

IN THE MATTER OF THE LEVESON INQUIRY PURSUANT TO
THE INQUIRIES ACT 2005

SECOND STATEMENT OF LAWRENCE ABRAMSON DATED 8 DECEMBER 2011

Lawrence Abramson, of will say as follows:

Background to Second Statement

1. I make this statement in response to a Notice under section 21(2) of the Inquiries Act 2005 ("the Second Notice") from the Leveson Inquiry ("the Inquiry") dated 7 October 2011 (received 11 October 2011).

2. I made my first statement to the Inquiry, also in response to a Notice under section 21(2) of the 2005 Act, on 23 September 2011. In my first statement I addressed 6 issues and attached the following exhibits:

LHA 1	My written evidence to the House of Commons Culture, Media & Sport Select Committee ("the Select Committee"), about my dealings with News International Ltd ("News") on the subject of "phone hacking", dated 24 August 2011.
LHA 2	The letter of Harbottle & Lewis LLP to the Select Committee dated 11 August 2011.
LHA 3	The emails on the file of Harbottle & Lewis LLP, which are referred to in LHA/2.
LHA 4	A copy of the Harbottle & Lewis LLP retainer, addressed to Jon Chapman of News, dated 14 May 2007.

3. The Second Notice has asked me to deal with a few additional matters and to provide copies of additional documents. I provide a copy of the contemporaneous handwritten note of my conversation with Mr Chapman on 9 May 2007 together with a transcript of that note at exhibit LHA5. The only other documents I have in my possession or control, relating to the work done for News in connection with Clive Goodman's appeal against dismissal in 2007, are copies of documents from Harbottle & Lewis which I understand

have already been provided to the Inquiry by Harbottle & Lewis. I deal with the additional matters below.

4. Before doing so, it may assist if I set out some general background and context to my role.

My recollection

5. The matters about which I have been asked to provide answers occurred more than 4 years ago. I am therefore heavily dependent on the records that were made at the time I worked on the file.
6. I left Harbottle & Lewis LLP last year and moved to another firm, but I have now been able to look at a copy of the contents of the file held at Harbottle & Lewis LLP. This has assisted me in the answers I have provided in this second statement.
7. Beyond reference to the records on the Harbottle & Lewis LLP file, I have little or no memory of the precise words used in telephone conversations, or to my staff at the relevant times. I have therefore set out in this statement my best recollection, while taking care not to speculate or attempt to reconstruct conversations that took place several years ago, unless I have a clear memory of them.

The scope and context of my instructions from News

8. In their evidence to the Select Committee both Harbottle & Lewis LLP, and Mr Chapman have emphasised the narrow and limited scope of the task I was asked to undertake for News, on behalf of Harbottle & Lewis LLP. I agree with that evidence and the emphasis that both of them have put on that point. It would be incorrect to characterise the work I was asked to do as something that went beyond that narrow scope.
9. It is important to note that I was never asked to carry out a full investigation or audit of any potentially criminal conduct by News or their staff. As a commercial and civil litigator I have very little professional experience in criminal law. Such a task would have been beyond my area of expertise and I would have declined to undertake it if I had been asked to do so.

10. Neither was I asked to carry out a full investigation into the possible involvement of all News staff in the activity of "phone hacking". My task was significantly more limited and was informed by the specific context of Mr Goodman's appeal against his dismissal.
11. My task related to a request made by Mr Goodman as part of his internal appeal. He had asked to be provided with copies of emails passing between certain named individuals over a range of dates from 2005 onwards. He claimed it showed knowledge of, or participation in, his phone hacking activity and/or showed that other News of the World staff were carrying out the same illegal activity. I was told that Mr Chapman and Mr Cloke had examined the emails requested and had concluded that there was nothing that amounted to reasonable evidence of Mr Goodman's allegations in the emails he had requested. They had therefore refused Mr Goodman's request for disclosure. I was asked to determine whether the conclusion reached by Mr Chapman and Mr Cloke was sustainable. Harbottle & Lewis was given access to emails on the News server to carry out that exercise.
12. Against that context and background, I turn to the specific matters on which I have been asked to comment by the Second Notice, including answers to questions 9, 11 and 13 asked of Harbottle & Lewis LLP by the Select Committee.

Question 9: "Did the investigation extend to other individuals at the newspaper, for instance Neville Thurlbeck and Ross Hindley / Hall if not / why not?"

13. For reasons I have explained, the analysis of the emails that I conducted with others, was limited to the issues raised by Mr Goodman in his appeal. Our attention was therefore focused on the names that Mr Goodman had mentioned in his letter of 2 March 2007:

[redacted]

[redacted] and for that reason our analysis did not consider those names.

