

Witness Name: **Kit Malthouse**

Statement no: **First**

Exhibit: **KM17**

Date: 29 February 2012

**THE LEVESON INQUIRY**

---

Exhibit KM17 to the  
Witness Statement of **Kit Malthouse**

---



**Metropolitan Police Authority**

**Professional Standards Cases Sub-Committee – 18 July 2011**

**Police Reform Act 2002**

**ACPO Officers: Commissioner Sir Paul Stephenson, Assistant Commissioner John Yates, Former Assistant Commissioner Andy Hayman and Former Deputy Assistant Commissioner Peter Clarke**

**Complainants :**

**Report on behalf of the Chief Executive**

### **Summary**

The Directorate of Professional Standards (DPS) received complaints from the above named complainants regarding the investigation into allegations of phone hacking by the News of the World ("the phone hacking allegations"). The complaints relate to two ACPO officers, namely the Commissioner and AC Yates. Accordingly, the MPA is the appropriate authority to deal with the allegations. Members of the Professional Standards Cases Sub Committee ("PSCSC") are asked to consider whether any of the allegations are 'complaints' as defined by the Police Reform Act 2002 ("PRA 2002") and the associated Regulations.

Members are also asked to consider whether the allegations made by the above individuals, and/or the concerns raised in the media, concerning two current and two former ACPO officers involved in the investigation of the phone hacking allegations would give rise to a 'conduct matter' under the Police Reform Act 2002 and its associated Regulations, and also to consider the conduct in accordance with the Police (Conduct) Regulations 2008 if necessary.

### **A. RECOMMENDATIONS**

**That Members:**

- i. **Review the report and supporting documents;**
- ii. **Decide whether the allegations made by any or all of the individuals against the Commissioner and/or AC Yates constitute a complaint within the meaning of PRA 2002 and, if so, whether to record them;**
- iii. **If not, decide whether the allegations raised by the individuals, or in the media reports, against the Commissioner, AC Yates, former AC Hayman and former DAC Clarke constitute a conduct matter within the meaning of PRA 2002, and if so whether to record them;**
- iv. **If a conduct matter is recorded against any or all of the above ACPO officers, determine whether to refer the recordable conduct matter(s) to the IPCC;**
- v. **If not referred, consider whether the recordable conduct matter(s) should be investigated;**
- vi. **Consider whether any further action is required.**

## **B. MATTERS FOR CONSIDERATION**

### **Background Information**

1. Members will have seen recent media coverage regarding the adequacy of the initial police investigation into allegations of phone hacking by reporters at the News Of The World (NOTW), the decision not to re-open the investigation in 2009 and the accuracy of the information provided by senior officers to Parliament. Two current and two former ACPO officers have been named in the media reports, which are summarised below.

#### Assistant Commissioner John Yates

2. A report by the Guardian on 13 July 2011 sets out its version of the background to Mr Yates' involvement in the investigation into allegations of phone hacking by the NOTW. A copy is attached as **Appendix A**. The report suggests that AC Yates has made a series of misleading statements to Parliament in relation to the police investigation of allegations against the NOTW.

3. Mr Yates appeared before the Home Affairs Select Committee and publicly expressed his regret at his 2009 ruling that there was no need to reopen the phone-hacking investigation. He insisted that he has always told the truth to the

Committee. He says that the NOTW have only recently supplied information and evidence that would have clearly had a significant impact on the decisions that he took in 2009. It has been alleged in the New York Times that AC Yates was put under pressure not to investigate phone hacking at the NOTW because of fears that the Sunday paper would publish details about his personal life. AC Yates strongly denied these allegations. The Labour MP, Keith Vaz, said at the end of the session that the Committee found his evidence "unconvincing". He said there were more questions to be asked about what happened when AC Yates conducted his review of the investigation and this was not the end of the matter. See press report attached as **Appendix B**.

4. MP Chris Bryant has called for AC Yates's resignation telling the House of Commons that he was guilty of "repeatedly lying" to MPs. He said that AC Yates's position was now "untenable" after he had "misled Parliament". He adds that "Assistant Commissioner Yates repeatedly lied to Parliament. He said that there were very few victims. He said all the victims had been contacted. He said all the mobile phone companies had been put on notice in relation to this". See press report attached as **Appendix C**.

5. Further relevant media reports are attached as **Appendix D**. Members are in particular referred to the article written by The Telegraph dated 9 July 2011 in which AC Yates conceded that he let down thousands of phone hacking victims and that the police failed to appreciate the full significance of "Mulcaire's treasure trove of documents". Glenn Mulcaire was a private investigator working for the News of the World.

6. AC Yates gave evidence again to the Home Affairs Select Committee on 12 July 2011.

7. In addition to the concerns highlighted in the media, the MPA has received, via DPS, four complaints from members of the public:

- a. [redacted] submitted a complaint to DPS by email on 5 July 2011 in which he called for "*a full enquiry into the modus operandi used by John Yates in coming to his decision that the case merits no further attention.*" A copy of his complaint is attached as **Appendix E**.
- b. [redacted] submitted a complaint to DPS on 9 July 2011, in which she states that "*John Yates must be put on gardening leave until his role in the News of the World bribery of police officers is cleared without any blemish to his or the Met's reputation.*" She accuses him of obstructing proper investigation of the crimes and lying to the Commons Media, Culture and Sports Select Committee. A copy of her complaint is attached as **Appendix F**.

- c. [ ] submitted a complaint to DPS on 10 July 2011, in which he alleges that AC Yates failed to oversee a proper investigation into the News of the World phone hacking allegations. He accuses him of bringing the force into disrepute. A copy of his complaint is attached as **Appendix G**.
- d. [ ] submitted a complaint to DPS on 12 July 2011, in which he states that "*under live public questioning by the Commons Home Affairs Select Committee – Assistant Commissioner John Yates – was witnessed to say that he knew there were criminal acts being committed by police officers and officers at the Metropolitan Police and knew that money would have been accepted by these officers from the media*". A copy of his complaint is attached as **Appendix H**.

8. Members are reminded that at the PSCSC meeting on 16 May 2011 they also considered allegations made by [ ] which concerned evidence that Mr Yates had provided to MPs about the advice he received from the CPS, which he said placed limits on the extent of the police investigation. [ ] suggested that his evidence to MPs was misleading. The relevant extract of the minutes of the PSCSC meeting are attached as **Appendix I**. The MPA sent a letter to the Commissioner in the terms suggested by Members and a copy of the letter is attached as **Appendix J**. No response has been received.

Commissioner Sir Paul Stephenson

9. On 12 July 2011, the Commissioner has issued a public statement offering his support to AC Yates. See press report attached as **Appendix K**.
10. The MPA has, via DPS, received a complaint from a member of the public about the Commissioner involvement in this matter.
11. [ ] submitted a complaint to DPS by email on 6 July 2011, in which she alleges that the police have "*sat on evidence relating to the phone hacking scandal since 2002*." She makes her complaint against the Commissioner, who she says has headed the investigation since 2002. A copy of her complaint is attached as **Appendix L**.

Former Assistant Commissioner Andy Hayman

12. Former AC Hayman conducted the initial investigation into the phone hacking allegations in 2005/6 (query) which led to the arrest of two individuals at the News of the World.
13. The MPA has not received any complaints from members of the public regarding former AC Hayman's involvement in the phone hacking investigation. However, Members are asked to

consider media reports concerning the way in which former AC Hayman conducted the initial investigation. See press reports attached as **Appendix M**.

14. In particular, Members are asked to note the content of the news bulletin dated 23 May 2011, in which it is reported that former deputy prime minister Lord Prescott, and three others, have been allowed to seek relief by way of judicial review in respect of their claims that there were human rights breaches in the police handling of their cases.

Former Deputy Assistant Commissioner Peter Clarke

15. Former DAC Clarke was involved in the initial investigation into the allegations of phone hacking by the NOTW in 2005/6. Again no complaints have been received from members of the public about his conduct, however, media reports have questioned the adequacy of the initial investigation. See press reports attached as **Appendix M**.

16. Members are first asked to consider whether the allegations made by members of the public constitute a complaint in accordance with the PRA 2002. They are asked to make a separate decision in respect of each individual's complaint.

**Decide whether the allegations made by the individuals against the Commissioner and/or AC Yates constitute a complaint within the meaning of PRA and, if so, whether they should be recorded**

Statutory Background

17. In order for allegations to fall within section 12(1) of the PRA 2002, Members must be satisfied that there is:

- a. A complaint;

The IPCC Statutory Guidance defines the word complaint at paragraph 11 as:

*"...a considered grievance needing to be resolved, not just an observation for the service to note or a question that the person wishes to have answered. The IPCC expects this level of dissatisfaction to be present for the matter to be recordable."*

At paragraph 12 of the IPCC Statutory Guidance states:

*"There will be occasions when, in the course of police operations or otherwise, a member of the public makes known a concern or*

*criticism to an officer or member of police staff and it is reasonable to judge that this is not a complaint as envisaged by the Police Reform Act."*

- b. Concerning conduct of a person serving within the police (includes a former senior officer);

The statutory regime is only triggered in respect of conduct of the officer in question. Section 29(1) of PRA 2002 states that "conduct" includes acts, omissions and statements (whether actual, alleged or inferred). The IPCC Statutory Guidance defines conduct as "...actions and decisions and omissions to act or decide".

Members are referred to the decision of His Honour Judge Langan QC in the case of R(on the application of North Yorkshire Police Authority) and the IPCC against the Chief Constable of the North Yorkshire Police and Mr Anthony Jordan – a claim for judicial review brought by North Yorkshire Police Authority against a decision of the IPCC. A copy of this case can be found behind Tab 1 of the Relevant Legislation, Case Law and Guidance bundle.

His Honour Judge Langan QC stated at paragraph 35 of his judgment that "the word 'conduct' in its ordinary and natural meaning, which is that of behaviour, does not carry with it a notion that the behaviour must be of a particular quality, whether good or bad"- in other words there does not need to be an allegation of "bad behaviour, or misconduct or personal misconduct..." before there is 'conduct' for the purposes of the definition of complaint.

The IPCC Statutory Guidance states at paragraph 105 that "Where a complaint is made about a person who has ceased to serve with the police (i.e. has resigned, retired or been dismissed) since the incident complained about, the complaint must still be recorded and dealt with through the same processes as any other complaint although the appropriate authority will not be required to determine whether disciplinary proceedings should be brought against the person."

- c. Made by a member of the public who:
- i. Claims to be the person in relation to whom the conduct took place;

ii. Claims to have been adversely affected by the conduct:

To be adversely affected, the complainant must have been physically present or sufficiently nearby to see or hear the conduct or its effects or the adverse effect was a consequence of the fact that the individual knew the person in relation to whom the conduct took place.

The IPCC Statutory Guidance states at paragraph 29 that "*being 'adversely affected' is broadly interpreted in the legislation and includes distress, inconvenience, loss or damage, or being put at danger or risk...it does not include someone distressed by watching an incident on television.*"

iii. Claims to have witnessed the conduct; or

The IPCC Statutory Guidance also states at paragraph 29 that "*the Police Reform Act 2002 defines 'witness' narrowly, as someone who "acquired his knowledge of [the] conduct in a manner which would make him a competent witness capable of giving admissible evidence of [the] conduct in criminal proceedings."*

iv. A person acting on behalf of a person falling within (i) to (iii) above.

18. Members are asked to consider all three components in relation to the allegations against AC Yates and the Commissioner, and to make separate decisions for each individual.

Are any of the individuals' allegations a complaint?

19. Members are asked to consider whether any or all of the individuals raise a 'considered grievance'. Members may conclude that as all of the individuals submitted their concerns via an online complaints form, they all intended to make a complaint rather than just a mere assertion.

20. If so, Members may resolve that all of the individuals have raised a considered grievance and therefore a complaint for the purpose of the statutory definition.

Do any or all of the complaints concern the conduct of a person serving within the police?

21. Members are asked to consider the allegations made by [ ] against AC Yates. The allegations concern AC Yates' decision making, his obstructing of a proper investigation, his lying to MPs and his awareness of criminal acts being committed by police officers. Members may consider that these allegations would concern the personal conduct of AC Yates.

22. Members are next asked to consider the allegation made by [ ] against the Commissioner. She alleges that the Commissioner headed an investigation since 2002, in which the police sat on evidence relating to the phone hacking scandal. Members may consider that, on the face of it, the allegation concerns a failure to properly oversee the investigation and in accordance with the Jordan case referred to at paragraph 17(b) above would concern the personal conduct of the Commissioner.

Do any of the individuals claim to be the person in relation to whom the conduct took place, to have been adversely affected by or to have witnessed the conduct?

23. Members are asked to note that none of the individuals claims to have been a victim of the phone hacking scandal.

24. Members are reminded that paragraph 29 of the IPCC Statutory Guidance says that being adversely affected does not include someone who is distressed by watching an incident on television. By analogy, Members may also consider that an individual who had read a report in a newspaper could not be said to be adversely affected. Members may therefore conclude that none can be said to have been adversely affected by the alleged conduct of the Commissioner or AC Yates.

