

IN THE MATTER OF:

AN INQUIRY UNDER THE INQUIRIES ACT 2005

INTO THE CULTURE, PRACTICES AND ETHICS OF THE PRESS

CHAired BY THE RT HON LORD JUSTICE LEVESON

SECOND WITNESS STATEMENT OF LLOYD WILLIAM EMBLEY

I, **LLOYD WILLIAM EMBLEY**, of One Canada Square, Canary Wharf, London E14 5AP
WILL SAY as follows:

1. I am the Editor of The People, which is published by MGN Limited. MGN Limited is part of Trinity Mirror plc ("Trinity Mirror").
2. I am making this statement in response to a notice dated 1 November 2011 pursuant to section 21(2) of the Inquiries Act 2005 (the 'Notice'). A copy of the Notice is annexed hereto at pages 1-4 of exhibit LWE-2.
3. The Notice refers to how two transcripts would be provided to me shortly after service of the Notice: one of a telephone conversation between Chris Atkins and Tom Carlin (as opposed to Carling) (referred to in question 3 of the Notice) and the other of a telephone conversation between Chris Atkins and Sarah Jellema (referred to in questions 6 of the Notice). Two transcripts were subsequently provided: that of the conversation and subsequent meeting between Mr Atkins and Ms Jellema on 2 November 2011; and that of the conversation between Mr Atkins and Mr Carlin on 10 November 2011. The Atkins/Jellema transcript was incomplete and contained at least one error and I have no way of verifying whether the Atkins/Carlin transcript is either complete or accurate. It is described as an "extract".
4. On 28 November 2011 a lengthier version of the Atkins/Jellema transcript was provided to Herbert Smith. Whilst it is more extensive than the initial transcript I was provided with I do not know whether it is complete and I have not been provided with any of the underlying tapes. I am aware that when Mr Atkins gave evidence to the Inquiry on 6 December 2011 he said the transcript of the meeting with Sarah Jellema was only "approximately half of the meeting". So far as the transcript provided on 28 November 2011 relates to the Atkins/Carlin conversation the text appears to be identical to that provided on 2 November, apart from describing Mr Carlin as "The People News Editor". Mr Carlin is, in fact, the Assistant News Editor as opposed to the News Editor and wasn't the News Editor in 2009.
5. This is the second statement I have provided to the Inquiry. I provided my first statement to the Inquiry on 14 October 2011.
6. I have read the witness statement of Sarah Jellema to the Inquiry dated 9 November 2011.
7. Where the contents of this statement are within my own knowledge they are true and where the contents are not within my own knowledge I believe them to be true.

8. I am not authorised to waive any privilege on behalf of Trinity Mirror and nothing in this statement is intended to constitute a waiver of privilege on behalf of Trinity Mirror.
9. To make it easier for the Inquiry I have set out in this statement each question from the Notice and then my answer.

Your statement refers on a number of occasions to the Editors' Code, and at paragraph 38 you expressly state that as Editor, you are ultimately responsible for compliance with the Code. The Inquiry assumes that you are therefore very familiar with clauses 3 and 10 of the Editors' Code, which note (amongst other things) that the press must respect privacy, and must not seek to obtain or publish material acquired by using hidden cameras or clandestine listening devices; or by intercepting private or mobile telephone calls, messages or emails; or by the unauthorised removal of documents or photographs; or by accessing digitally-held private information without consent. Is this correct? Do you agree that purchasing and then publishing confidential medical records relating to sensitive cosmetic procedures without permission of the person they relate to would (subject to a public interest defence) may be contrary to those clauses?

10. I am familiar with the clauses 3 and 10 of the Editors' Code of Practice and I agree that purchasing and then publishing confidential medical records relating to sensitive cosmetic procedures without permission of the person they relate to would (subject to a public interest defence) be contrary to those clauses.

In 2009, documentary maker Chris Atkins made a film called 'Starsuckers'. As you will be aware, part of the film shows the results of an undercover operation, conducted by Mr. Atkins, which was set up in order to see whether tabloid newspapers would be willing to offer money for confidential medical records, in breach of clauses 3 and 10 of the Code, see:

<http://guardian.co.uk/media/2009/oct/15/starsuckers-celebrity-cosmetic-surgery-hoax>

The film appears to suggest that a member of your news team, Sarah Jellema, was prepared not only to meet a person claiming to have confidential celebrity medical records for sale, but was prepared to indicate to Mr. Atkins that the People might pay for these documents. Please confirm to the inquiry that you are aware of the allegations made by this film. If you are not so aware, then please explain to the Inquiry why you consider that these allegations were not drawn to your attention as editor.