Question 11: "Please set out what advice was given orally by whom, to whom, and when."

14. I was not specifically asked to give any advice, other than to carry out the specific and limited task set out in the email of 10 May 2007. My conclusions were communicated by email. I did have telephone conversations in the course of performing that task, which I outline below, but I did not give any oral advice.

15. My former colleague [redacted] who was a specialist employment lawyer, did provide some advice to News about the potential litigation that Mr Goodman might bring and how that should influence the conduct of his appeal. She did so both orally and in writing. Her advice is recorded in fairly detailed attendance notes and emails that are contained within the Harbottle & Lewis LLP file. Those records are self-explanatory and it seems unnecessary for me to comment further on those documents in this statement.

Question 13: "Please confirm whether or not the documents provided to Harbottle & Lewis LLP provided any grounds for reasonable suspicion that a criminal act might have been or might be committed by an employee or director of News International Ltd or News Group Newspapers Ltd, and if so, what advice was given by Harbottle & Lewis?"

16. I was not asked to carry out any form of examination of that kind and did not do so. As I have indicated, I am not a criminal lawyer. As civil litigators, the assessment my staff and I carried out could not extend to criminal advice. If I had been asked to make that analysis I would have declined to do so because I do not have any expertise in that area. However, I was never asked to do so.
17. For the same reason I am very reluctant now to enter into a new analysis of that material to determine whether or not any of it provides "reasonable suspicion that a criminal act might have been or might be committed by an employee or director of News International Ltd or News Group Newspapers Ltd...". Whether that material does disclose such suspicion is better answered by someone with the appropriate expertise. Even now I would need to take specialist advice in order to be able to answer that question with confidence, which was, of course, not available to me then.
18. For the avoidance of doubt, beyond the brief I have outlined above, I was not asked to advise on general criminal matters and gave no advice of that kind.

[Please provide] as full account as possible of the telephone conversation which you had with Jon Chapman on 24 May 2007 (to which you refer in the last paragraph of the first page of your letter dated 24 August 2011 to the Right Honourable John Whittingdale MP, exhibit LHA/1). Without prejudice to the generality of this request the Inquiry wishes to know the nature of the query which you raised with Mr Chapman, what aspects of the emails you discussed with Mr Chapman, in relation to which email did Mr Chapman ask you to look at the server yourself in order to put it into context, and what was the context?

19. I recall that I was working from home on that day, having been abroad the day before. I had only arrived back in the UK that morning. The purpose of the conversation I had was to discuss some of the emails that had been highlighted by my junior lawyers, following their examination of the relevant servers at News and/or which had been provided in hard copy by News. It is very difficult for me to recall very much of the precise words used in our conversation. We discussed the emails to determine whether they contained anything that supported the contentions that Mr Goodman was making.
20. There were some emails that I brought to Mr Chapman's attention even though they did not show evidence of knowledge by others of phone hacking by Clive Goodman, or show that others were engaged in similar illegal activities or were slightly outside the date range I had been asked to look in. This was because, having seen them, I wanted to ensure that Mr Chapman was aware of them in the event that the matter ever proceeded on to an Employment Tribunal because in my view they contained potentially confidential or sensitive matters that News may not want to have to give disclosure of. The emails that demonstrated continued discussion amongst News staff about Mr Goodman's case, after he had been charged, fell into that category.
21. I remember raising one email, in particular, about which I had a query. After some discussion, we agreed that I would examine the server to determine whether in the wider context in which this email appeared it could support the contentions Mr Goodman had made about others having knowledge of his phone hacking activities. I then did that exercise and after doing so concluded that it did not.

22.

Additional points on my approach to the task I was asked to undertake by Mr Chapman

23. I would like to make three further points.
24. First, the approach that I took throughout was whether there was evidence in the relevant emails to support the allegations that Mr Goodman was making. This is

reflected in my draft conclusion (see email of 25 May 2007 at 13:13, to Mr Chapman and Mr Cloke.)

