure relating to Mr Bowers as part of Operation Weeting but was told that there was none. Mr Thomson later discovered from an index of the Mulcaire notes recently obtained, but after Mr Bowers had agreed to settle his claim against NGN, that there was in fact a reference to Mr Bowers in the Mulcaire Notes.

15. In addition, I have been informed of further instances where the MPS has informed solicitors acting for Claimants that there is no MPS disclosure relating to their clients. For example:

- (a) **Tracy Shaw** – Taylor Hampton, acting for Ms Shaw, were originally informed, after making enquiries in August 2017, that Ms Shaw could not be found in the Operation Weeting materials. The MPS subsequently provided Operation Weeting disclosure relating to Ms Shaw on 20 February 2018 after she had commenced her claim;
- (b) **Jonathan Wrather** – Taylor Hampton, acting for Mr Wrather, discovered through a claim for another client that Mr Wrather appeared in additional entries in the Mulcaire Notes which did not form part of the disclosure received from the MPS in Mr Wrather's claim;
- (c) **Rosemary Lucy** – Hamlins LLP, acting for Ms Lucy, were aware that Ms Lucy featured in the Mulcaire Notes having acted for Ms Lucy's son, Gary. However, Hamlins was informed that there was no MPS disclosure relating to Ms Lucy and it was only after asking the MPS to re-check that the Mulcaire Notes were disclosed;

- (d) **Rita Tomlinson** – Hamblins, acting for Ms Tomlinson, were aware that Ms Tomlinson featured in the Mulcaire Notes after acting for Ms Tomlinson's husband, Ricky. However, Hamblins were informed that there was no MPS disclosure relating to Ms Tomlinson and it was only after asking the MPS to re-check that the Mulcaire Notes disclosed; and
- (e) **Shaun Davies** – McAlinneys, acting for Mr Davies wrote to MPS in 2018 to enquire whether Mr Davies' details appeared in the Mulcaire Notes. Mr Davies is the former partner of the comedian and entertainer, Mr Michael Barrymore. In 2018 MPS informed Mr Davies that his details did not appear in Mr Mulcaire's notes. Another associate of Mr Barrymore's obtained disclosure and noted that an old telephone number for Mr Davies appeared in the notes. Mr Davies then renewed his request to the MPS and it was discovered that his name (incorrectly spelt) as 'Shawn Davis' appeared in the notes.

16. It is not surprising therefore that the Claimants firmly believe that even in relation to those victims referred to in the Mulcaire Notes (ie. victims of the News of the World news department between 2001 and 2006, when he was arrested and his notebooks seized by the MPS) there are a substantial number of victims who were not notified by the MPS.
17. In this context it is important to bear in mind what DS Sue Akers, who was responsible for Operation Weeting until the end of 2012, said in her first witness statement to the Leveson Inquiry in 2011. She stated that there were 5,795 potential victims who featured in the seized notes of Glenn Mulcaire (i.e. those whose surname and initial/s were listed) **[CG35/1-15]**. Those notes were said to cover the period from January 2001 until August 2006. In Ms Akers' third witness statement she indicated that there were some 4,775 victims whose phone numbers were featured **[CG35/16-28]**. At that stage, she said that 2,615 victims had been notified (less than half of the total number of individuals with a surname and initials listed) but she explained that there were a number of those who could not be traced due to insufficient details being available. However, in addition to this, there are potential victims whose first names only are mentioned or there is other data relating to them featuring in the notes (i.e. this is over and above the 5,795 mentioned above).
18. Of course, those figures relate only to victims referred to in the Mulcaire Notes (ie. victims of the News of the World news department between 2001 and 2006). The total number of potential victims of the entirety of unlawful and illegal activity carried out throughout all

departments of the News of the World or The Sun (a daily newspaper as opposed to simply a Sunday title) is likely to be far higher.

19. Whilst the covert nature of the activity, and the degree to which it was covered up, makes it impossible to give a precise figure for the total numbers of victims, and therefore potential claimants, in the litigation, it is possible to give some realistic estimates by looking at the documents disclosed in the litigation, since they provide a good idea of how many victims there are likely to have been.
20. In particular, there are five sources of information which provide useful guidance on the likely overall numbers:
 - (a) the generic disclosure which has been provided by NGN of PI payments made both by The Sun and the NOTW;
 - (b) the Mulcaire Notes, an index to which – created by the MPS – has recently been obtained, and disclosed, by the Claimants and can be analysed on a quantitative basis;
 - (c) other generic disclosure provided by NGN such as (i) expenses forms for heavy users of UIG such as Nick Parker; (ii) cash payments records, and (iii) generic email disclosure; and
 - (d) Claimant-specific disclosure, such as associate call data.
21. In this statement, I will deal principally with (a) the generically disclosed PI payments and (b) the index of Mulcaire Notes. However, I will also consider briefly the examples in (c) and (d).

Generic Disclosure of PI payments

22. I will begin by analysing some of the generic disclosure we have received in relation to some of the most prolific and egregious of the PIs who we know were commissioned by NGN journalists to unlawfully obtain private information about their targets.

Christine Hart

23. The Claimants have carried out an analysis of a spreadsheet disclosed on 5 January 2018 by NGN pursuant to paragraph 6 of Mann J's Order of 13 December 2017, which sets out

payments made to the notorious blagger Christine Hart by *The Sun* (and the NOTW). The disclosure of these payments was strongly resisted by NGN. The spreadsheet includes records of around 500 payments by The Sun to Ms Hart totalling more than £200,000 between 1998 and 2011. The Claimants believe that the majority of Ms Hart's work was carried at the instruction of Nick Parker, a senior journalist at *The Sun* between late 2003 and early 2009.

24. An analysis of each of the payments to Ms Hart reveals that of the 308 identifiable (or possibly identifiable) victims she targeted, only 53 (ie. 17%) are on the Group Register, and have therefore brought claims. Conversely, 255 victims of Ms Hart (ie. 83%), are not on the Group Register and have not done so. An extract of the disclosed spreadsheet setting out the 308 payments from *The Sun* Ms Hart is exhibited at **Confidential Exhibit CG35A/1-5**, with those victims on the Group Register highlighted in yellow.
25. The Claimants believe that every victim who was targeted by Ms Hart's methods, which frequently involved obtaining medical records by deception at the request of *The Sun*, is likely to have a claim against NGN. This can be seen by reference to the seven examples I have set out in **Confidential Exhibit CG35A/6-15** and copies of the articles at **Confidential Exhibit CG35A/16-30**, where the relevant victim suffered gross intrusion into their privacy through Ms Hart being commissioned by *The Sun*, none of whom have brought claims, and, as far as I am aware, are unlikely to know they have a cause of action to enable them to do so. The examples include victims of terrorist attacks and private members of the public whose suffering or injuries were deemed newsworthy by *The Sun* and therefore worthy of paying a private investigator to obtain through deception.
26. A number of Ms Hart's victims were seemingly targeted by *The Sun* only because of a serious medical condition, or grave illness, some of whom have subsequently died. In such cases, their estates would be entitled to bring a claim in the MTVIL (as has been the case, for example, with the Late Jade Goody, Amy Winehouse, George Michael and Sir Bobby Robson.)