11. In October 2009 Trinity Mirror Plc were approached by the Guardian newspaper who were intending to run a story about the allegations made in the Starsuckers film. At that point the allegations made by the film, according to the Guardian, were brought to my attention.

As you may know, Mr. Atkins first spoke to a Tom Carling on the news desk. When told that confidential records might be for sale he said "we're definitely interested in these sorts of stories, obviously we've got to be careful, you know there's a new wave of privacy laws". As you may know, Mr. Atkins spoke

to Mr. Carling initially on the telephone, and a transcript will be provided to you shortly. It may be, however, that you have your own record of the conversation and you can begin to consider these questions without it. Was this the appropriate response to the offer of the sale of, or obtaining of information from, confidential records in your view?

12. Although we do not have a tape or other record of the conversation, according to Mr Atkins' transcript Mr Carlin said to Mr Atkins that the People were "interested in these sorts of stories". This was a general comment before he went on to say, according to Mr Atkins' transcript, that it depended entirely on who the individuals are. He also, according to the transcript, mentioned "a new wave of privacy laws" which meant that he had to be "very careful" and that a lot of people are open about the work they have had done. These comments indicate to me that Mr Carlin was alive to the necessity of carefully analysing which individuals Mr Atkins was talking about and there needing to be a justification for any publication.

13. In response to the question, I think far too much is being read into a general off the cuff comment by someone on the People news desk to an anonymous person who was making a general telephone enquiry.

Was Mr. Carling provided with a copy of the Code and the mandatory training on the Code, as set out in your statement? Please provide all relevant documents.

14. The Code is part of Mr Carlin's contract of employment, a copy of which (with appropriate redactions) is at pages 5 to 18 of exhibit LWE-2. I do not understand the reference to "mandatory training on the Code". I cannot find that phrase in my first statement.

Was Mr. Carling ever disciplined as a result of the Starsuckers investigation? If yes, please provide us with all relevant documents. If he was not disciplined, please explain why not.

15. No Mr Carlin was not disciplined. Please see my comments above in paragraphs 12 and 13.

As you may know, Mr. Atkins then spoke to a Ms. Sarah Jellema on the telephone, and a transcript of that conversation will also follow. When he outlined the confidential and sensitive information he might have for sale, Ms. Jellema indicated that "this sounds like it would be right up our street" and arranged to meet Mr. Atkins to discuss the matter further. Can you assist the Inquiry by giving your reaction to the initial telephone response of Ms. Jellema? How would you have expected one of your news team to react to this telephone offer? Would you expect any/all of your news team to have taken a similar approach? Please note in this respect that at least one other newspaper took the view that even to entertain the approach would be in breach of the Code;

16. As I have said above in paragraph 3, on 2 November 2011 a transcript of an extract of the conversation between Chris Atkins and Sarah Jellema was provided. In fact, it now seems that extract was incorrect, as it comprised one paragraph containing exactly the same wording from the transcript of the conversation between Mr Atkins and Mr Carlin. I have not been provided with the conversation between Mr Atkins and Mr Carlin. On 28 November 2011 a different transcript of the conversation between Mr Atkins and Ms Jellema was provided. It is stated to be a "full transcript"

but I do not know whether that is correct as I have not been provided with access to the tape and I understand Mr Atkins has said, in evidence to the Inquiry, that the transcript is only of "approximately half of the meeting".

17. Yes, I would have expected a member of my news team to have expressed a general interest in a story of this nature. Until you investigate a proposed story you do not know whether it has merit and there is a real danger, as I have said above in paragraph 13, in reading too much into general off the cuff comments made to a person who has rung into the newspaper. As is clear from the transcript the reporter wanted to meet with the caller (Morris) to investigate further.

Was Ms. Jellema given a copy of the Code and the mandatory training on the Code, as set out in your statement? Please provide any relevant documents.

18. The Code was part of Ms Jellema's contract of employment. I attach a copy at pages 19 to 32 of exhibit LEW-2.
19. I repeat the second and third sentences of paragraph 14 above in relation to the reference to "mandatory training on the Code".

Ms. Jellema arranged to meet Mr. Atkins to discuss the proposal further. Again, can you assist the Inquiry by giving us your view of whether you deemed this to be appropriate, given the nature of the material for sale? If the ultimate aim was not to consider buying/publishing either the material or the information contained therein, why did Ms. Jellema meet with Mr. Atkins, in your view?