25. Second, having now examined the Harbottle & Lewis LLP file in some detail, it contains a batch of emails that I do not recall having seen when I carried out the work in 2007. That batch appears to have been printed out on 24 May 2007.
26. Until reviewing the file this year, I had presumed that I had seen everything identified by the paralegals as potentially relevant. However, on seeing that batch of emails in the file now, their contents are unfamiliar. For reasons I have set out below that batch of emails, almost all of which predate the relevant period requested by Mr Goodman, must have escaped my attention.
27. One of the paralegals, [] identified those emails at a very late stage in the process. It appears that she emailed me about them at 12.02 on 24 May 2007. I believe this was after I had spoken to Mr Chapman that morning. [] raised concerns about this new batch of emails, but described her approach as "over cautious", as it had been in relation to other emails I had already seen. She suggested that my secretary [] should scan that batch of emails in order for me to view them. [] was, in fact, on holiday at that time. I cannot remember now whether I saw [] email alongside the other things I was trying to do, and if I did whether I registered its significance. But her email did not itself contain or attach the relevant emails to which she was referring.
28. About 30 minutes later [] the temporary member of staff who was filling in for my secretary, sent me an email. That email, timed at 12.32, did include an attachment containing scans of that new batch of emails that [] had identified. I have no recollection of opening that attachment or of seeing those emails. [] email and the attachment were confusingly labelled due to a technical problem with the scans. This may have caused me to overlook it. However given the passage of time, it is impossible for me to be certain as to precisely what occurred.
29. When I returned to my office the following day my secretary was still away. My diary confirms it was a very busy day and I left the office at about 2.30pm for a series of appointments on other cases. I was then on holiday with my children for all of the following week and did not return until Monday 4 June 2007. Other than checking the

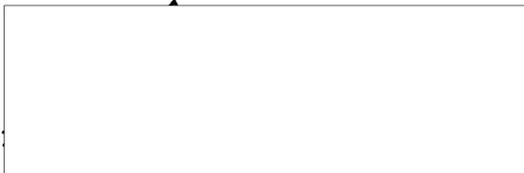
wording of the final letter (dated 29 May 2007) by BlackBerry whilst on holiday with my children, I did no further work on the file apart from dealing with a transcript of Mr Goodman's sentencing hearing which News had asked us to obtain. By the time I returned to the office in June, the work on the case had effectively ended. As a result, that batch of emails did not come to my attention on my final morning in the office or thereafter.

30. The billing records provide some assistance on this point. There is no telephone communication between Mr Chapman and me after 24 May 2007, other than a very short call to his office on 25 May 2007. If I had seen those emails I would expect the billing records to reflect the time I would have needed to read them; the lengthy discussion I would have had with Mr Chapman about them; and any potential re-consideration and/or re-drafting of my advice as a result. The billing records show that no such activity took place, supporting my recollection that I did not see that batch emails or become aware of their contents.
31. Finally on this point, I should make it clear that if that batch of emails had come to my attention I would have considered their contents carefully, contacted Mr Chapman and advised appropriately. It may be worth noting that, in the context of the limited advice I had been asked to give, almost all of those emails are considerably earlier than the period I was asked to consider and fell outside the scope of emails that Mr Goodman had been requesting. However, as I have set out above, those emails did not come to my attention. My first recollection of having seen them is on re-examination of the Harbottle & Lewis LLP file, earlier this year.
32. Third, if there is any suggestion that I would have been willing simply to endorse the advice News wished me to give, this is demonstrably incorrect. I respectfully draw to the Inquiry's attention the email exchange between Mr Chapman and me on 25 May 2007, between 13:13 and 16:12. News had added an additional sentence to my draft conclusion: "...Equally, having seen a copy of Clive Goodman's notice of appeal of 2 March 2007, we did not find anything that we consider to be directly relevant to the grounds of appeal put forward by him."
33. That sentence suggested my examination of emails was wider than simply looking at whether there was evidence in the emails Mr Goodman had requested, to support his allegations that others had knowledge of, or engagement in, phone hacking activity. It suggested that I had reached a broader conclusion about the existence of material relevant to Mr Goodman's appeal. I refused to endorse the sentence precisely for that

reason. Mr Chapman is correct that there is always some 'back and forth' in terms of requests for lawyers to give conclusions on their analysis, and he describes this as 'trying it on'. I did not hesitate to tell him that I could not agree with his wording. When I declined, he did not seek to pursue it any further. Equally, if I had not been satisfied that the final wording of my letter of 29 May 2007 was accurate I simply would not have given it. I would similarly have made my position clear to Mr Chapman and would have expected him to take that advice.

34. This statement is the best recollection I am able to provide in answer to the questions I have been asked, having viewed the relevant documentation. Any steps that News did or did not take in response to the points raised by the emails, or any inquiry they did or should have carried out, beyond the narrow task of asking me to examine the emails in light of Mr Goodman's appeal, is a matter for them to explain. It is not something about which I was instructed to consider, and is not now something about which I can properly comment.

Signed:

A rectangular box with a thin black border, used to redact the signature of the person.

Lawrence Abramson

Dated: 8 December 2011

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INQUIRY PURSUANT TO THE INQUIRIES
ACT 2005**

**SECOND WITNESS STATEMENT OF
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8 DECEMBER 2011**

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