Nick Parker

27. The Claimants believe Nick Parker was the "go to" person at *The Sun*, to whom the News Desk and (less frequently) other desks went for UIG, because he had access to a number of private investigators and bloggers. For example, NGN has disclosed several emails showing Mr Parker being commissioned by other journalists to carry out unlawful information gathering (see {Y/184} and {Y/415}). One email exchange indicated that Mr Parker's "price" for doing this was a second byline on the story (see {Y/389} and {Y/312}).

28. Mr Parker's expenses claims, which were disclosed to the Claimants generically in 2018-2019, show that Mr Parker met blaggers and PIs (who he euphemistically recorded as his "special contacts") on a regular basis and paid them in cash. The Claimants believe Mr Parker and the News Editor, Chris Pharo, avoided leaving an email trail by Mr Parker recording the detail and total cash payments he needed in draft emails which Mr Parker then printed off and handed to Mr Pharo. The Claimants believe Mr Pharo then arranged for the cash payments to be approved by the Editor (Rebekah Brooks and subsequently Dominic Mohan) and Mr Parker was given the cash to pay the blaggers and private investigators he commissioned. Despite his conviction for handling a stolen mobile phone (in the case of Siobhan McDonagh MP, who also successfully brought a civil action for misuse of private information against NGN) (see the Certificate of Conviction of Nicholas Parker at {Z/2380.5}), Mr Parker still works for NGN in a senior position, however he has not assisted the Court by identifying either his victims or the blaggers and private investigators who carried out his requests.
29. Mr Parker failed to delete a few of the draft emails from his draft email folder and these surviving draft emails¹ (dating from April 2008 to October 2010, long after the convictions of Clive Goodman and Glenn Mulcaire) were disclosed to the Claimants in 2018, initially in an over-redacted form and subsequently less redacted. I exhibit at **Confidential Exhibit CG35A/31-35** a table setting out the content of these draft emails and copies of the less redacted emails [CG35A/36-55].
30. As can be seen the Nick Parker draft emails blatantly describe unlawful information gathering such as the obtaining of medical records, the "reversing" of mobile phone numbers and the obtaining of itemised phone bills. The Claimants have identified in these draft emails 107 victims of Mr Parker's unlawful activities. As far as I am aware, only 18 (17%) of these individuals are in the Group Register (or are known to have brought a claim prior to the MTVIL Register) with 89 (83%) not having issued a claim. Many of these people are private individuals who were of interest to NGN as a result of things that happened to them, or to people known to them. I consider it unlikely that many of these 89 people will have intimated claims that have settled pre-action since I believe the vast majority of those individuals will be unaware that they have a cause of action to bring a claim in the MTVIL.

Claimant-Specific Call Data and Disclosure

31. Victims of NGN's unlawful activities can be identified by an examination of the disclosure provided in individual claims. As the Court is aware, in claims that progress to the standard disclosure stage, NGN provides call data (being records of calls made from the NGN landline

¹ {Y/266}, {Y/270}, {Y/283}, {Y/293}, {Y/311}, {Y/319}, {Y/328}, {Y/333}, {Y/358}, {Y/359}, {Y/370}, {Y/374}, {Y/379}, {Y/384}, {Y/392}, {Y/405}, {Y/450}, {Y/451}, and {Y/453}

hub, and journalists' work mobile phones) where it is available relating to the phone numbers provided for a claimant's Associates.

32. I have been informed by Dr Evan Harris (a T4 Claimant) that he brought his claim as a result of seeing his mobile phone number on an email disclosed by NGN which listed the numbers from an itemised 2005 phone bill of his then Parliamentary colleague Simon Hughes MP. I am informed that Dr Harris noted that there were hundreds of unexplained calls from the NGN hub to his mobile phone; consequently Dr Harris sought call data for a number of his associates.
33. Dr Harris has informed me that NGN's call data disclosure in his claim revealed that several of his Associates received multiple (sometimes dozens and sometimes hundreds of) unexplained calls to their mobile phones. For example, I am informed that the call data disclosed by NGN for Adrian Sanders, Chris Huhne, Vincent Cable, Phil Willis, Norman Lamb, Tim Farron (who I am told were all MPs during the Relevant Period of Dr Harris's claim), Lord Rennard, James Gurling (who I am told is Charles Kennedy's brother-in-law), Professor David Nutt (who I am told was the Chair of the Advisory Council on the Misuse of Drugs), Professor Colin Blakemore (who I am told was the CEO of the Medical Research Council and broadcaster) and Stewart Lee (the comedian) all show significant numbers calls from NGN to their mobile phones. Dr Harris has informed me that as a result of him preparing witness evidence for his claim and showing the disclosed call data to his Associates the majority of calls from the NGN hub number were not indicative of legitimate contact by NGN to his associates. I have further been informed that Dr Harris's Associates consider the call data disclosed in his claim to be indicative of UIG on NGN's part.
34. I have been told by Dr Harris that in the cases I have listed above, the disclosure received from NGN in Dr Harris's claim did not reveal any other method of UIG, save for the cases of Chris Huhne, Vince Cable and Lord Rennard, as can be seen from the table below.

Name	Number of calls	Other indications of NGN targeting
Adrian Sanders	52	No
Chris Huhne	223	NoTW surveillance (Webb)
Vince Cable	393	Nov 2011 System Searches, The Sun
Phil Willis	82	No
Norman Lamb	263	No
Tim Farron	62	No

Lord Rennard	103	3 System Searches invoices in 2009, NOTW
David Nutt	18	No
Colin Blakemore	168	No
Stewart Lee	427	No

35. I understand that Mr Huhne is bringing a claim against NGN in the MTVIL as a direct result of having been notified that he featured in Dr Harris's call data disclosure, without which he would have been unaware that he had a cause of action.

Other PI payments

36. As the Court is aware (not least from the Primer which they were asked to prepare), the Claimants have obtained disclosure of payments made by the Sun and the News of the World to a number of private investigators. The term private investigator is used in the litigation to include private detectives, professional blaggers, trace/search agents who use unlawful methods at scale, photographers, photo agencies who use UIG or PIs to obtain snatched pictures, and freelancers and tipsters who use UIG or PIs to find stories they sell to the newspaper. The importance of private investigator invoices is clear, for example, from the May 2015 trial judgment of Mann J (as he was then) in *Gulati v MGN Limited* [2015] EWHC 1482 (Ch). It is important to remember that the invoices themselves evidence unlawful activity that constitute an individual cause of action or tort (albeit generally concealed).
37. There are tens of thousands of PI payments that have been disclosed. These derive from several different sources of PI payments which have been disclosed:
- (a) ZA invoices from "suppliers" found in the SAP IXOS e-document store (dated) from July 1998 to October 2011, and later to December 2011;
 - (b) ZC SAP "contributor" payments from July 1998 - October 2011 (reflecting the payments in the original SAP extract), and later to December 2011;
 - (c) ZC SAP payments from September 1997-July 1998;
 - (d) Journal upload SAP payments from 1996 to August 1997;
 - (e) Steve Whittamore's Blue Books 1-5 (dating from 1995-2003) - disclosed by the ICO; and
 - (f) Invoices underpinning ZC SAP payments found in hard copy in the Enfield Archive or

otherwise on the Relativity Hard Copy Work Space.