25. Members may therefore consider that none of the individuals could be said to have witnessed the conduct as defined by the IPCC Statutory Guidance.

26. Members may consider that on the facts, none of the individuals' complaints fall within the statutory definition of a 'complaint'.

27. However, if Members consider that all three components are satisfied for any of the individuals' allegations against AC Yates or the Commissioner, further legal advice will be provided on how to deal with the complaint(s).

Decide whether the alleged conduct of any of the named ACPO officers amounts to a conduct matter in accordance with the PRA 2002 and, if so, whether it should be recorded

28. If Members have determined that none of the individual's allegations is a 'complaint' within the meaning of the PRA 2002, in accordance with the IPCC Statutory Guidance, they are asked to consider whether any of the allegations give rise to a 'conduct matter' within the meaning of the PRA 2002.

29. Members can consider whether a 'conduct matter' is raised in respect of any ACPO, or former ACPO, officer regardless of whether allegations have been made by a member of the public. It follows that when considering whether the senior officers' conduct raises a 'conduct matter', Members are not confined to consideration of the conduct referred to by the individuals above, but should consider all the wider issues raised in media reports.

30. In addition, Members should also consider whether any concerns raised about the conduct of any other senior officer, although not named in a complaint by a member of the public, gives rise to a 'conduct matter' under the PRA 2002. Members are referred to the media reports attached at **Appendix M**.

#### A 'conduct matter'

31. A 'conduct matter' is conduct which is not and has not been the subject of a 'complaint' but of which there is an indication that a person serving with the police may have:

- a. committed a criminal offence; or
- b. behaved in a manner which would justify the bringing of disciplinary proceedings.

32. The test as to whether or not a *criminal offence* may have been committed is an objective one, although it also involves a measure of subjective judgment and discretion.

33. Whether *disciplinary proceedings* would be justified involves a large measure of subjective judgment and discretion. Disciplinary proceedings will be justified when it appears that the officer may have breached the Standards of Professional Behaviour. The Standards together with the relevant extracts of the Home Office Guidance are provided at Tab 2 of the Relevant Legislation, Case Law and Guidance Bundle.

34. Members are asked to reach a separate decision in respect of each senior officer below.

*AC Yates*

35. Members are reminded that the allegations against AC Yates include:

- a. a failure to re-open the original investigation into phone hacking by NOTW;
- b. misleading Parliament on numerous occasions regarding the investigation;
- c. attending social meetings with senior journalists at the News of the World whilst the investigation was ongoing;
- d. knowing that criminal acts were committed by police officers and that they were accepting money from reporters at News of the World

36. Members are first asked to consider whether there is *an indication* that AC Yates has committed a criminal offence. The relevant Members may wish to consider the criminal offences of misconduct in public office and perverting the course of justice. The necessary elements of these offences are set out at **Appendix N**.

37. If Members are of the view that there is an indication that AC Yates has committed a criminal offence, they should next consider whether the conduct matter needs to be recorded and are referred to paragraph 56 below.

38. If Members are of the view that there is no indication that AC Yates has committed a criminal offence, they should next consider whether there is *an indication* that he has behaved in a manner which would justify the bringing of disciplinary proceedings.

39. Members may consider that disciplinary proceedings will be justified when it appears that the officer may have breached the Standards of Professional Behaviour ("the Standards"). The Standards together with the relevant extracts of the Home Office Guidance can be found at Tab 2 of the Relevant Legislation, Case Law and Guidance bundle.

40. Members are pointed in particular to the following requirements in the Standards:

*Honesty and Integrity*

*Police officers are honest, act with integrity and do not compromise or abuse their position.*

*Discreditable conduct*

*Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty.*

*Duties and Responsibilities*

*Police officers are diligent in the exercise of their duties and responsibilities*

41. If Members consider that AC Yates's alleged conduct does not indicate that disciplinary proceedings would be justified, they should consider the allegations in accordance with the 2008 Regulations. Further legal advice will be provided if Members reach this stage.

42. If Members consider that the alleged conduct of AC Yates may be in breach of the above, or any other, of the Standards and may justify the bringing of disciplinary proceedings, they are asked to consider whether the conduct matter should be recorded (paragraph 56 below).

*Commissioner Sir Paul Stephenson*

43. Members are reminded that the allegation against the Commissioner is that he failed to properly oversee the investigation into the phone hacking allegations.

44. Members are asked to consider whether there is an indication that the Commissioner has committed a criminal offence, nor an indication that the bringing of disciplinary proceedings would be justified.

45. In deciding whether there is an indication that disciplinary proceedings would be justified, Members may wish to consider the following Standard of Professional Behaviour:

*Duties and Responsibilities*

*Police officers are diligent in the exercise of their duties and responsibilities*

46. If Members consider that the Commissioner's alleged conduct does not indicate that a criminal offence has been committed or that the bringing of disciplinary proceedings would be justified, they should consider the allegations in accordance with the 2008 Regulations. Further legal advice will be provided if this stage is reached.

47. If Members consider that the alleged conduct of the Commissioner does indicate that a criminal offence has been committed or that the bringing of

disciplinary proceedings is justified, they are asked to consider whether the conduct matter should be recorded (paragraph 56 below).

*Former ACPO officers*

48. Regulation 21 of the Police (Complaints and Misconduct) Regulations 2004 provides that where a conduct matter relates to the conduct of a former officer, then the Act applies in relation to that person 'as if it did not include any requirement for an appropriate authority to determine whether the disciplinary proceedings should be brought against a person whose conduct is the subject-matter of a report'. Therefore, the investigation should continue even though there will be no jurisdiction to take disciplinary action against the person no longer serving with the police.

49. Members are therefore also asked to consider whether the alleged conduct of former AC Hayman and former DAC Peter Clarke would give rise to a 'conduct matter' under the PRA 2002.

*Former AC Hayman*

50. Members will note that the media reports raise concerns about the conduct of former AC Hayman in that he allegedly:

- e. accepted hospitality from News International during the course of his investigation; and
- f. failed to uncover evidence of hacking of crime victims' voicemail messages during the initial investigation.

51. Members are asked to consider whether such alleged conduct would give rise to an indication that a criminal offence has been committed or would justify the bringing of disciplinary proceedings.

52. In deciding whether there is an indication that a criminal offence has been committed, Members are reminded of the criminal offences identified at **Appendix N**. Members are also reminded that disciplinary proceedings may be justified where there is a breach of the Standards of Professional Behaviour and are again asked to consider the standards identified at paragraph 40 above.

*Former DAC Clarke*

53. Members will note that concerns raised about former DAC Clarke relate to the failure of the initial investigation to uncover evidence of hacking of crime victims' voicemail messages.

54. Members are again asked to consider whether this would give rise to a 'conduct matter' under the PRA 2002.

55. If Members have decided that the alleged conduct of any or all of the ACPO and former ACPO officers gives rise to a conduct matter under the PRA 2002, they are asked to consider whether the 'conduct matter' should be recorded.

Recording as a conduct matter

56. A conduct matter must be recorded where:

- a. a member of the public is bringing, or threatening to bring, civil proceedings related to the conduct matter against either the MPA or MPS;
- b. the alleged conduct appears to have resulted in the death or serious injury of any person;
- c. it appears a member of the public has been adversely affected by the alleged conduct; or
- d. the alleged conduct falls within a description specified within regulation 5 of the Police (Complaint and Misconduct) Regulations 2004<sup>1</sup>.

57. Members are asked to consider whether any of the above criteria for recording a conduct matter are satisfied, and to make a separate decision in respect of each officer.

58. In particular, Members are asked to consider:

- a. in relation to the conduct of AC Hayman and DAC Clarke in conducting the initial investigation, the content of the media report dated 23 May 2011 (at **Appendix M**), which suggests that Lord Prescott and three others may be bringing proceedings for a breach of human rights in the police handling of their cases.
- b. whether it appears that a member of the public has been adversely affected by the alleged conduct of any of the officers; or

---

<sup>1</sup> Reg 5 specifies that a conduct matter must be recorded where it relates to (a) serious assault, (b) serious sexual offence, (c) serious corruption, (d) a criminal offence or behaviour which is liable to lead to a disciplinary sanction and which in either case is aggravated by discriminatory behaviour on grounds of race, sex, religion, actual or perceived sexual orientation, physical or mental disability, or age (e) a relevant offence as defined in the Police (Complaints and Misconduct Regulations 2004) or, (f) conduct whose gravity or other exceptional circumstances make it appropriate to record the matter.

- c. whether the gravity or other exceptional circumstances of the conduct matter make it appropriate to record.

59. If Members resolve that the conduct alleged against any or all of the officers or former officers does not satisfy the criteria for recording, the allegations will not constitute a recordable conduct matter within the meaning of PRA 2002. Members should next consider the allegations in accordance with the 2008 Regulations and if this stage is reached, further legal advice will be provided.

60. If Members have determined to record the conduct matter against any or all of the officers or former officers in accordance with the PRA 2002, they should consider whether to refer the conduct matter to the IPCC.

### **Decide whether to refer the recordable conduct matter to the IPCC**

#### **Mandatory Referral**

61. The MPA is under a duty to refer a conduct matter to the IPCC where:

- a. the alleged conduct appears to have resulted in the death or serious injury of any person;
- b. the alleged conduct falls under Regulation 5(a) to (e) or (g) of the Police (Complaint and Misconduct) Regulations 2004<sup>2</sup>; or
- c. it has been notified by the IPCC that it must do so.

62. Members may consider that none of the grounds for mandatory referral is met in respect of the alleged conduct of any of the named ACPO (or former ACPO) officers.

#### **Voluntary Referral**

63. The MPA may refer a recordable conduct matter to the IPCC if it would be appropriate to do so by reason of:

- a. the gravity of the matter; or
- b. any exceptional circumstances.

64. The IPCC Statutory Guidance states at paragraph 219 that "*the IPCC encourages appropriate authorities to refer complaints or incidents that do not come under the mandatory referral categories but where the gravity of the subject matter or exceptional circumstances justify referral. This may be, for example,*

---

<sup>2</sup> ibid

*because the complaint or incident could have a significant impact on public confidence, the appropriate authority has specific concerns about a matter or it is felt there is a need for independent involvement in the investigation."*

65. Members should consider whether, in respect of the alleged conduct of any of the officers or former officers, the gravity of the matter or any exceptional circumstances render it appropriate to refer the matter to the IPCC. If so, Members may resolve to refer the matter to the IPCC and are not required to take any further action at this stage.

66. If Members do not consider that the requirements for voluntary referral have been met, then they may deal with the matter in any manner that they consider appropriate, which may include determining that the matter should be investigated.

67. If Members have resolved that an investigation is required under the PRA 2002, they are asked to note the following. The MPA has a duty to appoint an Investigator to investigate the matter. Under the PRA 2002, the Investigator must be a person serving within the police (emphasis added):

- a. who has the appropriate level of knowledge, skills and experience to plan and manage the investigation
- b. whose involvement in the role would not reasonably give rise to a concern as to whether or not he could act impartially
- c. who does not work directly or indirectly under the management of the person whose conduct is being investigated
- d. who is not serving in the same division of the officer concerned.

68. If Members reach this stage, they are asked to consider whether to delegate to the Chief Executive, in consultation with the Chair of the PSCSC, authority to appoint an Investigator and to agree terms of reference for the investigation.

69. If Members do not consider that the recorded conduct matter against any or all of the officers or former officers requires investigation, they should next consider the conduct in accordance with the Conduct Regulations 2008 ("the Conduct Regulations"). Further legal advice will be provided if this stage is reached in respect of any or all of the officers or former officers.

## **Suspension**

70. The Conduct Regulations apply where an allegations comes to the attention of the MPA which indicated that the conduct of a police officer may amount to misconduct or gross misconduct.

71. Under Regulation 10 of the Conduct Regulations, the MPA may suspend a police officer if the following 'suspension conditions' are satisfied:

- d. that having considered temporary redeployment to alternative duties or an alternative location as an alternative to suspension, they have determined that such redeployment is not appropriate in all the circumstances of the case; and
- e. that it appears to the MPA that either: -
  - i. the effective investigation of the matter may be prejudiced unless the officer is suspended;
  - ii. The public interest requires that the officer should be suspended, having regard to the nature of the report, complaint or allegations and any other relevant considerations.

72. In accordance with Regulation 10(12) of the Conduct Regulations, where the IPCC is supervising, managing or independently investigating a matter, the MPA must consult with the IPCC in deciding whether or not to suspend the officer concerned under the Conduct Regulations. Similarly the IPCC must be consulted regarding any decision to cease the suspension of an officer, unless this is at the conclusion of misconduct proceedings or a special case hearing.

