

**Report of**

**The Dyson Investigation**

**by The Right Honourable Lord Dyson**

**14 May 2021**

## **Executive Summary of the Report of The Right Honourable Lord Dyson**

(the numbers in square brackets below refer to paragraph numbers in the Report)

The interview with HRH Diana, Princess of Wales that was aired on 20 November 1995 was a sensational triumph for the BBC and Martin Bashir, both nationally and internationally [151]. Whatever reservations she may have had about it later, Princess Diana was pleased with the interview at the time. By early to mid-August 1995 at the latest, she was keen on the idea of a television interview. She would probably have agreed to be interviewed by any experienced and reputable reporter in whom she had confidence even without the intervention of Mr Bashir [24], [25] and [148].

In this Report, I describe in considerable detail the way in which Mr Bashir commissioned fake bank statements from Matt Wiessler [59] to [70]. These documents purported to show payments by Penfolds Consultants and News International into the bank account of Alan Waller, a former employee of Earl Spencer, Princess Diana's brother. Mr Bashir showed the documents to Earl Spencer on a date early in September 1995. Mr Wiessler is an entirely reputable graphic designer who did freelance work for the BBC. Nobody has criticised him for accepting the commission.

A few days later, probably on 14 September, Mr Bashir also produced to Earl Spencer other bank statements which, he said, showed payments into the account of Commander Patrick Jephson (Princess Diana's Private Secretary) and Commander Richard Aylard (the Prince of Wales' Private Secretary). It is likely that these statements were created by Mr Bashir and contained information that he had fabricated [56].

By showing Earl Spencer the fake Waller and Jephson/Aylard statements and informing him of their contents, Mr Bashir deceived and induced him to arrange a meeting with Princess Diana [105] to [117]. By gaining access to Princess Diana in this way, Mr Bashir was able to persuade her to agree to give the

interview. This behaviour was in serious breach of the 1993 edition of the BBC's Producer Guidelines on straight dealing [135] to [142] and [147].

On seeing the interview on screen, Mr Wiessler immediately made the connection between the Waller bank statements and the interview. He was concerned that he might have played a role in obtaining the interview by deception [152].

Acting responsibly and appropriately, he reported his concerns to the BBC. A detailed account of how the BBC responded is set out at [149] to [182]. The matter was eventually referred to Tim Gardam (Head of Weekly Programmes in BBC News and Current Affairs). Mr Gardam's investigation culminated in a meeting between himself (and two other senior BBC persons) and Mr Bashir [171]. Mr Bashir gave them an account of the faking of the documents. Crucially, he told them that he had not shown them to anyone. They accepted that he was telling them the truth, but asked him to provide independent evidence that Princess Diana had not been shown the documents. Within a few hours, Mr Bashir obtained a note dated 22 December 1995, signed by her which supported what he had said<sup>1</sup>. I am satisfied that the Diana note is a genuine document [150].

Mr Gardam did not then know that Mr Bashir had lied when he said that he had not shown the documents to anyone and did not know that he had in fact shown them to Earl Spencer in September 1995. Mr Bashir was to repeat this lie twice in March 1996. It was only on 23 March 1996 that Mr Bashir admitted that he had lied [190].

Mr Gardam did not consider the possibility that Mr Bashir secured the interview with Princess Diana indirectly by showing the documents to Earl Spencer [179]. In the light of what he knew at the time (and in particular the Diana note), I do not consider that it would be reasonable to criticise Mr Gardam for failing to ask Earl Spencer for his version of the facts [181]. But Mr Gardam too readily accepted that Mr Bashir was telling the truth about the fake documents [182].

There were rumours in early 1996 that something had been amiss about the interview. *The Mail on Sunday* took the lead in carrying out further investigations

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<sup>1</sup> Letter from Princess Diana to Martin Bashir dated 22 December 1995 (Annex 3, pages 20-22)

which led to Mr Bashir admitting to Mr Gardam that he had shown the fake Waller statements to Earl Spencer. The BBC now decided that it must find out the entire truth behind Mr Bashir's activities [183] to [193].