38. Different PIs have payments which come from different sources, depending on when they were active and whether they were treated as “suppliers” or contributors.
39. Critically, analysis of these PI payments shows that there are many thousands of victims of UIG (ie potential claimants) commissioned by journalists at The Sun. Whilst the analysis also suggests that there were even more victims of UIG carried out on behalf of the News of the World, this is unlikely to be because there was more unlawful newsgathering by the News of the World. The Sun was published six times more often than the News of the World, and in most claims, more suspicious Sun articles are relied on than News of the World articles (see below). In fact, there are several reasons why more victims of UIG can be identified from News of the World PI Payments than Sun PI payments including:
- a) The Claimants know more about the PIs used by the News of the World than The Sun, and as a result have been able to obtain more PI payments in generic disclosure because:
- (i) The News of the World’s activities were uncovered earlier and have been more thoroughly investigated, and as a result more payments made to (or lists of victims held by) PIs used by the News of the World have been disclosed. PIs such as Glenn Mulcaire, Operation Motorman’s Steve Whittamore (JJ Services) and Southern Investigations mainly worked for the News of the World;
 - (ii) The Sun better concealed the PIs they used, and, although the identity of all the PIs used by both newspapers is not known, a higher proportion of the PIs used by the News of the World have been identified and disclosed than is the case for the Sun. For example, Steve Whittamore was a mainstay of the News of the World demand for telecoms-related UIG in the late 1990s and early 2000s, and all his records have been disclosed via PI payment disclosure and the disclosure of his papers by the ICO, who seized them. Sun journalists used other PIs, such as “Secret Steve” whose real identity has not been disclosed by NGN. One candidate is a PI called Steve Hampton, paid exclusively by The Sun. The only payments disclosed have been large monthly cash payments totalling more than £65,000 for “telephone numbers” and “ex-directory numbers” over a two year period between March 1998 and March 2000. As a result the identity of the people he targeted for The Sun is not available from the PI payments disclosed;
 - (iii) Records of PI payments in the 1990s disclosed generically mainly relate to PIs used by the News of the World rather than the Sun. This is again because some of the PIs

used by The Sun in this period have not been identified by the Claimants; and

- (iv) The sources of disclosed hard copy documents contain overwhelmingly more News of the World PI payment documents than The Sun ones. The Wapping archive is the documents held in the News of the World newsroom when it closed in July 2011 (save for those that disappeared from the archive in late 2011). The contents of the documents stored in The Sun newsroom were never retained for disclosure purposes. Nor did The Sun store many documents in the Enfield archive. Hundreds, possibly thousands of cash payment forms, disappeared without explanation from the office of the Sun Deputy Managing Editor, Richard Barun, between 2014 and 2018.
- b) The News of the World made more use of the ZA “supplier” or “accounts payable” system for paying PIs than The Sun, who more frequently used the ZC “contributor” system. The ZA system requires an invoice to be raised by the supplier, and from July 1998 these were stored on the SAP IXOS e-document store, and hundreds of those invoices have been disclosed for those PIs whom the Claimants have been able to identify. In contrast, when payment details were entered into the ZC system, the corresponding invoice, which as has been established in this litigation, contains far more information than the description entered into the payment system, was not retained, as set out at paragraph 18 of the Affidavit of Sinead McLaughlin {F/126/4}. The only other source of those invoices were those which were emailed in by private investigators, and many of those were among the millions of emails which were destroyed by NGN in late 2010 and early 2011.

Number of Identifiable Victims of UIG at The Sun

40. Despite the reasons explained above as to why the Claimants have more generic disclosure relating to the News of the World PI Payments than the Sun, there are still a substantial number of victims who can be identified in relation to the latter newspaper. This is reflected for example in a breakdown of the articles complained of in relation to T4 claims, both those issued (i.e. extant) claims and where letters of claim have been sent.

Category of Claim	NOTW	The Sun
Extant T4 Claims	324 (31%)	719 (69%)
Letters of Claim	248 (24%)	776 (76%)

As the Court will see, the overwhelming majority of the articles complained of now relate to The Sun. As such, and while there are a large number of potential Mulcaire victims, that principally relates to one desk of the News of the World (i.e. the news desk) and the News of

the World is less prominent in the litigation now than The Sun. This is unsurprising given the history of the MTVIL litigation and NGN's persistent and vigorous non-admission of any unlawful activity at The Sun, as well as their attempt to strike out the earliest claims brought in relation to that newspaper.

41. As a result of the analysis which has been carried out, the aggregate, non-deduplicated, figure for victims of UIG at The Sun is estimated by the Claimants to be about 10,500. This figure is derived from totalling all the individual payments made to "Included PIs".
42. The included PIs are those where their methods were exclusively or predominantly unlawful. These include private detectives, professional blaggers and search/trace agents who used unlawful credit reference or electoral register checks for their work.
43. For the purpose of this analysis, the tens of thousands of payments made to those who were occasional users of UIG have been excluded. These include:
 - Photographers and photo agencies known to have used UIG or used PIs to carry out UIG, in order to obtain photographs;
 - Freelance journalists and tipsters, for whom a proportion of stories derived from UIG were carried out by the contributor (or from UIG sub-contracted to a PI by the freelance contributor);
 - Suppliers who obtained information (such as wedding anniversaries, and mothers' maiden names) lawfully, but where that information was then used to overcome security questions when blagging, or to crack PIN numbers when hacking;
 - Suppliers of surveillance equipment, which was then used unlawfully; and
 - False positives.
44. The excluded PIs were:
 - False positives such as Celebrity Service Ltd;
 - Suppliers of surveillance equipment such as Conrad Brown, Burgess PDQ, CSS, and Oztex;
 - Freelancers/tipsters such as David Schumacher, Frank Thorne, Mark Thomas (TM Media), Sean O'Brien, Jen Paul, Paul Samrai, Mike Behr, Martin Coutts, Gerard Couzens

(Tag Media), Nick Pisa, Andy Buckwell (London Media Press Ltd), Amanda Stocks (Exclusive Press and Publicity), Nic North, Paul Thompson (Newsflash USA) Mercury Press, Dennis Rice, Ray Levine and Simon Lloyd;

- Photographers such as Jason Fraser (Fraser Woodward), Scott Tillen (Unique Pictures), Spencer Dove (Lenslife), Mark Coleman (Coleman-Rayner), Greg Brennan, Noble-Draper, Steve Grayson (Globalnet News);
- Suppliers of company data such as Instant Search;
- Suppliers of birth, marriage and deaths data such as Tony Bassett

45. The thousands of targets of the Scottish-based agency JS3 (run by an individual who went on to be convicted), which was used exclusively by Scottish-based NGN journalists, have also not been included at this stage.

46. In the time available, it has not been possible to accurately identify the total number of victims of UIG found in the several thousand surviving invoices of System Searches (a trace agent who the Claimants believe used unlawful methods such as credit reference checks to locate individuals). Amended data which includes these individuals will be provided prior to the hearing if it is possible to complete this analysis in time.