73. In determining whether or not to suspend a senior officer from duty, the Sub-Committee should have full regard to the particular circumstances the case and should examine the circumstances on their merits. Any decision to suspend does not imply any decision about the alleged misconduct.

74. Members are asked to consider, in the circumstances of this case, whether the suspension of the Commissioner and/or AC Yates would be justified.

## **C. OTHER ORGANISATIONAL AND COMMUNITY IMPLICATIONS**

### **Equality and Diversity Impact**

There are no equality and diversity impact issues directly arising from this report.

### **Met Forward**

This report has the potential to impact adversely on the following strands of Met Forward:

- Met Connect- Confidence in the MPS
- Met Standards- holding the Commissioner to account

### **Financial Implications**

There are no immediate financial implications arising from this report, however, if Members resolve that it is appropriate to conduct an investigation there may be costs incurred if it is necessary to appoint an investigator from an external force.

### **Legal Implications**

Allegations against senior officers in the MPS, received after 1 December 2008, are considered by the MPA in accordance with the Police Reform Act 2002, as amended; the Police (Complaints and Misconduct) Regulations 2004, as amended; the Police (Conduct) Regulations 2008; the IPCC Statutory Guidance and the Home Office Guidance on Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures.

### **Environmental Implications**

There are no environmental implications arising from this report.

### **Risk implications**

As this report identifies named individuals it contains Exempt Information under Schedule 12A of the Local Government Act 1972 and will therefore be considered during Part 2 of the meeting. Specific details of each individual and their complaint referred to in the report should not therefore enter the public domain.

## **1. DOCUMENTS**

Appendix A – Press Reports

Appendix B – Press report

Appendix C – Pres report

Appendix D – Media report.

Appendix E –  complaint dated 5 July 2011

Appendix F – [ ] complaint dated 9 July 2011

Appendix G – [ ] complaint dated 10 July 2011

Appendix H – [ ] complaint dated 12 July 2011

Appendix I – Draft minutes of PSCSC 16 May 2011

Appendix J – Letter to the Commissioner dated 1 June 2011

Appendix K – Press report

Appendix L – [ ] complaint dated 6 July 2011

Appendix M – Press reports

Appendix N – Criminal offence of Misconduct in Public Office and Perverting the  
Course of Justice

**Report Author: Ashleigh Freeman, Professional Standards Officer**

APPENDIX A

guardian.co.uk

Printing sponsored by:

Kodak  
All-in-One Printers

## John Yates's phone-hacking testimony leaves some unanswered questions

Nick Davies analyses the Metropolitan police assistant commissioner's evidence to the select committee



Nick Davies  
The Guardian, Wednesday 13 July 2011

A href="#">http://www.guardian.co.uk



John Yates appearing before the home affairs select committee, where he answered questions about his handling of the phone-hacking investigation. Photograph: Reuters

**Evidence given by John Yates, the Metropolitan police assistant commissioner, to the home affairs select committee left a number of unanswered questions about his handling of the phone-hacking investigation.**

### His actions in July 2009

On 9 July 2009, the Guardian published a story that revived the hacking affair. Later that day, Yates announced that there were no grounds to reopen the original inquiry and said the *News of the World's* hacking had had few victims. There are several difficulties with this.

Yates was asked by the commissioner to "establish the facts". It is clear that he failed to do so. On Tuesday, he conceded that he had spent only eight hours doing so; that he had not spoken to Andy Hayman, the former assistant commissioner who oversaw the original inquiry; nor to Peter Clarke, the former deputy assistant commissioner who ran it; nor had he taken any legal advice; nor had he examined the contents of the material seized from the *News of the World's* investigator, Glenn Mulcaire, in August 2006. This is now known to include 11,000 pages of Mulcaire's hand-written notes, computer records and tape recordings of intercepted messages.

Yates' statement itself appears to be misleading. If he had not established the facts, he was in no position to judge whether or not the inquiry should be reopened, nor to make public any conclusion about the number of people who had been victims.

His current defence of that statement does not appear to hold water. He says his task was simply "to establish the facts about the Guardian article. Is there anything new we are not aware of? The plain fact is that there was not."

If the Met police did not know the contents of the seized material, then the Guardian article was indeed telling them new things that they were not aware of – for example,

that there were thousands of victims, and that the former deputy prime minister John Prescott was among those targeted.

If, on the other hand, the Met police did know the contents of the seized material, then Yates had no basis for saying there were very few victims and claiming there was no evidence that Prescott had been hacked.

#### His actions in September 2010

On 1 September, the New York Times published an article with quotes from two former News of the World journalists – one named, one anonymous – which clearly indicated that hacking was widespread and well-known at the paper. Amid a political storm, Yates agreed to look at new evidence to see if it justified any further prosecution. Again, he has a series of difficulties.

First, it is difficult to understand why, knowing that Scotland Yard had a mass of material seized from Mulcaire and knowing this had never been properly searched, he ruled that only "new" evidence should be explored. The current inquiry, Operation Weeting, has since found numerous leads about previously unidentified victims and alleged perpetrators in this material.

Second, the detectives who interviewed the few journalists willing to give evidence insisted on treating them as suspects, not as witnesses, warning them that anything they said might be used in evidence against them. Sean Hoare, who had been willing to speak, then refused to answer questions. Another, Paul McMullan, challenged them to arrest him if they wanted to treat him as a suspect. The Crown Prosecution Service later concluded this inquiry had found no new evidence to justify any prosecution.

Yates has admitted that during this time, he continued to have social meetings with senior journalists from the News of the World, but he told the committee that this was acceptable because "I have never investigated these matters. They have come under my oversight, but there has never been an investigation that I have led." He describes the inquiries following the New York Times story as "a scoping study", not an investigation. He did not refer to the fact that the detective who led this operation was his own staff officer, Det Supt Dean Hayden.

#### Mobile phone companies

In September last year, Yates told the home affairs committee that police had "ensured" that mobile phone companies had warned all customers who had been identified as victims of hacking. In May this year, witnesses from the phone companies confirmed to the committee a Guardian disclosure that, in fact, none of them had been told to warn victims among their customers. All but one had followed normal protocol and kept their findings confidential because of the police inquiries.

Yates told the committee there was "a range of correspondence" between police and the phone companies. "In retrospect, it may not have been followed through in the way that it should have been," he said.

#### Legal advice from the Crown Prosecution Service

On four occasions, Yates has told parliament that prosecutors told police in 2006 that they must adopt a narrow interpretation of the law: that they needed to prove not only that voicemail had been intercepted but also that this had been done before the message had been heard by its intended recipient. He referred to this again on Tuesday. This is important because Yates has used this to justify his claim that the original inquiry found only 10 or 12 victims of hacking.

The current director of public prosecutions, Keir Starmer, has told the committee that, at an early stage of the original inquiry, an in-house lawyer at the CPS did raise this interpretation but added that it was "very much untested, and further consideration will need to be given to this". Later, according to Starmer, a senior barrister was appointed to run the prosecution and "he is clear that he did not at any stage give a definitive view

that the narrow interpretation was the only possible interpretation". Yates, by contrast, earlier this year told the committee that the advice to adopt the narrow interpretation was "unequivocal".

guardian.co.uk © Guardian News and Media Limited 2011

APPENDIX B

Ashleigh Freeman

---

From: Jacquil Jones [Jacquil.Jones@ ]  
Sent: 12 July 2011 15:37  
Subject: News bulletin PA Just 170 hacking victims contacted

The following bulletin is being forwarded to you via the Metropolitan Police Authority Communications Unit from an external third party source because we feel it may be of interest to you. If you do not wish to receive further updates of this kind let us know by return email and your name will be removed from our daily update distribution list. Please note that all information contained within this bulletin is the responsibility of the third party originator and therefore the Metropolitan Police Authority takes no responsibility for its accuracy or any views expressed within it.

JUST 170 HACKING VICTIMS CONTACTED

POLITICS Hacking Police  
Jul 12, 2011 3:29:05 PM  
By Tom Morgan and Sam Marsden, Press Association

Page 1

The police chief leading Scotland Yard's phone hacking probe has revealed just 170 of more than 4,000 potential victims have been contacted.

The full scale of the long-running operation was laid bare as Deputy Assistant Commissioner Sue Akers admitted "confidence has been damaged" by previous failures.

She admitted there was an "awful lot to do" after saying police had compiled a list of more than 12,000 names and numbers.

Evidence from News International details 3,870 names along with 5,000 landline numbers and 4,000 mobiles, she told the committee of MPs.

She gave MPs her "guarantee" that she would oversee a thorough inquiry, adding: "I hope that I do not have come back here in five years time."

mf

Page 2

Mr Yates, the Met's head of counter-terrorism, told MPs: "From the methods I know that are used, and the impact it has on your phone, your pin number, I am 99% certain my phone was hacked during a period of 2005-06.

"Who by, I don't know. The records don't exist any more."

He added: "It arrived from my own knowledge - I know what happened to my phone. It was a particularly difficult time for the Met."

Scotland Yard officers carrying out the phone-hacking inquiry, known as Operation Weeting, are examining 11,000 pages of material containing nearly 4,000 names of possible hacking victims.

Lord Blair, Britain's former top policeman, told the committee: "What I am aware of is that my mobile and home telephone numbers were within the files that have been examined.

"I have no evidence and nor, as I am aware, does Operation Weeting have any evidence to suggest that those phones were hacked."

He also said an earlier inquiry into phone hacking by the News of the World while he was head of Scotland Yard was "not a major issue at the time".

"Never during my period of office, which ended in 2008, did it become a major issue," he said.

mfl

Page 3

Mr Yates expressed regret at his 2009 ruling that there was no need to reopen the phone-hacking investigation.

But he insisted he had always told the truth to the Home Affairs Select Committee and suggested that the News of the World "failed to co-operate" with police until the start of this year.

"I can assure you all that I have never lied and all the information that I've provided to this committee has been given in good faith," he told the MPs.

"It is a matter of great concern that, for whatever reason, the News of the World appears to have failed to co-operate in the way that we now know they should have with the relevant police inquiries up until January of this year.

"They have only recently supplied information and evidence that would clearly have had a significant impact on the decisions that I took in 2009 had it been provided to us."

mfl

Page 4

Mr Yates strongly denied allegations in the New York Times that he was put under pressure not to investigate phone hacking at the News of the World because of fears that the Sunday tabloid would publish details about his personal life.

"I categorically state that was not the case to each and every one of you. I think it's despicable, I think it's cowardly," he told the MPs.

Mr Yates said he had "never, ever, ever" received payment from journalists for information but admitted it was "highly probable" that some of his officers did.

Asked by committee chairman Keith Vaz whether he had offered to stand down from his job, the senior officer said: "No, I haven't offered to resign.

"And if you're suggesting that I should resign for what News of the World has done and my very small part in it, I think that's probably unfair."

Labour MP Mr Vaz told Mr Yates at the end of the session that the committee found his evidence "unconvincing".

He told him: "There are more questions to be asked about what happened when you conducted this review.

"So you may well be hearing from us again. Please do not regard this as an end of the matter."

Mr Vaz asked Mr Hayman why no "alarm bells" had rung when he decided to take work from a company which he had so recently been investigating.

"Did it not occur to you that this was perhaps not the best decision of your life, that you should go to the people you had been investigating, especially when we have heard that they were most unco-operative in respect of the investigation?" asked Mr Vaz.

Mr Hayman said he had been approached by various newspapers offering journalistic work after he retired from the police.

And he added: "The Times - OK, it is part of News International. I knew no-one in the Times at an editorial level. They had slaughtered me on their front page shortly before. There was no love lost there at all.

"The naivety, looking back at it, you might say is that they are a part of the same stable. But I just didn't see that. I was seen by the editor and deputy editor. I didn't know them from Adam."

He insisted: "I can absolutely say that any hint that I am in their back pocket is unfounded. I refute that.

"In terms of the investigation, even if I had that motive or other motives that have been suggested, I had no ability to change the direction of that at all."

Mr Hayman confirmed that he had private dinners with representatives of the News of the World during the phone hacking inquiry, but said they had always been "businesslike" and taken place in the presence of the Met's head of communications.

"Any suggestion that these were cosy, candle-lit affairs where state secrets were discussed is rubbish," he said.

Mr Hayman said that, as far as he could recall, he did not raise the issue of News International's failure to co-operate because he was not aware of it at that time.

Mr Vaz told him that his approach appeared to be "like Clouseau rather than Columbo".

The committee chairman raised a report in today's New York Times claiming that the phones of senior police officers including Mr Hayman had been hacked, and that "there was some kind of deal done because of your personal life, that they would not attack you if supported them in this investigation".

Mr Hayman said: "These are all terribly grubby suggestions... Even if I had a motive which was unethical - and I didn't - how could I ever have stopped a line of investigation or driven one in any way, shape or form? I didn't. I couldn't. Peter (Clarke) would never have let me and, if I had done that, Peter or the SIO (senior investigating officer) would have been all over me like a rash, saying 'What the hell are you doing?'"