20. As I have explained above in paragraph 17, I would have expected a member of my news team to have expressed a general interest in a story of this nature and to investigate further, and in my view this is why Ms Jellema would have met with Mr Atkins.
21. As Ms Jellema says in her witness statement, this story could have developed on the basis of exposing the person prepared to sell such information. In this connection, I should mention a story the People published in 2007 about a man trying to sell the medical records of famous people (including information about alcohol issues, sexual diseases, eating disorders and psychiatric problems). I attach a copy of the story at page 33 of exhibit LWE-2. Clearly it would not be possible to publish such stories, particularly given that the burden of proof rests on newspapers in proceedings (including libel proceedings), unless when someone approached you with a story about selling medical information you expressed an interest in it.

During the course of the meeting, Ms. Jellema makes the following remarks about the PCC: "Getting a PCC isn't great but a lot of papers just kind of brush it aside... you get a slap on the wrist but there is no money" and "even if something is shown to be kind of wrong in the way you got the information and all that – it goes to the PCC – little apology slap on the wrist". Do you agree that this would suggest lack of respect for the work/sanctions of the PCC? Can you confirm whether the views expressed were the views of your newspaper as a whole, and if not, whether many journalists on your newspapers took a similar view;

22. I agree that Ms Jellema's words do suggest a lack of respect on her behalf for the PCC. They are not the views of the newspaper as a whole and they are not my views.

23. I do not believe journalists currently working on the paper have a lack of respect for the PCC or the Code. As soon as I saw an extract of the film (on The Guardian website I believe) I showed it to my department heads. This would have been in October 2009. They all reacted in the same way I did – shocked at the words they were hearing. I then asked them to make sure their staff knew that this was not the paper's position.

Ms. Jellema goes on to ask Mr. Atkins to get hold of the relevant documents, and notes that "once we've got them on file, the lawyers are happy". Is this request, in your view, in breach of the Editors' Code? What is your view of the appropriateness of this request? Would the Inquiry be wrong to conclude from this exchange that journalists were more interested in ensuring that the information they had was genuine rather than whether the Editors Code was being breached?

24. The first sentence of this question over-simplifies and distorts what happened. Ms Jellema was, according to the transcript, making the point to Mr Atkins that any story would depend on who the individual was, what that individual had done and what the legal advice was. In that context she mentioned "what back up we have" and Mr Atkins mentioned needing something to prove that the story was true.
25. I feel I should repeat that if we were to run a story accusing someone of trying to sell the medical records of celebrities we would need evidence to protect us against the risk of a libel action from that person (i.e. the person trying to sell the records).

Ms. Jellema also indicated that the People might pay for the information. Did Ms. Jellema have the authority to agree to such a payment, and did she have the authority to pay Mr. Atkins himself? If not, who would have had such authority?

26. Any payments would need to be agreed with the news desk and/or the deputy editor/editor. Neither the news desk, the deputy editor or me would have sanctioned such a payment unless a clear public interest had first been established.

If you consider the actions of Ms. Jellema to have been inappropriate, or a breach of the Code, how serious did you consider her actions?

27. Ms Jellema's comments which demonstrated an apparent lack of respect for the PCC are inappropriate, and did not reflect the views of the editorial staff on the People. It appears to me that she was trying to get a story about somebody attempting to sell medical information but she should have used a different way to deal with the questions about the PCC.

Assuming that Mr. Atkins had genuinely had the documents he claimed to have, would (in your view) the People have bought them, and published the information, knowing that its sources were protected?

28. The People may have gone through the pretence of buying them. We would not have published the details but we might well have exposed the "seller" and might well have also notified the police. I refer to the story exhibited at page 33 of LWE-2.

What, if any, disciplinary action was taken against Ms. Jellema when the Starsuckers investigation became public? Please provide us with any documents in this respect. If no disciplinary action was taken, please explain why not. What was the outcome of any disciplinary action?

29. Ms Jellema was no longer working for the People when the Guardian approached us in October 2009.

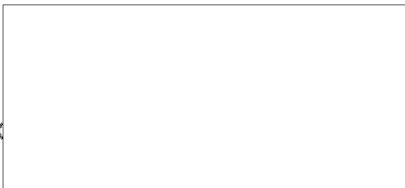
The Inquiry understands that Ms. Jellema left your employment in 2009 and went to work for the Sunday Times. Did you provide her with a reference? Please provide copies of all relevant documentation to the Inquiry.

30. I did not provide Ms Jellema with a reference and our HR department has no record of a reference being given.

Conclusion

31. In conclusion I would like to emphasise that whilst Ms Jellema's comments about the PCC were neither appropriate nor ones that I would ever think of endorsing no documents were obtained by the People and no information was published.

Signed



Lloyd William Embley

Dated

11/1/12