47. In short, the PIs which have been included in the analysis are as follows: 1st Priority Investigations, 1st Priority International, Priority Investigations, Anne Johnston, Andy Kyle (AJK Research), Benji Pell (Langley Management), Dan Hanks (British American News, Investigator Support Services, Backstreet Investigations), Ken Cummins (Capitol Inquiry Inc), Christine Hart (Warner), Gwen Richardson (Searchline), Derek Webb (Silent Shadow), TDI/ELI/BDI, Greg Miskiw, Gavin Burrows (IIG Europe & aliases), Jonathan Stafford (Newsreel), Steve Whittamore (JJ Services), John Ross, MSH Security, PM Kavanagh, Paul Hardaker, Rachael Barry, Ray Chapman, Taff Jones (Sevenside), Starbase and Steve Clarke (Metshield).

48. The total number of aggregate individual payments by The Sun to these PIs is 10,157 (excluding System Searches which may almost double that number). The Claimants have merged the entries and have conducted an exercise which removed 3545 of them on the basis that:

- the targets are unidentifiable (where no one is named, or there is just a phone number or a vehicle registration number);
- the targets are non-natural persons (such as companies, charities or activities); and

- where there are apparent duplicates.

49. This leaves a total of 6,611 unique, identifiable names (excluding the several thousand from System Searches mentioned above) who were targeted by these PIs. I will call this the “**Sun Master Victim List v1**” [CG35/30-344] (Version 2 would include the unique additional names from System Searches).
50. A small proportion of these targets will have already made claims. Mossman 38 states that 607 people have issued claims against NGN in the MTVIL. The Claims Register contains 569 claims. The discrepancy between the two figures may be explained by a handful of issued claims for phone hacking brought prior to the MTVIL, or where claims were brought by more than one claimant. If NGN share their list with the Claimants, then the small discrepancy over a few dozen claims can be resolved.
51. Mossman 38 at §5 states that 1,030 claims have been settled, which suggests that this figure includes 423 intimated but not issued claims that settled pre-action (“pre-action claimants”). This will be factored in below. If NGN share these names with the Claimants, then again more precise estimates can be given. Mossman 38 also says that there were 358 cases brought in the Compensation Scheme. This figure is factored in when considering the list of Mulcaire victims as it is likely that most of these will have been victims of Mr Mulcaire who were notified by the MPS.
52. Searches of the Sun Master Victim List v1 for each name on the Claims Register show that only 290² of the 6,611 names are on the claims register. In calculating this figure any potential match (e.g. “H Mills” on the Sun Master Victim List v1, has been assumed for these purposes to be the “Heather Mills” on the Claimant Register). As such, 290 is therefore the maximum figure.
53. This means that only 4.4% of the individuals on the Sun Master Victim List v1 have issued a claim, leaving 6,321 Sun victims who have not made claim (excluding the several thousand additional unique names from System Searches). That amounts to 95.6% of the total Sun victims.

² 254 of the 569 claims are marked on the Claimant Register as being on The Sun Master List, whereas 290 names in the Sun Master List are marked as being on the Claims Register . The discrepancy is due to the fact that the Claimants have tagged more than one possible entry on the Sun Master List in a few cases where there is ambiguity. 254 is the more accurate figure for the number of past Claimants on the Sun Master List. The figure of 290 used in this statement is thus an over-estimate.

54. For the sake of completeness, even if all the 423 Pre-action Claimants are assumed to be in the Sun Master List³, then a maximum of 713 of the 6,611 names on the Sun Master Victim List v1 (10.8%) have brought claims, leaving 5,904 who have not, i.e. 89.3%.

Number of Identifiable Victims of UIG at the News of the World (excluding Glenn Mulcaire victims)

55. In the time available it has not been possible to carry out the same analysis for the News of the World. However, I have been able to identify an approximate figure for the number of individual payments for unlawful activities for PIs commissioned by the News of the World. Furthermore, a more detailed analysis, which I come to below, has been carried out on the list of names derived from the Index of Mulcaire notes, where the highest proportion of those named would be anticipated to have brought claims due to the steps taken by the MPS to notify victims (albeit there were significant limitations in that regard as I have explained above).

56. As a result of this exercise, the aggregate, non-duplicated, figure for victims of UIG at the News of the World is estimated by the Claimants to be about 27,000. This figure excludes the names in the Index to the Mulcaire notes and again, as with the Sun Master Victim List v1 considers only the victims of "Included PIs" (see below).

57. The aggregate number of around 27,000 derives from multiple sources, i.e.:

- News of the World targets in the System Searches invoices in the ZA SAP IXOS system = 7963;
- Invoices of other Included PIs on the SAP IXOS system (TDI/ELI, Searchline, Southern Investigations, etc) = 3951;
- Payments to included PIs in the Journal Uploads (1996-August 1997) = 3501;
- ZC SAP payments from July 1998 to December 2011 = 5050;
- ZA/ZC SAP September 1997 to June 1998 = 2184; and
- Steve Whittamore's Blue Books numbers 1 to 5 (disclosed by the ICO) = 4986.

58. The included PIs are 1st Priority Investigations (and aliases), Abbey Investigations, AIS, Alex

³ In reality this is unlikely to be the case, because in the experience of the Lead Solicitor, pre-action claimants tend to include those who are identified as close associates of a Claimant, whose voicemail messages would have been intercepted as a result of the targeting of the Claimant.

Marunchak, Andy Kyle (AJK Research), Gavin Burrows (IIG Europe, Assured Legal Investigations, Iberian Alliance Corporation, and others), Rob Palmer (Avalon), Benji Pell (Langley Management Services), Dan Hanks (British American News, Investigator Support Services, Backstreet Investigations), Ken Cummins (Capitol Inquiries Inc), Christine Hart (Warner), Derek Webb (Silent Shadow), Lloyd Hart & Suzie Mallis (Code Ten, TDI, ELI), George Rickman (Kenrick Associates), John Ross, Jonathan Stafford (Newsreel), Law & Commercial (and other Southern Investigation aliases), Legal Resources & Intelligence Research (LRI), Akbar Ali Malik, Melvyn Heraty, Steve Clarke (Metshield), No Hiding Place, Paul Hardaker, Rachael Barry, Ray Chapman, Paul Hawkes (Research Associates), Rob Palmer (Avalon), Ron Sutton (and Kanta Bangar), Searchline, Severnside, Steve "Sid" Creasey, Starbase, System Searches and Trackers.