He said he "hadn't got a clue" if he was one of the victims of phone-hacking, adding: "If I am, so be it, because I've got nothing to hide at all."

mfl

Page 7

Mr Hayman said the detectives he put on to the phone hacking allegations were "the best team that I ever had".

mfl

Page 5

Peter Clarke, a former deputy assistant commissioner who oversaw the original investigation into phone hacking, said he had not trawled about 11,000 pages of material because he could not justify the resources that would have been needed.

The documents were seized by police after the arrest of Clive Goodman and Glenn Mulcaire, but Mr Clarke and his senior colleagues decided against an "exhaustive analysis" of the documents, he told the Home Affairs Committee.

"In the wider context of counter-terrorist operations that posed an immediate threat to the British public, when set against the criminal course of conduct that involved gross breaches of privacy but no apparent threat of physical harm to the public, I could not justify the huge expenditure of resources this would entail over an inevitably protracted period," he said.

Instead, a team of officers were tasked with identifying victims where there might be "security concerns". There was also a strategy for police and mobile phone companies to inform "certain categories of potential victim", he said.

"I have since learned that this strategy did not work as intended," he said.

"As John Yates has indicated, that is a matter of course of profound regret.

"It is also of course utterly regrettable that, as a result of the decision not to conduct a detailed analysis of all the material seized, a category of victim that I had no idea were the target of hackers did not receive the support that they deserved sooner, and I refer there of course to the victims of crime."

Mr Clarke also criticised News International for refusing to co-operate and said that was why the inquiry into the company could not be broadened out.

Solicitors for News International told the police the material to which they were entitled was "limited", he said.

"In reality very little material was produced. Therefore while we were able to prosecute the specific offences under investigation we were unable to spread the inquiry further with News International because of their refusal to co-operate more broadly," he said.

The former police officer added: "If at any time News International had offered some meaningful co-operation instead of prevarication and what we now know to be lies, we would not be here today."

mfl

Page 6

Former Metropolitan Police assistant commissioner Andy Hayman, who was in ultimate charge of the News of the World hacking investigation in 2006 and later went on to become a columnist with the News International title The Times, rejected suggestions that he was "in their back pocket".

He confirmed that he signed up with The Times within two months of retiring from the Met in 2008, and declined to say whether he would now give up the post in the light of the recent revelations.

He said he had "no involvement at all" in the decision not to trawl through the 11,000 documents, but added: "The fact we are where we are now, I would have endorsed what he (Peter Clarke) said."

Mr Hayman said there had to be a judge-led inquiry, adding: "I'll tell you what, when you look back now, what we know now, I mean this is a horror story, this is absolutely awful, the people that are now going through the pain the second time around as victims - just appalling."

He admitted he owed an apology to Lord Prescott for ridiculing his claims in the past that he had been hacked.

Asked whether the original investigation had been a disaster, he said: "At the time everything possible that they were able to do, given the resources and the parameters they set, was done and I stand by that and Peter (Clarke) has as well."

"What we look like now, it's very lame. I think what's happened is I think we've had more time to do it, more revelations have come out, the News of the World have given us material that we didn't have at the time."

He added: "It's not a disaster when two people pleaded guilty and went to prison."

Asked whether he should apologise, he said: "I want to be sure that when I stand there I am apologising either for something I have done wrong, or someone in my team have done, and I want to know what it is that people have done wrong for us to apologise."

mfl

Page 8

Mr Clarke said he had a team of around 10-12 officers dealing with the 11,000-page stash of papers seized from Mulcaire, but they were tasked with looking for specific information rather than conducting an "exhaustive analysis" of the documents.

"I can't say whether all the material was read," he told the committee. "I wasn't there looking over people's shoulders."

And he added: "I'm not sure that skimming 11,000 pages is an exercise that could be undertaken."

Analysing all of the material and constructing a possible case for prosecution would have taken "months or years", and if potential victims were informed during that time that they might have been hacked it would have become public knowledge and given culprits time to destroy evidence, said Mr Clarke.

He made clear his surprise at News International's failure to co-operate with the initial inquiry, saying that officers were met with "hostility and obstruction" when they went to the News of the World on the day of the arrests.

"Would you expect criminals to co-operate with the police? Of course you don't," said Mr Clarke.

"But this is slightly different - and I don't mean to be flippant - from someone taking the lead off the church roof.

"This is a major global organisation with access to the best legal advice, in my view deliberately trying to thwart a police investigation."

Conservative committee member James Clappison said the decision to focus tightly on evidence against Mulcaire and Goodman was "catastrophic..."

because it allowed this network of spying and corruption to continue untouched".

But Mr Clarke responded: "The evil we were trying to investigate and to stop was the illicit access to people's voicemails. As far as I am aware, by and large since 2006 - and it may be completely since 2006, because of the work on security we have done with the mobile phone companies - voicemail hacking no longer continues."

And he added later: "I consider the decision taken at the time was perfectly reasonable. I had to weigh up the conflicting priorities of counter-terrorism and invasion of privacy.

"I made the decision. I stand by that decision and people can make their judgments."

Mr Hayman insisted no decision was made to limit the terms of the inquiry in order not to make an enemy of News International.

He said it would not have been easy for him to simply throw more officers at the hacking investigation in order to enable them to pore over every document they had seized.

"For the previous two years I had already been stripping out other parts of the Metropolitan Police to support the anti-terrorist branch in a whole series of anti-terrorist operations," he said.

"A lot of other serious crime had gone uninvestigated to the extent it should have been because of the demands I was placing on them.

"I took the view that it would be completely unrealistic, given that we were heading towards a prosecution of Goodman and Mulcaire, to then go to another department and say 'We've got a prosecution running, we've got a huge amount of material here which needs analysing. We don't know, given the uncertainties of the legal advice, whether there will be further offences coming from this or not. Would you like to devote 50, 60, 70 officers for a protracted period to do this?'

"I took the judgment that that would be an unreasonable request, so I didn't make it."

Mr Vaz told Mr Clarke: "You've been very helpful to the committee in giving evidence today, but we remain - although of course we accept the integrity of the way in which you presented your evidence - puzzled that, at the time of your investigation, this information was not properly analysed, for whatever reasons, whether it's resources or judgments that you made."

APPENDIX C

Ashleigh Freeman

---

From: Jacqui Jones [redacted]  
Sent: 12 July 2011 11:07  
Subject: News bulletin PA MPs to grill police in hack probe

The following bulletin is being forwarded to you via the Metropolitan Police Authority Communications Unit from an external third party source because we feel it may be of interest to you. If you do not wish to receive further updates of this kind let us know by return email and your name will be removed from our daily update distribution list. Please note that all information contained within this bulletin is the responsibility of the third party originator and therefore the Metropolitan Police Authority takes no responsibility for its accuracy or any views expressed within it.

MPS TO GRILL POLICE IN HACK PROBE

POLITICS Hacking Police  
Jul 12, 2011 11:02:03 AM  
By Wesley Johnson, Press Association Home Affairs Correspondent

Page 1

Senior police chiefs will be quizzed over the phone hacking scandal today as two MPs called for a top officer to resign amid accusations he repeatedly lied to parliament.

Assistant Commissioner John Yates, who assessed the initial investigation into phone hacking in 2009 but ruled there was no further evidence, will defend his actions, saying he was never asked to carry out a review of the original inquiry.

But Labour's Chris Bryant has called for his resignation, telling the Commons that Scotland Yard's most senior counter-terrorism officer was guilty of "repeatedly lying" to MPs.

Labour MP Tom Watson added that the officer's position was now "untenable" after he "misled Parliament".

Mr Yates is one of four senior officers from the Metropolitan Police who will give evidence to the Commons Home Affairs Select Committee.

He told the Sunday Telegraph that his 2009 decision was "pretty crap" and admitted mistakes before continuing to defend himself in a letter to the committee which was released yesterday.

He denied being asked to review his force's original phone-hacking investigation in 2006, which resulted in the News of the World's former royal editor Clive Goodman and private investigator Glenn Mulcaire being jailed.

Mr Yates wrote: "From the beginning of my involvement in this matter in 2009, I have never conducted a 'review' of the original investigation and nor have I ever been asked to do so.

"In relation to events that took place in 2009, I was provided with some considerable reassurance (and at a number of levels) that led me to a view that this case neither needed to be reopened or reviewed."

He added that it was a "source of great regret" that the hacking of Milly Dowler's phone was not discovered earlier.

Scotland Yard also accused News International of "undermining" its investigation into claims that journalists paid corrupt police officers by leaking details of the inquiry to the media.

The move came as three other senior officers were preparing to face the MPs.

Keith Vaz, the committee's chairman, said former assistant commissioner Andy Hayman, the officer in charge of the original inquiry, will be questioned over "who knew what at which point".

Deputy Assistant Commissioner Sue Akers, who is in charge of the current probe, Operation Weeting, will also be questioned, but is expected to be limited in what she can say due to the ongoing inquiries.

Former assistant commissioner Peter Clarke, the Met's former counter-terrorism chief, will also give evidence to the MPs.

Speaking in the Commons yesterday, Mr Bryant said: "One of the biggest problems we have here is that the police did fail to act systematically.

"Assistant Commissioner Yates repeatedly lied to parliament. He said that there were very few victims. He said all the victims had been contacted. He said all the mobile phone companies had been put on notice in relation to this.

"He is in charge of counter-terrorism in this country for heaven's sake. Surely he should resign."

end

Page 2

Home Secretary Theresa May said she had confidence in Mr Yates.

"John Yates is indeed in charge of counter-terrorism.

"He's doing a very good job in that role and I have confidence in John Yates."

APPENDIX D

## The Telegraph

### John Yates: Phone hacking investigation was a 'cock up'

John Yates, Assistant Commissioner of the Met police, has admitted letting down the victims of the News of the World phone hacking scandal.



John Yates, Assistant Commissioner of the Met police, has admitted letting down the victims of phone hacking. Photo: REUTERS



By Alasdair Palmer, and Robert Mendick

9:00PM BST 09 Jul 2011

John Yates, if not quite squirming in his armchair, appears distinctly uncomfortable.

Seated in an office high up in Scotland Yard, with views over London, Assistant Commissioner Yates is finally making his apologies.

Two years ago, in July 2009, 'Yates of the Yard' had the chance to reopen the Metropolitan police's investigation into "industrial scale" phone hacking at the News of the World. He missed it.

Instead of re-examining 11,000 pages of material recovered from the home of the private investigator Glenn Mulcaire, jailed in 2007 for hacking into the mobile phones of Royal aides, Yates decided after eight hours' consideration, which included consulting the Crown Prosecution Service and investigating officers, that there was no likelihood of further convictions.

It was a decision he now admits was a "pretty crap one".

Secret recording of Rebekah Brooks's address to staff

Scotland Yard figures in charge as the scandal unfolded

Rebekah Brooks to be questioned by police over phone hacking

John Yates: I failed victims of News of the World phone hacking

In a remarkably candid interview with *The Sunday Telegraph*, Yates, 52, who became the lightning rod for public anger at the police's failure to properly investigate *News of the World's* phone hacking, conceded he let down the thousands of hacking victims - among them the dead schoolgirl Milly Dowler and her family.

He also accepted the Metropolitan Police's reputation has been seriously damaged by the scandal but said he had no intention of resigning. Over the course of an hour and half he talked through the mistakes that had been made, describing them as cock-up, not conspiracy. The thousands of pages of evidence had been kept in bin bags for three years before he finally took the decision to have the names entered on to a computer database, allowing police to properly examine the leads.

He revealed that he too had been the victim of phone hacking but was quick to dismiss as 'contemptible' claims - currently doing the rounds of police and media circles - that he had had any sort of relationship with Rebekah Brooks.

### The 2006 Investigation

It began in 2006 with the arrest of Glenn Mulcaire, a private investigator working for the *News of the World*, and Clive Goodman, its royal editor. The initial police inquiry was led by Andy Hayman, the officer responsible for both anti-terrorism and Royal protection. The inquiry focused on hacking into the phones of Royal aides - Prince William had become concerned over a report in the *News of the World* that could only have been obtained through hacking phone messages - and a handful of others including Gordon Taylor, the football players' representative, who would later receive a secret £800,000 payment from News International that effectively bought his silence. Police seized 11,000 pages of notes from Mulcaire, containing the names of 4,000 potential hacking victims.

So why was the investigation so narrowly focused?

Yates said: "The first inquiry started off as a national security issue regarding the two princes.

"The whole job revolved around what is a victim? And the interpretation of the law of what a victim was. We took a narrow view of what a victim was, because that is what we felt the [legal] advice was. There is

now dancing on the head of a pin on that.

"We had always said there were a small number of victims. I was told there were hundreds of names in his [Mulcaire's] system but he was a private investigator and you would expect him to have a range of people and material [in his books]."