59. The excluded PIs are those set out as for The Sun at paragraph 44 above. In addition:
- (a) the Claimants have not included the payments to Bradley Page. CSI and M Nymark and Kishan Athulathmudali;
 - (b) the sporadic payments to Glenn Mulcaire (inc C&E Intelligence, Global Intel and Nine Consultancy) have also been excluded to avoid overlap with the Mulcaire Index analysis; and
 - (c) payments to JJ Services have been excluded to avoid double-counting as they would likely be included in the Blue Books disclosure from the ICO.
60. As stated above, in the time available, it has not been possible to "de-duplicate" the News of the World aggregate non-Mulcaire victim List, or to prune it to remove non-natural persons or those impossible to identify, as I have done with The Sun. However, when the de-duplication and pruning exercises were carried out for the Sun Master Victim List v1, 3,545 of 10,157 entries, about one third, were removed. By extension, carrying out a similar exercise on the News of the World aggregate non-Mulcaire victim List, would expect to reduce the names to about 18,000 in the resultant News of the World Master non-Mulcaire Victim List. If the exercise can be completed before the hearing, the Claimants will provide an update to assist the Court.
61. There will be overlap between the names in (a) the News of the World Master non-Mulcaire Victim List (estimated to contain 20,000 names), (b) The Sun Master Victim List (of 6,600

names), (c) the Sun System Searches names, and (d) the Mulcaire Victim List of 4,685 names (see below). If full de-duplication of these lists can be carried out before the hearing, the Claimants will seek to update the Court. However, even assuming that half the Sun Master Victim List v1 names and the Mulcaire Victim List names are found in the 18,000-strong News of the World Master non-Mulcaire Victim List (ie they relate to the same victim), this still leaves approximately 20-25,000 victims of NGN's UIG in total who the Claimants believe have not brought a claim.

The Mulcaire Index of Victim Names

62. Having received from an investigative journalist an "Index" of the names in the Mulcaire notes seized from Mr Mulcaire by the MPS in 2006, the Claimants sought the MPS' confirmation of its provenance. The MPS confirmed that the document exists on the HOLMES system under Operation Quantraine, which is the name given to the process of transferring the data from the 2006 Police investigation Operation Caryatid to the police database for use by operation Weeting. The Claimants informed NGN of the position on 6 October when it disclosed this to NGN {T/1714}. The index contains a row for each page of the Mulcaire notes which had been seized and a unique police exhibit number. There are columns for the names of those identified on each page, and whether the page contains data such as mobile phone numbers pin numbers landline numbers et cetera. No actual telephone data, pin numbers or password is contained on the index.
63. Not every page contains a target name, and some pages (and therefore some rows) contain more than one name. However, the Claimants have created a spreadsheet from which they have deleted those rows which do not contain any names, and separated out on two separate rows each name, where there were multiple names in one cell relating to a particular page. The result of this exercise is a spreadsheet (the **Aggregate Mulcaire Index Victim List**) with 7,282 rows each containing a name or target.
64. The Aggregate Mulcaire Index Victim List has then been pruned to remove names which were not natural persons and was de-duplicated. This has left a List (the **Master Mulcaire Index Victim List**) with 4,685 unique names **[CG35/345-585]**. It is the Claimant's case – borne out by admissions of UIG at the News of the World – that those named on the Mulcaire notes did not need to have visible PIN numbers or DDMs⁴ in order to have been the victim of UIG.

⁴ DDMs (or DDNs) are Direct Dial Mailbox numbers also called Unique Voicemail Numbers (UVNs) which allow a caller to go straight to the voicemail store of a mobile phone user.

65. The 569 claims on the Register were searched across the Master Mulcaire Index Victim List. 265 claims were found in the Index, with a further 35 in the Mulcaire notes, making a maximum of 300⁵.
66. Of the 4,685 unique names (as best that they can be de-duplicated in the time available) of natural persons in the Master Mulcaire Index Victim List, only 300 at most are on the Claimant Register. So less than 6.5% of Mulcaire victims have made claims which leaves more than 4,385 (93.5%) who have not.
67. Mossman 38 (§5) states that there were 358 claims settled through the Compensation Scheme. By the nature of the scheme which generally required notification of claimants by the MPS that they were in the Mulcaire notes, it is sensible to assume these 358 are also in the Master Mulcaire Index Victim List. This means a maximum of 658 (only 14% of the Mulcaire victims) have made claims, and 4,027 (86%) have not.
68. As I have explained above, it is important to bear in mind that the MPS notification process was limited in various ways. I believe from my conversations with Mr Thomson, a review of DS Akers' Leveson Inquiry evidence and the above analysis that a large number of individuals will not have been notified as to their likely claims.
69. 144 (25%) of the 569 claims are on both the Sun Master Victim List v1 and the Master Mulcaire Index Victim List. 75% of the claimants are on neither list or on just one. Given that the Claimants on the Register include mostly "obvious" targets of tabloid interest, this is good evidence that there is in fact only modest overlap of the unique names on the Sun Master Victim List v1 and Master Mulcaire Index Victim List. In turn this indicates that combining these lists of names is likely to be more additive than it will be duplicative (i.e. it will serve to increase the total number more than it will reduce it).

Worked examples of victims who only became aware of their possible claims through being a generic witness

70. NGN's primary justification for seeking to impose a final Cut-Off Date are said to be the use of Court resources and the finality of litigation.
71. However, this litigation is complex and novel and it is simply not correct that potential victims

⁵ This means that between 47% and 53% of claims on the register to date were not victims of Glenn Mulcaire, and this percentage rises sharply between tranche 1 and Tranche 4 as more Sun (and NotW Features) claims come on stream

will or should have brought their claims by now, because they will not necessarily know about them, especially because NGN has deliberately concealed its wrongdoing from them, as is set out in detail in the Generic Particulars of Concealment and Destruction.

72. MTVIL is unlike other multiple action litigation. For example, in asbestos claims, an individual claimant is aware that they have a potential claim because they know they have come into contact with asbestos at a certain time; victims of UIG are invariably unaware of the activity at the time and are generally unlikely to become aware of it unless it is brought to their attention in some way. That is the point of the activity; it was meant to be covert or concealed at the time. Similarly, this is unlike multiple claims alleging the miss-selling of insurance, where a claimant knows that they had an insurance policy. This is why the fact that NGN specifically concealed what it was doing from victims at the time of the wrongdoing, and then sought to conceal it after the event (which forms part of every Claimants' response to NGN's limitation plea) is so important. It is therefore extremely difficult for a claimant to know that they have a claim to bring unless they are notified in some way as to for example there being a private investigator invoice or there being call data relating to an individual.

Davinia Douglass

73. Just to illustrate this by way of some further worked examples, one of the Claimants in the current tranche of MTVIL is Davinia Douglass, who only brought a claim after having been informed of certain materials when she was approached to be a generic witness.
74. Ms Douglass is a survivor of the terrorist bombings in London on 7 July 2005, which killed 56 people, including the bombers. She became known as the "Girl in the Mask" or the "Woman in the Mask" after a picture of her burnt and covered face was published in newspapers and other media throughout the world. I expect the Court will be familiar with the image.
75. On 11 June 2021, Ms Douglass issued proceeding against NGN in relation to unlawful information gathering carried out by *The Sun* and the *NOTW* (claim number BL-2021-000988); my firm acts for Ms Douglass in those proceedings.
76. Following the lifting of the stay on Tranche 4 claims pursuant to the Order of Sir Anthony Mann of 7 September 2021, Ms Douglass served her Initial Disclosure Request ("IDR", being a request for disclosure of private investigator invoices and call data in relation to Ms Douglass and four associates) on 27 October 2021 (the timetable set out in Mann J's Order of 3 April 2019 having been varied by agreement of the parties) **[CG35/586-589]**. Ms Douglass's IDR

confirms that she did not receive disclosure from the MPS in relation to Operations Weeting or Pinetree.

77. NGN is due to provide initial disclosure in Ms Douglass's claim on 22 December 2021; to date, it has not disclosed any documents on a claimant-specific basis.
78. Ms Douglass provided a witness statement in support of the Claimants' generic case against NGN in the vacated November 2021. A copy of that statement is on Opus at **{D/113}** and Exhibit "DD1" is at **{D/114}**.
79. In order to assist with the preparation of her generic witness statement, Ms Douglass was taken to a number of documents that were disclosed generically in the MTVIL. They are either listed in the Appendix to Ms Douglass's statement, or exhibited thereto.
80. I invite the Court to read Ms Douglass's statement in full and the documents exhibited thereto, but draw attention to the following paragraphs:

- (a) At paragraph 24, Ms Douglass deals with ten private investigator invoices and one email which relate to targeting of her, her family and her friends from just after the bombings to 21 July 2005. Those invoices are listed and described in the Appendix to Ms Douglass's statement at **{D/113/12-13}** and include:
- i. Four ELI invoices for work carried on Nick Parker's instruction for *The Sun* (see **{M/53/19}**, **{M/53/39}** and **{M/53/46}**);
 - ii. Three Searchline invoices for work carried out on Nick Parker's instruction for *The Sun* (see **{M/53/30}**, **{M/53/33}** and **{M/53/42}**);
 - iii. One System Searches invoice addressed to Emma McCracken at *The Sun* for work seemingly ordered by Gary O'Shea (see **{M/208/15}**); and
 - iv. Two System Searches invoices addressed to the *NOTW* for work seemingly ordered by Bill Akass, Neil McLeod, Ryan Sabey, Ian Edmondson, Vanessa Aton and Sara Nuwar (see **{L/252/39}** and **{L/253/7}**).
- (b) Also at paragraph 24, Ms Douglass refers to an email exchange between Nick Parker and Simon Young of *The Sun* **{Y/54}**, which, as can be seen from paragraph 31 of her statement, evidences blagging by Mr Parker of a church in

order to obtain the address of Ms Douglass's then boyfriend, Erik Douglass (who is now her husband).

(c) At paragraph 25, Ms Douglass notes that the invoices referred to above reveal that the following people connected with Ms Douglass were targeted by NGN:

- i. Frances Rimmer, her grandmother;
- ii. Louise Turrell/Wells, her sister;
- iii. John Wells, her former brother-in-law;
- iv. Vincent Turrell, her half-brother;
- v. Penelope Charret, her university friend;
- vi. Matthew Taylor, her university friend;
- vii. Jonathan Crane, her university friend;
- viii. David Turrell, her father;
- ix. Evelyn Turrell, her father's first wife;
- x. Elizabeth Turrell, her half-sister;
- xi. Christopher Hall, her half-sister's first husband;
- xii. Andrew Turrell, her half-brother; and
- xiii. Sharon Turrell, her mother, who died shortly before the 7 July bombings.

(d) At paragraph 26, Ms Douglass refers to the System Searches invoice referred to at paragraph 80(a)(iv) above (**{L/252/39}**), which reveals a number of searches carried out on NGN's behalf against names that Ms Douglass did not recognise. Following enquiries made by my firm, it became apparent that those invoices evidence the targeting of other victims of the 7 July bombings, some of whom had died in the attack. My firm showed Ms Douglass the articles which she exhibits at **{D/114/11-26}** and which record the following people as victims of (or connected to victims of) the 7 July attack:

- i. Sharaha Islam;
- ii. James Mayes;

- iii. Neetu Jain;
- iv. John Tulloch;
- v. Fiona Stevenson; and
- vi. Philip Duckworth.

Given the targeting Ms Douglass describes in her witness statement, it is reasonable to infer that they too were targeted by NGN along with their friends and families. The Court will note that Ms Douglass, as well as her grandmother Frances Rimmer and half-brother Vincent Turrell also feature in this invoice.

81. As far as I am aware, none of the people who are listed in paragraph 80 (b), (c) and (d) above, have brought a claim in the MTVIL. Indeed, as far as I am aware, they still have absolutely no idea that they had been the subject of NGN's unlawful activity and unless they are notified they will not.
82. In these circumstances, particularly when some of those targeted by NGN were the victims of an appalling crime, it would be cruelly unjust to deny them the opportunity to advance a claim against NGN when the extent of its wrongdoing is still being uncovered and they are unaware of the unlawful activities which were carried out against them by NGN. This is of course only an example. There will be many similar ones.

Sir Simon Hughes

83. The same also applies, for example, to the former Claimant, Sir Simon Hughes, who brought a Sun-only claim having learnt of certain disclosure relating to him in his capacity as a generic witness (which was not disclosed to him in his original News of the World claim, despite NGN's stance that his original claim also comprised a claim against The Sun).

Concealment and destruction of evidence

84. Mossman 38 at paragraph 48 refers to the "*general notoriety of allegations of voicemail interception and/or unlawful information gathering against the NOTW and The Sun which have been the subject of huge public attention for many years*". However, this ignores NGN's deliberate policy of concealment and destruction of evidence in respect of unlawful activities at both the News of the World and The Sun which lies at the heart of the Claimants' case and is central to their response to NGN's limitation defence. In summary, the effect of NGN's

concealment, as detailed below, is that the true nature and scale of NGN's unlawful activities was hidden and this has deprived potential claimants not only of critical evidence but of the knowledge that they were targeted and therefore a victim of NGN's unlawful activity.

85. NGN's deliberate policy of concealment and destruction is set out in detail and at length in the Claimants' Re-Amended Generic Particulars of Concealment and Destruction (the "C&DPoC") **{A/25}**. The C&DPoC was re-amended on 19 June 2020 following an application by the Claimants supported by the 9th Witness Statement of Callum Galbraith dated 19 February 2020 **{F/286}** on which the Claimants' relied, in particular the sections on: (1) senior NGN employees with knowledge of concealment and destruction **{F/286/9-15}**; (2) NGN's knowledge of the widespread and habitual use of phone hacking and related unlawful activities **{F/286/15-29}**; (3) the Ian Edmondson emails and the deliberate suppression of evidence, including evidence relating to wrongdoing by other NGN journalists **{F/286/29-33}**; (4) NGN's public lies and concealment of its wrongdoing **{F/286/34-35}**; (5) NGN's false denials of voicemail interception and other unlawful information gathering at The Sun in relation to the claim brought by Jude Law **{F/286/36-37}**; and (6) Rebekah Brooks' misleading of the Leveson Inquiry **{F/286/37}**.
86. As is set out in the Claimants' C&DPoC, steps were taken by NGN to conceal the use of unlawful information gathering techniques at News of the World and The Sun and they continued this concealment more actively once NGN's illegal activity began to be uncovered publicly. By way of example:
- (a) Following NGN's settlement of Gordon Taylor's claim in August 2009, Nick Davies, an investigative journalist for the Guardian published a number of articles on 8 July 2009 regarding phone hacking by NGN **{Z/1353}**. News International and News Corporation responded on 10 July 2009 with a public statement, falsely denying The Guardian's claims **{Z/1358-9}**.
 - (b) Following Kelly Hoppen serving proceedings on NGN on 26 March 2010 for voicemail interception, NGN's lawyers made a statement during a hearing on 19 February 2011 seeking to publicly rubbish Ms Hoppen's claim by stating that it "*lacked substance*" and was "*technically implausible*" **{Z/1809}**.
 - (c) Following NGN's admission in April 2011 to voicemail interception at the News Desk of the News of the World, NGN continued to deny unlawful activity at The Sun, including filing false or misleading witness statements by Rebekah Brooks,

Dominic Mohan and Gordon Smart at the Leveson Inquiry which denied the use of Private Investigators and “computer hacking” at The Sun **{A/25/57-60}**.