Asked why the investigation did not get a higher priority at the time, Yates points to the context. Two days after Mulcaire's arrest, the same police unit foiled an al-Qaeda plot to blow up transatlantic airliners.

At that time, police had failed to appreciate the full significance of Mulcaire's treasure trove of documents. "I've never seen the 11,000 pages; I knew there were bin bags full of material but legal counsel reviewed all of it. They will say they reviewed the material solely according to the narrow framework of the indictment but the fact of the matter is they saw all the source material.

"I have regrettably said the initial inquiry was a success. Clearly now it looks very different."

#### Yates of the Yard is called in

Yates was at his desk in Scotland Yard in July 2009 when he received a call from the Met Commissioner Sir Paul Stephenson, asking him to look afresh at phone hacking in the light of that morning's Guardian newspaper article detailing fresh allegations of industrial-scale hacking by Mulcaire.

Yates was the Met's star man, trusted with the most difficult cases, investigating cash for honours and being trusted with apologising to the family of Jean Charles de Menezes.

"Not in a million years did I ever think we would get to this point when I came to it in July 2009. It was relatively straight forward. The Guardian had raised a lot of issues. It was a bloody great story but the question was: was there anything new in it for us? The answer was no there wasn't. But should I have come out so quickly and said there wasn't anything in it? Tactically, I probably shouldn't have. I should have cogitated and reflected but it's so bloody obvious there was nothing there [that we didn't already know]. I didn't do a review. Had I known then what I know now – all bets are off. In hindsight there is a shed load of stuff in there I wish I'd known."

#### The case is closed again in 2009

The first thing Yates did was write a memorandum outlining the parameters of his fresh look at the case. It is proof, he suggests, that there has been no cover-up and that none of his decisions were influenced in any way by News International. "Were we lethargic, complacent or corrupt? I don't think we were any of those, certainly not corrupt."

But he admits the parameters he was set in 2009 were narrow. "I held a series of meetings with the senior investigating officer. We looked at what the Crown Prosecution Service had said. It was landmark"

case and we still don't have case law on it.

"To have given the go ahead for a full review of a case of that nature would have involved four or five people and five or six months work and a lot of resources and In July 2009 why would I do that?" With assurances from the CPS and Investigating officers, Yates concluded rapidly there was nothing to be gained from opening the case up again.

"In terms of proper use of our resources I am not going to re-investigate, for the same offence."

But as queries poured in from celebrities and politicians asking if they had been victims of hacking, Yates realised the evidence in the bin bags needed to be entered on to a computer database. He employed a team of ten to input the information but still failed to re-open the investigation. "I'm not going to go down and look at bin bags. I am supposed to be an Assistant Commissioner. Perhaps I should have been more demanding. I am accountable, and it happened on my watch, and it's clear I could have done more," he said.

"If I had known then what I know now of course we'd have widened it. I could have handed it over to the specialist crime directorate." The decision, he admitted, "was a pretty crap one".

#### News International blocks the inquiry

With News International sticking to its claim that the hacking was conducted by only one 'rogue reporter', Yates says police found it difficult to bring further prosecutions. "When we made the arrests in 2005 on the day we went to Wapping there was a Mexican stand-off, a lock down, and they wouldn't let us in. Most newspapers desks would do the same if a cop turned up with a dodgy looking warrant.

"In fairness in 2005/2006 and even in 2009 did we think hacking was standard practice? I don't think anybody knew. Now it's different. There were levels of assurances [that it was restricted to one 'rogue reporter'] from the *News of the World*, who were not the most cooperative. News International cooperated just enough. They were pretty clever about that. They were just taking it to the limit.

"If I knew then what I know now, it would have been professionally crazy not to [reopen the investigation]. The only reason you now have a new investigation is because *News of the World* produced new material and new evidence that only happened in January this year.

"That material was completely available to them in 2005/06. It makes their assurances in 2005 and 2006 very shaky." Asked if that was criminal, Yates replied: "That is a matter for the new team. In my view it was extremely unhelpful to receive it five or six years later."

#### Rebekah Brooks and police relations with the Murdoch empire

Yates was remarkably frank on the subject of Rebekah Brooks, and extraordinary rumours circulating that he had had a relationship with her.

"There has been a huge amount of malicious gossip. I have laughed at it. It is quite astonishing. I take it with a large pinch of salt, it's not true. I have been around this business a number of years and have good relationships with the media which I think is part of my role to help inform the context and some of them are in the News of the World." Yates said he had known Neil Wallis, Andy Coulson's deputy editor at the *News of the World*, and previously editor of *The People*, for 12 years.

Other suggestions of improper relationships, made under the veil of Parliamentary privilege, have deeply upset him. They are, he said: "Contemptible, utterly untrue, and cowardly ... I will take whatever action I can to defend myself on that. It can be shown on any number of levels to be utterly false. Apart from that, I haven't got any strong views about it."

Asked if he thought Brooks should quit, he said: "It is a matter for her. I think it is a matter for Rebekah, her company and her conscience. It has nothing to do with us." Asked about the fact the paper had closed but the chief executive remained in post, he added: "I've lost the ability to be surprised but that was a surprising development."

#### Claims of police corruption

Yates, who said he too was hacked in 2005 and 2006, insisted any officers found to have taken bribes from *News of the World* journalists in return for information would be pursued through the courts. He said if it was true it would be "utterly disgraceful, completely corrupt".

"It's not proven but this has to be investigated. This has happened in the past. It is extremely rare but it does happen.

"If it has happened, those who have done it or received it will have to stand up and be counted. The alleged sums are large and it is a huge surprise even to me, that it is that still going on. The revolving doors of drugs, money in brown paper envelopes, I thought that had gone out the window. If it's proven these officers will undoubtedly go to jail. If police officers have accepted money for information they will go to prison."

#### The police's reputation

Yates admits the scandal has harmed the Metropolitan Police's reputation and that it will take time to rebuild.

"I think the police have been damaged by this. Without feeling at all sorry for myself, I think this has been a very damaging episode for us and we have got to work hard to rebuild the trust in the Met and what we do; we're a fabulous organisation and do a lot of things fabulously well and it's deeply regrettable we find ourselves in this position.

"But we are where we are and we have to hold our hands up personally and collectively and this was not done well by any stretch of the imagination we have got to go on and do it better and get through it."

Milly Dowler and the other victims

As the leading officer who dealt with victims of the Boxing Day tsunami of 2004 and was tasked with apologising on behalf of Scotland Yard for the death of Jean Charles de Menezes, who was mistakenly shot by officers, Yates admits he let down the victims of phone hacking.

"The Milly stuff is just shocking beyond anything. It's a tipping point and quite rightly so. We are all extremely shocked by it and it's a matter of massive regret it we didn't deal with it earlier.

"It is beyond comprehension - beyond belief that someone thought that was acceptable.

"I do want to get across a tone of humility. It's a huge regret these matters weren't uncovered earlier. Things were all done with the best of intentions and the suggestion we've been corrupt is appalling but a real concern. My byword has always been you look after the victims and the job will always resolve itself.

"I always put the victim first but here I didn't follow my principle and that is my greatest regret."

© Copyright of Telegraph Media Group Limited 2011

**Ashleigh Freeman**

---

From: Jacquil Jones [ ]  
Sent: 09 July 2011 22:55  
To: News Update  
Subject: News bulletin PA Hacking probe officer apologises

The following bulletin is being forwarded to you via the Metropolitan Police Authority Communications Unit from an external third party source because we feel it may be of interest to you. If you do not wish to receive further updates of this kind let us know by return email and your name will be removed from our daily update distribution list. Please note that all information contained within this bulletin is the responsibility of the third party originator and therefore the Metropolitan Police Authority takes no responsibility for its accuracy or any views expressed within it.

**HACKING PROBE OFFICER APOLOGISES**

**POLITICS Hacking Yates**  
Jul 9, 2011 9:21:56 PM  
By Joe Churcher, Press Association Chief Political Correspondent

Page 1

A senior Scotland Yard detective has expressed his "extreme regret" that he did not act to reopen police inquiries into phone hacking two years ago.

Despite fresh allegations that thousands of public figures had been targeted, Assistant Commissioner John Yates ruled in July 2009 that there was no new evidence.

He has come under vociferous criticism from MPs over his stance and has been called on to give evidence to an ongoing inquiry by an influential Commons committee.

The initial police investigation led to the jailing of News of the World royal editor Clive Goodman and private investigator Glenn Mulcaire.

But it was accepted that they were an isolated case.

Speaking after this week's revelation that the mobile phone of murdered school girl Milly Dowler had in fact been among those targeted, he said:  
"We are all extremely shocked by it and it is a matter of massive regret we didn't deal with it earlier."

In an interview with the Sunday Telegraph, he said: "My byword has always been you look after the victims and the job will always resolve itself.

"I always put the victim first but here I didn't follow my principle and that is my greatest regret."

He told the newspaper: "I didn't do a review. Had I known then what I know now, all bets are off. I would never have reached this conclusion.

"I am accountable and it happened on my watch and it's clear I could have done more.

"I have regrettably said the initial inquiry was a success. Clearly now that looks very different."

The entire scandal had been "a very damaging episode" for the Metropolitan Police, which now faced a task to rebuild public confidence, he said.

Announcing his decision in 2009, Mr Yates declared: "No additional evidence has come to light since this case has concluded.

"I therefore consider that no further investigation is required."

[MPA IS/IT Blackberry Service]

**Ashleigh Freeman**

---

**From:** Jacqui Jones [redacted]  
**Sent:** 07 July 2011 14:34  
**Subject:** News bulletin E/S Yard bosses 'feared paper would print stories of claimed affairs'

The following bulletin is being forwarded to you via the Metropolitan Police Authority Communications Unit from an external third party source because we feel it may be of interest to you. If you do not wish to receive further updates of this kind let us know by return email and your name will be removed from our daily update distribution list. Please note that all information contained within this bulletin is the responsibility of the third party originator and therefore the Metropolitan Police Authority takes no responsibility for its accuracy or any views expressed within it.

## Yard bosses 'feared paper would print stories of claimed affairs'

**Tom Harper**  
7 Jul 2011

Two senior Scotland Yard detectives were unwilling to investigate phone-hacking because they feared their alleged extra-marital affairs would be exposed, according to the lawyer at the centre of the case.

Assistant Commissioners Andy Hayman and John Yates were both scared the News of the World would expose them for allegedly cheating on their wives if they asked difficult questions of the Sunday tabloid, Mark Lewis has claimed.

The Met has been criticised for accepting News International's defence that phone-hacking was limited to a "rogue reporter" during its original investigation in 2006. The probe was led by Mr Hayman, who claimed "no stone was left unturned". But in testimony submitted to Parliament, Mr Lewis wrote: "At the relevant time, Mr Hayman had reason to fear he was a target of Glenn Mulcaire and the News of the World. It became public knowledge that throughout the period of the investigation into voicemail hacking, Mr Hayman was involved in a controversial relationship with a woman who worked for the Independent Police Complaint Commission and was claiming expenses which were subsequently regarded as unusually high."

Mr Hayman resigned from the Met in December 2007 following claims he sent 400 texts and phone calls to Nikki Redmond. Mr Hayman accepted a job as a columnist on The Times - owned by NI. Mr Hayman and Mr Yates did not respond to calls. Mr Hayman is due to appear before MPs next week.

Jacqui Jones | Communications Manager | Metropolitan Police Authority | Telephone [redacted]  
[redacted] Mobile [redacted] MetPhone [redacted] Out of office [redacted] Fax [redacted]  
[redacted] Email [Jacqui.jones@\[redacted\]](mailto:Jacqui.jones@[redacted]) Website [www.mpa.gov.uk](http://www.mpa.gov.uk) | Address MPA, 10 Dean  
Farrar Street, London SW1H 0NY

Appendix E

Ashleigh Freeman

From: Jill.Ives@ [redacted]  
Sent: 08 July 2011 15:55  
To: Helen Sargeant  
Subject: FW: Contact us - Send us praise or complaints [redacted]

Helen  
Please see below which is a potential complaint against AC Yates.

Regards

Jill Ives  
DPS ACPO Staff Office  
\* Phone: [redacted]  
\* Fax: [redacted]  
\* Metphone: [redacted]  
\* Mail: Directorate of Professional Standards  
[redacted]

-----Original Message-----  
From: Cochran Ollie - DPS  
Sent: 07 July 2011 10:38  
To: DPS mailbox - ACPO Staff Office  
Subject: FW: Contact us - Send us praise or complaints [redacted]

ACPO Staff Office

Please can you have a look at this one and let me know if this is in the remit of the MPA otherwise I will just non record.

Also could you let me know about the other one that I sent last week to you which is regarding the Commissioner.