- (d) NGN’s lawyers categorically denied UIG at The Sun in response to a Letter of Claim sent by actor Jude Law. Olswang’s response, sent on 17 June 2011 on behalf of NGN stated: “*Our clients are aware of no evidence whatsoever that any journalist on The Sun ever procured, participated in or condoned the unlawful interception of mobile telephone messages*” (see paragraph 13.12(b) of the C&DPoC **{A/25/55}**). SAP disclosure relating to the interception of Jude Law’s mobile telephone by The Sun was later discovered by the Claimants **{Y/63}**.
- (e) NGN later, on 16 July 2011, issued a public statement falsely stating that there was “*no evidential foundation*” to allegations of UIG at The Sun (see paragraph 13.12(c) of the C&DPoC **{A/25/55}**).
- (f) In 2016 NGN unsuccessfully applied to strike out the early claims referring to The Sun and to resist an amendment by the Claimants to include allegations in relation to The Sun in the Pinetree Generic Particulars of Claim **{A/16}**.
- (g) Throughout this litigation, NGN has insisted on the following wording to be included in Statements in Open Court: “*The Defendant makes no admission of liability in relation to the Claimant’s allegations of voicemail interception and/or other unlawful information gathering at The Sun*” and that settlement orders state: “*AND UPON the Parties having agreed and noted that the Defendant makes no admission as to liability in relation to the part of this claim relating to The Sun newspaper*”.

87. NGN have also made repeated non-admissions and denials to the Claimants’ case that The Sun was involved in unlawful information gathering, as detailed below:

- (a) In respect of the Claimants’ case that NGN engaged in widespread and habitual use of PIs at The Sun, as evidenced by the volume of instructions and/or payments given to PIs or similar agents acting for NGN journalists as relied upon by the Claimants in paragraph 9.3 of the C&DPoC **{A/25/12-13}**, NGN makes no admission **{A/26/8}**.

- (b) In respect of the Claimants' case that journalists and senior executives frequently moved between newspapers where these unlawful activities were widely practised, such as between the News of the World, the Mirror and The Sun as relied upon by the Claimants in paragraph 35A.5 of the Pinetree GpoC **{A/16/18}**, NGN admit that journalists and senior executives moved between newspapers but neither admits nor denies that unlawful activities were widely practiced at newspapers including at The Sun **{A/17/24}**.
- (c) In respect of the Claimants' case that NGN has admitted and/or paid compensation in relation to similar claims of voicemail interception against it by other victims which included the publication of information through such unlawful means in articles appearing in The Sun (as well as the NotW) as relied upon in paragraph 35A.8 **{A/16/19}**, NGN denies that it has admitted any claims of voicemail interception in respect of The Sun **{A/17/26}**.

88. Due to NGN's non-admissions and denials, examples of which are above, the Claimants have been forced to seek information and disclosure via correspondence and numerous applications to Court, including the following which evidences UIG at The Sun and the falsity of NGN's public stance that it did not use private investigators. For example:

- (a) The Claimants received disclosure on 3 December 2018 pursuant to the Order of Mr Justice Mann dated 16 November 2018 **{B/94}** comprising expense forms of Nick Parker which evidence voicemail interception by Mr Parker with the agreement of the News Desk at The Sun;
- (b) The Claimants received disclosure on 30 November 2018 pursuant to the Order of Mr Justice Mann dated 16 November 2018 **{B/94}** comprising disclosure which had been given to the MPS in 2012 as part of Operation Elveden and which contained expense forms, approved by Graham Dudman, and which revealed that Mr Parker purchased "burner" mobile phones to make "sensitive" and "discreet" calls with the permission of the News Desk at The Sun and made numerous references to meetings with "special contacts" and PIs who provided him with unlawfully obtained data **{K/718.07}**;
- (c) The Claimants received subsequent disclosure on 13 June 2019 pursuant to the Order of Mr Justice Mann dated 3 April 2019 **{B/100}** comprising further expense forms that revealed Mr Parker's habitual use of PIs and obtaining of

unlawful information at The Sun during at least 2003 to 2011 **{T/755}**; and

- (d) The Claimants received disclosure evidencing cash payments to PIs as part of the unlawful information gathering operation at The Sun including:
- i. Cash Payment authorisation forms authorised by the Managing Editor and Deputy Managing Editor for unlawful activity relating to mobile phones and phone records, including targets such as Hayley Richards, a victim of murder **{Y/51}** and Lady Monckton, a victim of attempted murder **{Y/24.7}**;
 - ii. Draft emails from Nick Parker to the News Desk, which were an itemised list of the unlawful tasks carried out by his “special contacts” and for which he needed to pay cash, for example at **{Y/359}**;
 - iii. Spreadsheets of cash payments made by The Sun as part of internal investigations, the majority of which were for unlawfully obtained information **{Y/539}**, **{Y/537.2.1.2}**;
 - iv. Cash payment emails showing further examples of cash being paid in exchange for unlawfully obtained information for example at **{V/1}**, **{V/410}**;
 - v. An email showing Ms Brooks issued an edict on 1 February 2006 that all cash payments needed to have her written approval **{Y/106.03}**; and
 - vi. Cash payment request forms which Ms Brooks and her senior executives signed to approve payments for unlawfully obtained information for example at **{Y/575/14}**, **{Y/294.02}**, **{Y/375.01}**.

89. In addition, the Claimants have had to contend with the repeated and extensive efforts of NGN to frustrate proper disclosure including:

- (a) The denial of the existence of invoices and the SAP IXOS sample failure which resulted in the judge ordering the disclosure of all ZA invoices for certain PIs;
- (b) The failure to disclose invoices and payments to relevant PIs such as Trackers, LRI and Philip Campbell Smith despite court orders; and

- (c) The fact that PI disclosure for the extended relevant period of 1996-1997 was only obtained because of the persistence of the Claimants, after NGN denied four times that there was such payment information available.
90. NGN's policy of concealment and destruction in respect of its extensive use of unlawful activities at the News of the World and The Sun (only discoverable via numerous and often aggressively contested disclosure applications) has meant that a large number of victims simply do not know they have a claim. It is therefore simply not true to claim that there is *'no good reason why any individual who suspects s/he may have been a victim of unlawful information gathering between 1996 and 2011 would not by now be aware of his/her claim and could not reasonable be expected to bring a claim by 29.07.22, the cut-off date proposed by NGN'* as claimed at paragraph 49 of Mossman 38.
91. NGN relies upon an exhibit of press cuttings to support its position that everyone should have now brought their claims. Press cuttings dealing with allegations relating to phone hacking per se are not sufficient to enable an individual claimant to know that they have a claim. In any event, the scope of the litigation is significantly broader and encompasses unlawful information gathering generally, including now landline tapping and landline voicemail interception as detailed in generic witness statements from Gavin Burrows, Dan Evans and Graham Johnson. Further, as a result of the *Gulati v MGN* judgment, as endorsed by the Court of Appeal, every victim who features in private investigator invoices has a potential claim for misuse of private information, and it is this underlying unlawful activity which is what has been concealed by NGN.
92. It is also noteworthy that many of the reports NGN rely upon include reference to the so-called "One Rogue Reporter" lie and its denial of liability in regard to The Sun. For example:
- (a) The articles at pages 49-52 of Exhibit MGM38 refer to the "One Rogue Reporter" lie and the same article reports that NGN has always maintained its acts lawfully and in the public interest;
- (b) The article at pages 63 to 65 of Exhibit MGM38 reports that NOTW had said that there were only a "*handful*" of victims of voicemail interception;
- (c) The article at pages 148 to 149 of Exhibit MGM38 carry NGN's denials of allegations relating to The Sun made by Jude Law and Tom Watson and pages 163 to 166 as to allegations made by Sir Simon Hughes;

- (d) The articles at pages 177-179 and 297-310 of Exhibit MGM38 carry NGN's denial/ non-admission of wrongdoing at The Sun.

Costs of the Litigation

93. NGN's Application focuses heavily on the costs incurred in the litigation. However, as will not be lost on the Court, these costs have been incurred as a result of NGN's (concealed) wrongdoing. The scale of costs has only been exacerbated by NGN's conduct in this litigation. For example, NGN's regular practice of settling claims as a trial approaches – with substantial damages being paid and public apologies given – causes costs to increase as brief fees are often largely incurred by the time a trial approaches and much of the trial preparation has been done. Further, NGN's practice of causing the Claimants to 'play battleships' to obtain significant disclosure has been rehearsed at length (See the Claimants' Primer, paragraphs 5 and 32). That, coupled with NGN's non-admissions in pleadings, causes costs to unnecessarily increase and it is significant that the overwhelming proportion of NGN's case amounts to non-admissions.
94. Whilst Mossman 38 places great emphasis on the costs of the litigation, the costs she has referred to are the costs claimed, rather than those actually paid or agreed. This is misleading, as any costs claimed are subject to detailed assessment, mediation or negotiation agreement. For example, whilst paragraph 30(c) refers to £19.92m costs being claimed in Tranche 3, NGN actually agreed to pay the sum of £11.53m (without an assessment) in full and final settlement of these costs. In respect of the £5.95m claimed in Tranche 4, for the period from 26.03.19 to 25.09.20, NGN has only agreed so far to pay £1.52m (the assessment process in relation to those costs is at an early stage with NGN having only recently served Points of Dispute). NGN is properly exercising its right to object to the Common Costs incurred and referring to simply "*the costs claimed*" does not give the Court the full picture or indeed, an accurate picture.
95. More importantly, however, is the fact that NGN's evidence is silent on what it has paid in damages in those tranches, which is obviously relevant in terms of the proportionality of this litigation. I have liaised with the Claimants' costs team, Masters Legal Costs Services LLP, who have calculated that the total damages paid for 89 to 91 of the claimants in Tranche 3, for example, was £14,741,250 and for 154 of 160 of the Tranche 4 claimants amounted to £26,368,500. The total damages recovered in Tranches 3 and 4 exceeds £41m and dwarves the costs agreed and recovered. Of course, this is not accounting for any of the non-monetary relief which is, as the Court will be aware, of great significance to the Claimants. In the related

MNHL litigation, the Senior Costs Judge found⁶ for the purposes of considering proportionality, that the non-monetary relief was to least equal to the monetary damages recovered. It also does not reflect the damages paid by NGN to Claimants who settled their claims pre-action. Nevertheless, it does demonstrate that the costs of the litigation are by no means disproportionate given the scale of the wrongdoing, even leaving aside the way in which NGN has conducted the litigation in a way that has inevitably increased the costs (as the Claimants have repeatedly pointed out).

Public interest in the litigation and the Claimants' proposals for the future of the litigation

96. NGN's Application is made very soon indeed after the stay was lifted in September 2021 so the Court does not have as a clear a picture as desirable as to the future of the litigation. However, if the Court is minded to impose a final Cut-off Date at this stage or to bring MTVIL to a managed conclusion, then the Claimants would urge the Court to agree that the Claimant Group should be permitted to notify possible victims as to their potential claims and provide sufficient time in order for that exercise to be undertaken.
97. As is clear from the above, there are a very large number of victims who are highly unlikely to be aware that they have a possible claim and are entitled to be notified if the managed litigation is to be brought to an end in this way.
- (a) Firstly, this is necessary given that the MPS is no longer notifying victims (they stopped in 2018 - see paragraph 39 of Mossman 38) and feasible given that the Claimants now have an index of the Mulcaire notes;
 - (b) Secondly, in regard to many victims (and as exemplified above) they will not otherwise know that they have potential claims to bring. Given the scope of NGN's Application, this is fair and cannot be sensibly objected to in light of NGN's concerns as to finality.
98. Further, if the Court determines that it is appropriate to bring the MTVIL to a managed conclusion, since there will be victims who will bring claims after its conclusion and whose claims cannot be excluded (since they will not necessarily be out of time under the limitation Act given NGN's deliberate concealment), the Claimants contend that it would be appropriate to have a trial of generic issues in order to address some of the otherwise costly issues which are likely to arise in these future individual claims. In light of the extensive non-admissions by

⁶ "In my judgment the value of the non-monetary relief in issue in the proceedings, taken as a whole, was substantial and at least as great as the sums in issue." (paragraph 58) - *Various Claimants in Wave 1 of the Mirror News Group Hacking Litigation-v- MGN Limited* [2018] EWHC B13 (Costs)

NGN in relation to unlawful activity by PIs, any UIG at The Sun or at the News of the World (outside of the News Department between 1999 and 2006, and the actions of Dan Evans at the Features Department between January 2005 and August 2006), or in the period from 1995 to 1999 or beyond 2006 to 2011, there will need to be a determination of various issues that would assist in the resolution of these further claims. Such a trial would require suitable costs protection for the Claimants and careful consideration to be given to the issue that the findings would bind individual claimants in claims brought after the Cut-Off Date.

99. However, given the resources devoted to the generic issues to date, and the risk of duplication of those issues going forward, there would be compelling reasons for such a trial, as it would:

- (a) Limit the issues in any claims which are issued after the Cut-off Date which will benefit future claimants, NGN and moreover the Court and generally limit costs, including by aiding settlement;
- (b) Avoid the need for generic witnesses to potentially give evidence at multiple trials with potentially conflicting judgments; and
- (c) Address NGN's concern (see paragraph 10 of Mossman 38) as to witnesses' memories fading and them passing away.

STATEMENT OF TRUTH

I believe the facts stated in this Witness Statement to be 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.



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CALLUM DAVID GALBRAITH

Dated this 30th day of November 2021