Many thanks

Ollie

Ollie Cochran  
>Sergeant  
Directorate of Professional Standards (CST)  
>Telephone: [redacted]  
>Metphone: [redacted]  
>E-mail: [redacted]  
>Mail: Directorate of Professional Standards (CST)  
[redacted]  
[redacted]

-----Original Message-----  
From: Web Editor [redacted]  
Sent: 05 July 2011 07:15  
To: DoI Mailbox - Online Forms; DPS Mailbox - Customer Service Team

Subject: Contact us - Send us praise or complaints

Form title:  
Contact us - Send us praise or complaints  
Reference:  
c01-00009585  
Submitted:  
05-07-2011 07:14:45

-----  
Information  
-----

Complaint type: Make a complaint  
What happened?: In view of the recent allegations of phone hacking I now call for a full enquiry into the modus operandi used by John Yates in coming to his decision that the case merits no further attention.

Reported to: SAFFRON WALDEN  
-----

Contact details  
-----

Title:  
First name:  
Last name:  
Home address:

Postcode:  
Home telephone:  
Email:

Date of Birth: What!  
Preferred method of contact: Email  
-----

About you  
-----

Ethnic Background: Prefer not to say

APPENDIX F

**Ashleigh Freeman**

---

**From:** Helen Sargeant  
**Sent:** 13 July 2011 11:43  
**To:** Ashleigh Freeman  
**Subject:** FW: Contact us - Send us praise or complaints [redacted]

-----Original Message-----

**From:** Jill.Ives@n [redacted]  
**Sent:** 13 July 2011 11:33  
**To:** Helen Sargeant  
**Subject:** FW: Contact us - Send us praise or complaints [redacted]

Morning Helen  
Below forwarded for your attention and necessary action.  
  
Regards

Jill Ives  
DPS ACPO Staff Office  
\* Phone: [redacted]  
\* Fax: [redacted]  
\* Metphone: [redacted]  
\* Mail: Directorate of Professional Standards  
[redacted]

-----Original Message-----

**From:** Cochran Ollie - DPS On Behalf Of DPS Mailbox - Customer Service Team  
**Sent:** 11 July 2011 09:16  
**To:** DPS mailbox - ACPO Staff Office  
**Subject:** FW: Contact us - Send us praise or complaints [redacted]

ACPO Staff Office  
  
Please confirm if this is a suitable matter for the MPA

Ollie Cochran  
>Sergeant  
Directorate of Professional Standards (CST)  
>Telephone: [redacted]  
>Metphone: [redacted]  
>E-mail: [redacted]  
>Mail: Directorate of Professional Standards (CST)  
[redacted]  
[redacted]

-----Original Message-----

**From:** Web Editor [redacted]

Sent: 09 July 2011 23:02  
To: DoI Mailbox - Online Forms; DPS Mailbox - Customer Service Team  
Subject: Contact us - Send us praise or complaints

Form title:  
Contact us - Send us praise or complaints  
Reference:

Submitted:  
09-07-2011 23:02:07

-----  
Information  
-----

Complaint type: Make a complaint  
What happened?: Sir Paul Stephenson,

John Yates must be put out on gardening leave until his role in the News of the World bribery of police officers is cleared without any blemish to his or the Met's reputation

Time: 2002 - 201  
Day: 24/7  
Date: 2002 -2011

Where did it happen?: The crimes took place between 2000 and 2011. Senior police officers took bribes. John Yates lied to the Commons Media, Culture and Sport Select Committee when he claimed that only eight to 12 people had their phones illegally tapped by journalists. He thereby obstructed proper investigation of the crimes, this in itself is a criminal offence.

MPS Staff involved: John Yates - Deputy Commissioner

Witnesses to the incident: Yes  
Witness details: All the police officers who received the bribe, all the police officers who knew about the bribe and were silent and all of those who have been involved in the cover up

Has this complaint been reported?: No  
Have you got a MPS reference: No

-----  
Contact details  
-----

Title:  
First name:  
Last name:  
Home address:

Postcode:  
Home telephone:  
Email:

Date of birth:  
Preferred method of contact:

Letter

-----  
About you  
-----

Do you have a disability?: No  
Gender: Female  
Ethnic Background: White - British

APPENDIX G

**Ashleigh Freeman**

---

From: Helen Sargeant  
Sent: 13 July 2011 11:43  
To: Ashleigh Freeman  
Subject: FW: Contact us - Send us praise or complaints [redacted]

-----Original Message-----

From: Jill.Ives@ [redacted]  
Sent: 13 July 2011 11:34  
To: Helen Sargeant  
Subject: FW: Contact us - Send us praise or complaints [redacted]

Helen  
Further forwarded for your action.

Regards

Jill Ives  
DPS ACPO Staff Office  
\* Phone: [redacted]  
\* Fax: [redacted]  
\* Metphone: [redacted]  
\* Mail: Directorate of Professional Standards  
[redacted]

-----Original Message-----

From: Cochran Ollie - DPS On Behalf Of DPS Mailbox - Customer Service Team  
Sent: 11 July 2011 09:18  
To: DPS mailbox - ACPO Staff Office  
Subject: FW: Contact us - Send us praise or complaints [redacted]

And another one for you, please confirm if this is referred to the MPA

Ollie Cochran  
>Sergeant  
Directorate of Professional Standards (CST)  
>Telephone: [redacted]  
>Metphone: [redacted]  
>E-mail: [redacted]  
>Mail: Directorate of Professional Standards (CST)  
[redacted]

-----Original Message-----

From: Web Editor [redacted]  
Sent: 10 July 2011 18:46  
To: DoI Mailbox - Online Forms; DPS Mailbox - Customer Service Team  
Subject: Contact us - Send us praise or complaints [redacted]

Form title:  
Contact us - Send us praise or complaints  
Reference:

Submitted:  
10-07-2011 18:45:34

-----  
Information  
-----

Complaint type: Make a complaint  
What happened?: Failure to oversee a proper  
investigation into News of the World phone hacking allegations  
Date: July 2009  
Where did it happen?: 1 - Bringing the Force into  
disrepute

2 - Failing to oversee an investigation properly  
MPS Staff involved: Assistant Commissioner John  
YATES  
Witnesses to the incident: Yes  
Witness details: England, Scotland & Wales  
Has this complaint been reported?: No  
Have you got a MPS reference: No

-----  
Contact details  
-----

Title:  
First name:  
Last name:  
Home address:

Southampton  
Postcode:  
Mobile telephone:  
Email:  
Date of Birth:  
Preferred method of contact:

Email

-----  
About you  
-----

Do you have a disability?: Prefer not to say  
What is the nature of your disability?: Prefer not to say  
Gender:   
Sexual Orientation: Prefer not to say  
Ethnic Background: Prefer not to say  
Faith or Belief: Prefer not to say

Appendix H

**Ashleigh Freeman**

---

From: Helen Sargeant  
Sent: 13 July 2011 11:43  
To: Ashleigh Freeman  
Subject: FW: Contact us - Send us praise or complaints [redacted]

-----Original Message-----  
From: Nick.Preston@ [redacted]  
Sent: 13 July 2011 11:22  
To: DPSMailbox- [redacted]  
Cc: Helen Sargeant; Carl.Bussey@ [redacted]  
Subject: RE: Contact us - Send us praise or complaints [redacted]

Not Protectively Marked

Ollie

I have to say that I fail to see how this can make Mr Yates "an accessory" but will send it for the attention of the MPA in nay case.

Helen

Please see the attached re AC Yates

Nick

Cc Mr Bussey for info

Inspector Nick Preston: DPS Staff Office  
Metline: [redacted]  
External: [redacted]  
Mobile: [redacted]

-----Original Message-----  
From: Cochran Ollie - DPS On Behalf Of DPS Mailbox - Customer Service Team  
Sent: 13 July 2011 10:52  
To: DPS mailbox - ACPO Staff Office  
Subject: FW: Contact us - Send us praise or complaints [redacted]

Another one for you. Can you let me know your decision regarding this

Ollie Cochran  
>Sergeant  
Directorate of Professional Standards (CST)  
Telephone: [redacted]  
>Metphone: [redacted]  
>E-mail: [redacted]  
>Mail: Directorate of Professional Standards (CST)

[Redacted]

-----Original Message-----

From: Web Editor [Redacted]  
Sent: 12 July 2011 12:55  
To: DoI Mailbox - Online Forms; DPS Mailbox - Customer Service Team  
Subject: Contact us - Send us praise or complaints [Redacted]

Form title:  
Contact us - Send us praise or complaints  
Reference:  
[Redacted]  
Submitted:  
12-07-2011 12:55:26

-----  
Information  
-----

Complaint type: Make a complaint  
What happened?: Under live public  
questioning by the Commons Home Affairs Select Committee - Assistant Commissioner John  
Yates - was witnessed to say that he knew there were criminal acts being committed by  
police officers and officers at the Metropolitan Police and knew that money would have  
been accepted by these officers from the media.

I believe that this prior knowledge makes Mr Yates an accessory to the offences committed  
and that Mr Yates be investigated whilst under suspension with view to prosecution for the  
same.

Time: 12.15am  
Day: Tuesday  
Date: 12th July 2011  
Where did it happen?: The witnessed and recorded  
verbal admission took place during this investigation.  
MPS Staff involved: Assistant Commissioner John  
Yates  
Witnesses to the incident: Yes  
Witness details: All members present at the  
Commons Home Affairs Select Committee investigation  
Has this complaint been reported?: No  
Have you got a MPS reference: No

-----  
Contact details  
-----

Title:  
First name:  
Last name:  
Home address:

[Redacted]

[Redacted]

Postcode:  
Home telephone:  
Mobile telephone:  
Email:  
Date of Birth:  
Preferred method of contact:

[Redacted]

Email

-----  
About you  
-----

Do you have a disability?:

No

Gender:

Sexual Orientation:

Ethnic Background:

Faith or Belief:

Appendix I

Extract from PSCSC meeting on 16 May 2011-07-14

**123. POLICE REFORM ACT 2002 – ALLEGATIONS AGAINST AN ACPO RANK OFFICER**  
(Agenda item 10)

123.1 The MPA has been informed of concerns raised by a member of the public, [redacted] against Assistant Commissioner John Yates concerning statements that he made to Parliament in relation to the 'phone hacking' inquiry.

123.2 The Sub Committee was asked to:

- a. Review the report and supporting documents;
- b. Decide whether the allegations constitute a complaint within the meaning of PRA 2002 and, if so, whether to record them;
- c. If not, decide whether the allegations constitute a conduct matter within the meaning of PRA 2002, and if so whether to record them;
- d. If recorded, determine whether to refer the recordable conduct matter to the IPCC;
- e. If not referred, consider whether the recordable conduct matter should be investigated; and
- f. If not, consider the allegations in accordance with the Police (Conduct) Regulations 2008 ("the 2008 Regulations").

123.3 The Sub Committee confirmed that they had read and considered the report and all associated documents.

Members considered the statutory test for a 'complaint' and resolved that the email from [redacted] did not read like a 'considered grievance' but rather a request for more information on how corruption is dealt with by the Authority. Members therefore resolved that [redacted] concerns were no more than a mere assertion and the first component of a 'complaint' under the PRA 2002 was not satisfied.

123.4 Members next considered whether the concerns gave rise to a 'conduct matter' under the PRA 2002. The Chair noted that AC Yates had appeared before the Full Authority, that he had provided an explanation to the Members, which they had accepted. Members felt however that there remains ambiguity as to the true course of events (and in particular the advice received from the CPS).

Before reaching a decision as to whether or not AC Yates's alleged conduct satisfied the definition of a 'conduct matter' under the PRA 2002, Members thought it would be helpful to have an explanation from the Commissioner on the matter.

Members considered that it may be appropriate for the Commissioner to provide a public statement on the issue (including the evidentiary basis for AC Yates and Keir Starmer contradictory assertions). This would require the Commissioner to satisfy himself of AC Yates lack of culpability. Members would be interested to know whether the Commissioner has taken any action in respect of the issue and whether he has invited an explanation from Keir Starmer as to the contradictory statements.

Members agreed that the MPA should write to the Commissioner accordingly.

Members were reminded of the need to ensure that, when conducting preliminary enquiries, they do not begin an investigation and usurp the role of Investigator. Members were advised that any letter to the Commissioner and enquiries made must be for the purposes of establishing whether the alleged conduct revealed a 'conduct matter' in accordance with the Police Reform Act. The purpose of the letter to the Commissioner must therefore be to establish whether there is an indication that a criminal offence has been committed, or that disciplinary proceedings against the officer would be justified.

- 123.6 The Sub Committee agreed that, in the meantime [redacted] should be provided with a letter outlining the disciplinary process in place.
- 123.7 Members questioned whether emails sent by members of the public to individual Members, such as in this case, should be treated in this manner. It was noted that Members often received correspondence from members of the public raising similar concerns as those raised by [redacted] Members were informed that if the Authority receives correspondence of this kind, they are statutorily obliged to treat it as a potential complaint and to consider it in accordance with the PRA 2002 and associated regulations. Members requested that a document be circulated to Members with guidance as to how they should treat mail and email (and the instances in which they are obliged to forward this to the Authority for such consideration). RESOLVED – accordingly

**ACTION 3:**

Letter to the Commissioner to be drafted and sent to Members for comment, before being sent to him.	MPA
---	-----

Appendix J



**Metropolitan Police Authority**  
Chief Executive to the Authority

10 Dean Farrar Street  
London  
SW1H 0NY

Telephone:   
Fax:   
Email: catherine.crawford@

For addressee only  
**Strictly Private and Confidential**  
Commissioner Sir Paul Stephenson  
Commissioner's Private Office



1 June 2011

Dear Sir Paul,

**Request for further information in relation to News of the World inquiry**

I write to inform you that the MPA has recently received correspondence from a member of the public concerning the evidence that Assistant Commissioner John Yates provided to the Commons Culture, Media and Sport Committee ('the Committee') on 24 March 2011 in relation to the News of the World 'phone hacking' inquiry.

The individual is concerned about the damage that has been caused to public confidence in the Metropolitan Police Service ('MPS') following media reports that AC Yates has misled Parliament by claiming that the Crown Prosecution Service ('CPS') gave explicit advice that effectively limited the scope of the inquiry. The individual noted that AC Yates's evidence to the Committee has been expressly contradicted by the Director of Public Prosecutions, Mr Keir Starmer QC.

As you are aware, the MPA has a statutory duty to consider concerns raised by members of the public in accordance with the provisions of the Police Reform Act 2002 (the Act). Members of the MPA's Professional Standards Cases Sub Committee ('PSCSC') therefore considered whether the individual's concerns constituted a 'complaint' as defined by the Act. Members resolved that they did not as the requisite level of dissatisfaction was not present, but rather the individual was querying what action the MPA was taking in relation to this matter.

Members of the PSCSC then considered whether the conduct concerned would give rise to a 'recordable conduct matter' under the Act. Members felt that they had insufficient information to address this question on the information available to them at this stage.

Members noted that AC Yates has addressed the MPA's Full Authority meeting about this matter on many occasions and, on 31 March 2011, he specifically addressed questions put to him about the MPS's understanding of the CPS advice

and the bearing it had on the police investigation. Whilst Members appreciated the clarification provided by AC Yates to date, they nonetheless still found it difficult to reconcile comments made by AC Yates and Mr Starmer QC about the restrictions placed on the investigation.

Members considered that there remained a lack of clarity about advice received from the CPS and its impact on the police investigation.

In order to assist the Members of the PSCSC in addressing the issue of whether there is a 'conduct matter'<sup>1</sup> they have requested some further clarification from you. Specifically Members would like to know:

1. whether you have made enquiries of Mr Starmer QC as to the exact nature of the advice given by the CPS at the material time and whether this advice would have limited the scope of the investigation in the terms described by AC Yates?
2. what action, if any, you have taken in relation to the seemingly contradictory statements made by AC Yates and Mr Starmer QC in relation to the limits placed on the police investigation by the advice received from the CPS?
3. whether you are satisfied with the account provided by AC Yates to the Committee?

Upon receipt of your response, Members will again consider this matter and determine whether any further action is required by the MPA.

I am very grateful for your assistance.

Yours sincerely



**Catherine Crawford**  
Chief Executive to the Authority

---

<sup>1</sup> A 'conduct matter' is conduct which is not and has not been the subject of a complaint, but of which there is an indication that a person serving with the police may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings.

APPENDIX K

Ashleigh Freeman

---

From: Jacquil Jones [redacted]  
Sent: 12 July 2011 18:03  
Subject: News Bulletin Statement by the Commissioner Latest from New Scotland Yard at 17:16 on 12/07/2011

The following bulletin is being forwarded to you via the Metropolitan Police Authority Communications Unit from an external third party source because we feel it may be of interest to you. If you do not wish to receive further updates of this kind let us know by return email and your name will be removed from our daily update distribution list. Please note that all information contained within this bulletin is the responsibility of the third party originator and therefore the Metropolitan Police Authority takes no responsibility for its accuracy or any views expressed within it.

From: MPS Press Bureau  
Sent: 12 July 2011 17:21  
Subject: Statement by the Commissioner - Latest from New Scotland Yard at 17:16 on 12/07/2011

This afternoon, the Commissioner of the Metropolitan Police Service, Sir Paul Stephenson said:

"There has been much speculation surrounding phone hacking, including that I was going to make a statement tomorrow. As I made clear to the Chairman of the Home Affairs Select Committee, it was not my intention to do so, but following today's events, as Commissioner I think that it is only right that I make this statement. However, it is important that I do not say anything now that could compromise the current investigation or prejudice the Judicial Review or Public Inquiry that will follow.

"Today for the first time former DAC Peter Clarke put into the public domain his rationale and the reasons that the terms of the original inquiry were drawn relatively tightly. I hope this helps to inform the public debate and the reasons that the original inquiry operated as it did.

"We saw yet again Assistant Commissioner John Yates called to give evidence to the Home Affairs Select Committee. John has taken on some of the Met's most difficult roles and has an excellent record in some very challenging areas. He never shies away from those difficult cases and in this particular matter, we need to give him credit for his courage and humility in acknowledging that if he knew then what he knows now, he would have taken different decisions. He currently undertakes one of the most difficult jobs in UK policing, and is doing an outstanding job leading our fight against terrorism. He has my full support and confidence, and that of our partners.

"As DAC Sue Akers said today we will continue to pursue our investigations against alleged corrupt journalists and corrupt police officers with determination and support the victims in doing so. No one who saw Sue's evidence today can be any doubt of this."

Appendix L

**Ashleigh Freeman**

---

**From:** Jill.Ives@ [redacted]  
**Sent:** 08 July 2011 15:55  
**To:** Helen Sargeant  
**Subject:** FW: Contact us - Send us praise or complaints c01-00009612

Helen  
Please see below which is a potential complaint against the Commissioner.

Regards

Jill Ives  
DPS ACPO Staff Office  
\* Phone: [redacted]  
\* Fax: [redacted]  
\* Metphone: [redacted]  
\* Mail: Directorate of Professional Standards  
[redacted]

-----Original Message-----  
**From:** Cochran Ollie - DPS  
**Sent:** 07 July 2011 10:51  
**To:** DPS mailbox - ACPO Staff Office  
**Subject:** FW: Contact us - Send us praise or complaints [redacted]

Another one for you

Ollie Cochran  
>Sergeant  
Directorate of Professional Standards (CST)  
>Telephone: [redacted]  
>Metphone: [redacted]  
>E-mail: [redacted]  
>Mail: Directorate of Professional Standards (CST)  
[redacted]

[redacted]

-----Original Message-----  
**From:** Web Editor [redacted]  
**Sent:** 06 July 2011 23:39  
**To:** DoI Mailbox - Online Forms; DPS Mailbox - Customer Service Team  
**Subject:** Contact us - Send us praise or complaints [redacted]

Form title:  
Contact us - Send us praise or complaints  
Reference:  
[redacted]  
Submitted:  
06-07-2011 23:38:53

-----  
 Complaint type: Make a complaint  
 What happened?: The handling of the phone  
 hacking scandal.  
 Time: ongoing  
 Day: Wednesday  
 Date: 06/07/2011  
 Where did it happen?: The police have sat on  
 evidence relating to the phone hacking scandal since 2002. Only 2 people seem to have been  
 arrested and despite police officers contravening Data Protection laws for personal  
 financial gain.

Why have more people not been arrested - come on you have the evidence?  
 White collar crime being investigated in such a relaxed manner...why?  
 MPS Staff involved: Commissioner Sir Paul  
 Stephenson for heading a piss poor investigation since 2002 in to the phone hacking  
 affair.

Witnesses to the incident: Yes  
 Witness details: Rebekah Brooks

Andy Coulson

Nameless police officers  
 Has this complaint been reported?: No  
 Reported to: Londonderry  
 Have you got a MPS reference: No

-----  
 Contact details

Title:  
 First name:  
 Last name:  
 Home address:  
 [Redacted]  
 Postcode:  
 Home telephone:  
 Mobile telephone:  
 Email:  
 Date of Birth:  
 Preferred method of contact:

Letter

-----  
 About you

Do you have a disability?: No  
 Gender: Female  
 Sexual Orientation:  
 Ethnic Background:  
 Faith or Belief:

## The Telegraph

APPENDIX M

### Three police officers cannot persuade MPs that they investigated the hacking scandal with proper zeal

Seldom has a Commons committee hearing touched such unintended heights of absurdity. Three of the senior police officers who gave evidence sounded like three schoolboys who have not done their homework, and have no excuse for not having done it, yet protest in the most innocent tone that they have done everything any reasonable person could have expected.



By Andrew Gimson

6:11PM BST 12 Jul 2011

The officers wished to persuade the Home Affairs committee of MPs that nothing much had gone wrong, or even looked as if it had gone wrong, in the Metropolitan Police's investigations into the phone hacking scandal.

Former Assistant Commissioner Andy Hayman produced a farcical masterpiece during which he kept rebuking the audience for not taking him seriously: "I don't know why you're laughing."

Since leaving the police force, Mr Hayman has become a journalist working for News International, the very company he had previously investigated with what struck many people as a conspicuous lack of zeal.

But Mr Hayman could not see why anyone should regard this as suspicious, or indeed imprudent. He admitted he had also accepted hospitality from News International, but again, he could not see anything wrong: "Not to have that dinner would be potentially more suspicious than to have it."

Again and again, Mr Hayman rebuked the MPs for failing to see things from his point of view: "Don't beat me up for being up-front with you and honest."

Mr Hayman sounded like a cabbie who has driven 20 miles in the wrong direction, and then rounds on his passengers when they ask whether he knows where he is going. But this comparison is unfair to taxi drivers, who are generally more reasonable.

When Lorraine Fullbrook (Con, South Ribble) asked if Mr Hayman had ever received any payment in return for not investigating very enthusiastically, he produced his climactic outpouring of injured innocence: "Good God. Absolutely not. Hang on, I'm not letting you get away with that. Come on, chairman, that's not fair."

But the chairman, Keith Vaz (Lab, Leicester East), found the question perfectly in order.

Three police officers cannot persuade MPs that they investigated the hacking scandal ... Page 2 of 2

The second of the three officers, Acting Deputy Commissioner John Yates, did his usual act of a man in possession of superior information, who faces the impossible task of getting a bunch of idiotic MPs to understand how the force works.

In 2009, when Yates of the Yard decided, in the space of eight hours, that no further investigation of the hacking scandal was required, he was a busy man. As he pointed out, "I have something like 4,500 people working for me," which meant he could not be expected to "go down and examine every bit of paper in a bin bag".

So nobody went through the 11,000 pages of evidence which already existed, with a view to determining what further crimes might have been committed.

Steve McCabe (Lab, Birmingham Selly Oak) suggested that Yates of the Yard's behaviour has damaged the Metropolitan Police.

Yates of the Yard retorted: "I think 'behaviour' is a very pejorative term."

Mr Vaz wondered if Yates of the Yard had "actually offered to resign": an idea which sent this distinguished police officer ballistic. "If you're suggesting I should resign because of what the News of the World has done," Yates of the Yard declared, that was completely "unfair".

On the contrary, the public "should be feeling extremely reassured" by the way the Metropolitan Police has handled the matter.

The third officer, former Deputy Assistant Commissioner Peter Clarke, was more eloquent than the other two, but confirmed the impression that the police live in a world of their own. Mr Clarke's evidence was littered with such lines as "With respect, you're missing the point here," and "It's a simple question and there's no simple answer."

Mr Clarke found himself pitted against "a global organisation with access to the best legal advice deliberately trying to thwart a police investigation". For a moment we thought he meant al-Qaeda, but he was referring to News International.

At the end of the session we heard from Deputy Assistant Commissioner Sue Akers, who is in charge of the Met's new hacking investigation. She sounded sane, and on her shoulders now rest the force's hopes of restoring its reputation.

© Copyright of Telegraph Media Group Limited 2011

-----Original Message-----

From: Jacqui Jones [mailto:Jacqui.Jones@ ]  
Sent: 23 May 2011 11:14  
Subject: News bulletin PA Hacking probe victory for Prescott

The following bulletin is being forwarded to you via the Metropolitan Police Authority Communications Unit from an external third party source because we feel it may be of interest to you. If you do not wish to receive further updates of this kind let us know by return email and your name will be removed from our daily update distribution list. Please note that all information contained within this bulletin is the responsibility of the third party originator and therefore the Metropolitan Police Authority takes no responsibility for its accuracy or any views expressed within it.

#### HACKING PROBE VICTORY FOR PRESCOTT

COURTS Prescott  
May 23, 2011 11:11:27 AM  
By Cathy Gordon, Press Association

Page 1

Former deputy prime minister Lord Prescott today won his latest bid to mount a legal challenge over the Metropolitan Police's handling of the News of the World phone-hacking case.

He and three others - Labour MP Chris Bryant, former Scotland Yard deputy assistant commissioner Brian Paddick and journalist Brendan Montague - had asked a High Court judge to give them the go-ahead for a judicial review.

Mr Justice Foskett, sitting in London, gave a ruling today which allows their cases to go to a full hearing.

The four, who believe they were victims of phone-hacking, claim there were human rights breaches in the police handling of their cases.

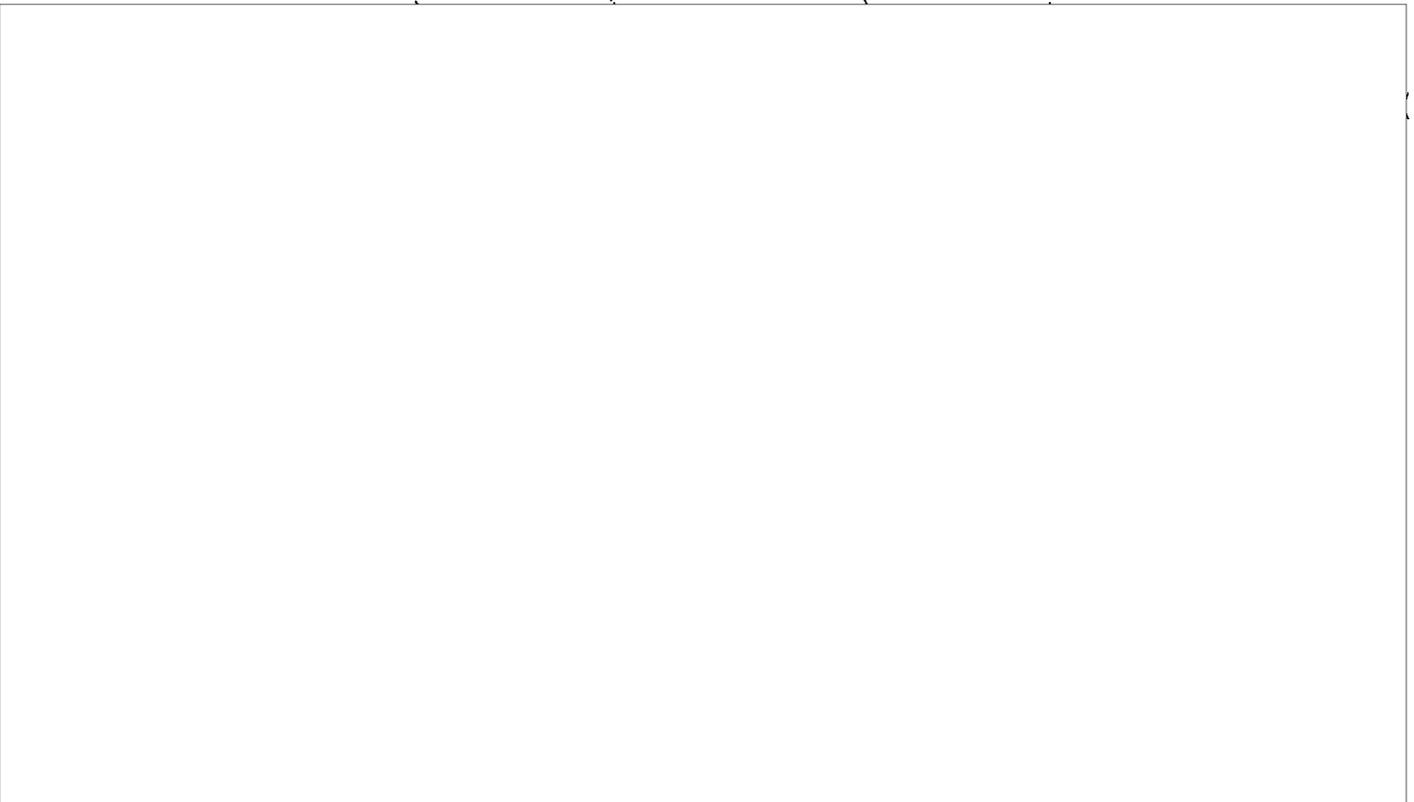
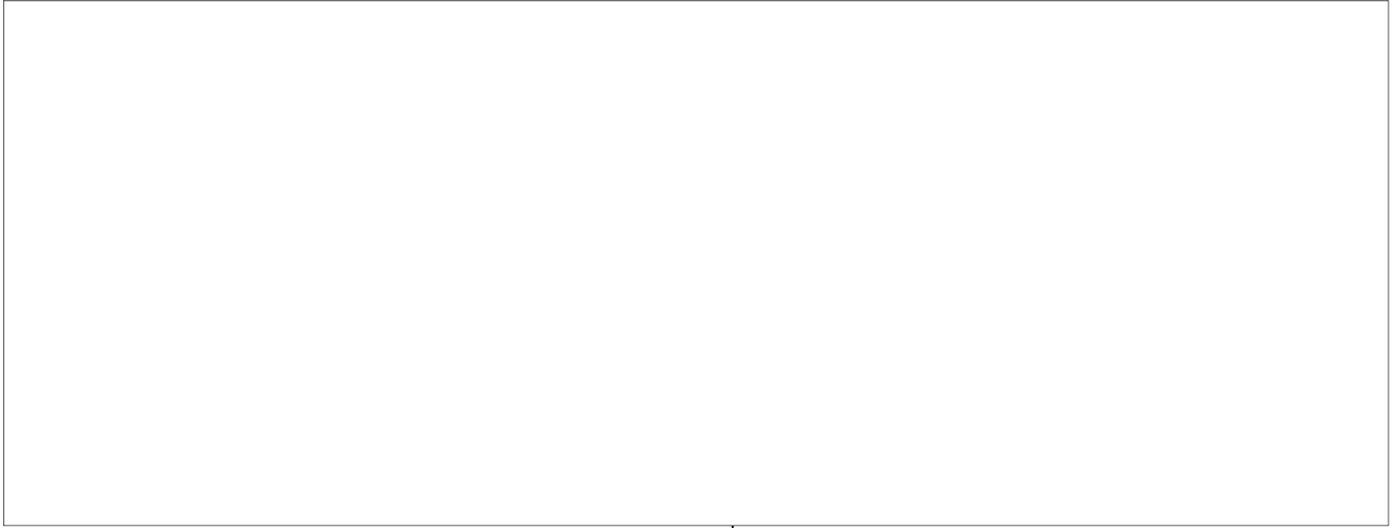
mf

Page 2

The judge said that on the basis of the evidence and arguments put before him at a hearing on May 12, he had concluded that Lord Prescott, Mr Bryant and Mr Paddick each "has an arguable case for seeking the relief claimed by way of judicial review".

On the evidence as it stood he said he was not "truly persuaded" that Mr Montague had such an arguable claim - but was allowing it to proceed with the other cases.

Mr Justice Foskett announced: "Unless the claims are resolved by agreement in the meantime, the judge hearing the substantive application will decide whether, on the more detailed evidence and arguments available then, the claims are well-founded."





**Ashleigh Freeman**

---

**From:** Jacquil Jones [ ]  
**Sent:** 06 July 2011 11:57  
**Subject:** News bulletin PA Ex-phone probe officer to face MPs

The following bulletin is being forwarded to you via the Metropolitan Police Authority Communications Unit from an external third party source because we feel it may be of interest to you. If you do not wish to receive further updates of this kind let us know by return email and your name will be removed from our daily update distribution list. Please note that all information contained within this bulletin is the responsibility of the third party originator and therefore the Metropolitan Police Authority takes no responsibility for its accuracy or any views expressed within it.

**EX-PHONE PROBE OFFICER TO FACE MPS**

**POLITICS Hacking Hayman**  
Jul 6, 2011 11:40:54 AM  
By Wesley Johnson, Press Association Home Affairs Correspondent

Page 1

The officer in charge of the original phone hacking inquiry has been called to give further evidence to MPs.

Former Assistant Commissioner Andy Hayman will be questioned over "who knew what at which point", Keith Vaz, chairman of the Commons Home Affairs Select Committee said.

Mr Hayman, who was in charge of the 2006 investigation, will give evidence on Tuesday with Deputy Assistant Commissioner Sue Akers, who is in charge of the current probe, Operation Weeting.

Former Assistant Commissioner Peter Clarke, of Scotland Yard's specialist operations division, will also be questioned by MPs on the committee.

Mr Vaz said: "These allegations are extremely shocking.

"It is now essential that any parties involved criminally are prosecuted and that we uncover who knew what at which point in time at both the Metropolitan Police and at the News of the World.

"The Committee will be raising this issue with police officers involved in the current and previous investigations.

"We will also seek to clarify why a significant variance of action was taken by mobile phone companies in the aftermath of the phone hacking revelations."

Mr Vaz has also written to Acting Commissioner John Yates and News International chief executive Rebekah Brooks, asking what prior knowledge there had been of hacking in the Milly Dowler case.

**BBC NEWS**

UK

12 July 2011 Last updated at 19:59

## In quotes: Met officers' evidence to MPs on hacking

Senior Metropolitan police officers have given evidence on the phone hacking scandal to MPs at a home affairs select committee. Here are some key quotes:

**News International's conduct**

*Peter Clarke, former Met deputy assistant commissioner:*

"This is a major global organisation with access to the best legal advice, in my view, deliberately trying to thwart a criminal investigation... We were unable to spread the inquiry further with News International because of their refusal to co-operate more broadly."

*John Yates, Scotland Yard assistant commissioner:*

"It is a matter of great concern that, for whatever reason, the News of the World appears to have failed to co-operate in the way that we now know they should have with relevant police inquiries up until this year. They have only recently supplied information and evidence."

**The original hacking investigation**

*Mr Yates [On choosing not to reopen the case in 2009]:*

"It is a poor decision. That is clearly the case and I cannot say more than that. But the fact is we did not have the information that we should have done and that is very clear."

"There was an assurance that I had from the Department of Public Prosecutions that there is nothing here that requires further investigation. Hindsight is a wonderful thing. In July 2009 to the best of my knowledge and in good faith, I made that decision."

*Mr Clarke [On not fully investigating the 11,000 seized documents between 2005-7]:*

"Given the complete lack of co-operation from News International, the only way to get into this would have been to do an exhaustive analysis of the material."

"Because of the range of other life-threatening activity going on at the time, in terms of terrorist offences, I took the stance that we could not pursue it."

"When set against the criminal course of conduct that involved gross breaches of privacy but no apparent threat of physical harm to the public, I could not justify the huge expenditure of resources."

*Andy Hayman, former Met assistant commissioner:*

"Everything possible that they were able to do, given the resources and parameters, was done. I stand by that. And Peter has. But now? Now, it looks very lame."

"What we know now, this is a horror story. This is absolutely awful. The people that are going through the pain, second time around as victims, just appalling."

Current Investigation - Operation Weeting

**Sue Akers, Met deputy assistant commissioner:**

"There are nearly 4,000 names in the original Glenn Mulcaire documentation. We have undertaken to go and visit each one of these people... There are 5,000 landline telephone numbers about and another 4,000 mobile numbers.

"So we have started - and again we had to prioritise the people who had written in as well as other high profile people we have seen. Sorry to refer to the person that is dealing with this, but he tells me 170 people have been informed [so far].

"I've gone on record as saying we will go where the evidence leads us. At the moment, we started with News of the World and that is where we are."

**Metropolitan Police reputation  
Mr Yates:**

"When an organisation has 50,000 people we have always said from time immemorial that some of those people will be corrupt and accept payments. We will always accept we can learn from these investigations. As I have said, it is likely there is corruption in the Met and we want to investigate properly to make sure they are brought to book."

**Ms Akers:**

"I think it is everybody's analysis that [public] confidence has been damaged in the Metropolitan Police. If we do not get this right, it will continue to be damaged but I am confident that we have an excellent team, working tirelessly to get this right.

"I hope I do not have to come back here in five years' time to explain why we have failed."

**More UK stories**



[News Corp withdraws bid for BSkyB](#)

[Rupert Murdoch's News Corporation announces that it is dropping its planned bid to take full ownership of BSkyB.](#)

[26 arrests in night of NI riots](#)

[Apology as Chinook pilots cleared](#)



BBC © 2011 The BBC is not responsible for the content of external sites. [Read more.](#)

Appendix N

### **Misconduct in Public Office**

The elements of the offence are summarised in *Attorney General's Reference No 3 of 2003* [2004] EWCA Crim 868 ('AG Ref No 3').

The offence is committed when:

- a public officer acting as such
- wilfully neglects to perform his duty and/or wilfully misconducts himself
- to such a degree as to amount to an abuse of the public's trust in the office holder
- without reasonable excuse or justification.

### **Perverting the Course of Justice**

(Archbold 28-1 to 28-28)

The offence of Perverting the Course of Justice is committed when an accused:

- does an act or series of acts;
- which has or have a tendency to pervert; and
- which is or are intended to pervert;
- the course of public justice.