Mr Bashir was interviewed by Tim Suter (Managing Director of Weekly Programmes in BBC News and Current Affairs) and Richard Peel (Head of Communications and Information) on 28 March 1996 [194] to [196]. The conclusions that were reached after this meeting were expressed in a letter to Mr Bashir dated 4 April 1996, which was drafted by Mr Suter and agreed by Tony Hall (now Lord Hall, then Managing Director of News and Current Affairs at the BBC) but probably not sent [197] to [200]. One of their conclusions was that Mr Bashir's dealings with Princess Diana in securing the interview were absolutely straight and fair; but that his use of some material in the early preparation of the programme was in breach of the BBC Producers' Guidelines on straight dealing and justified a reprimand.

This conclusion was not justified, even on an interim basis. It was based in large part on the uncorroborated assertions of Mr Bashir. This error was compounded by their failure to approach Earl Spencer once they knew that Mr Bashir had shown the Waller statements to him [200].

In early April 1996, the press continued to ask searching questions about the methods used by Mr Bashir to secure the interview. The BBC gave evasive answers to these questions [201] to [209]. On 7 April 1996, *The Mail on Sunday* published an article which asked whether Mr Bashir had intended to show the fake Waller statements to Earl Spencer and thereby convince him that he (Mr Bashir) was the right person to interview Princess Diana [203].

Suggestions by the press that the Princess Diana interview had been secured by deception persisted [223]. Lord Hall recognised that it was important for the BBC to conduct a full inquiry into what Mr Bashir had done and why he had done it and to resolve the matter once and for all [227]. To that end, he arranged to meet Mr Bashir together with Anne Sloman (successor to Mr Gardam). The meeting took place on 17 April 1996. Mr Bashir was unable or unwilling to give Lord Hall and Mrs Sloman any credible explanation of why he had commissioned the faking of the Waller statements and why he had shown them to Earl Spencer.

They did not approach Earl Spencer to ask him for his version of what had happened. They accepted the account that Mr Bashir gave them as truthful.

The investigation conducted by Lord Hall and Mrs Sloman was woefully ineffective for the following reasons [259] to [282]:

(i) they failed to interview Earl Spencer: this was a big mistake and the points they (and Lord Birt, the former Director-General) have made to justify their not doing so are rejected [266] to [275];

(ii) they did not scrutinise Mr Bashir's account with the necessary degree of scepticism and caution: they knew he had lied three times when he said that he had not shown the fake statements to Earl Spencer (these were serious lies for which he gave no explanation); they knew that he been unable to provide any credible explanation of why he had commissioned the fake statements (which was a serious breach of the BBC's Producers' Guidelines on straight dealing); and they knew that Mr Bashir's account of what happened was largely uncorroborated [276] and [277]; and

(iii) without knowing Earl Spencer's version of the facts; without receiving from Mr Bashir a credible explanation of what he had done and why he had done it; and in the light of his serious and unexplained lies, Lord Hall could not reasonably have concluded, as he did, that Mr Bashir was an honest and honourable man [278] and [279].

Without justification, the BBC fell short of the high standards of integrity and transparency which are its hallmark by (i) covering up in its press logs such facts as it had been able to establish about how Mr Bashir secured the interview [201] to [298] and [300]; and (ii) failing to mention Mr Bashir's activities or the BBC investigations of them on any news programme [291] to [300].

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## A. INTRODUCTION

1. Martin Bashir's famous *Panorama* interview with HRH Diana, Princess of Wales was aired on 20 November 1995. It was viewed by more than 23 million people in the UK. It was a sensation and over the following weeks, months and years earned a considerable number of plaudits and awards for Mr Bashir and the BBC. It was a remarkable coup for them both. He was not well-known and not an obvious choice for such a sensitive and high-profile interview. It was not long before questions were being asked about the propriety of the methods he used to secure the interview. And later still, when the BBC investigated these methods, it was not long before questions were being asked about the adequacy of the BBC's investigations.
2. In a nutshell, this sets the scene for my Investigation. The following is the barest outline of what happened. I describe the events in detail in the main body of this report.
3. At the heart of this Investigation lie two bank statements<sup>2</sup> which were faked at the request of Mr Bashir by Matt Wiessler, a graphic designer. Copies of these are included in Annex 3 to this report, which comprises copies of the key documents to which I shall refer. They purport to show substantial payments to Alan Waller who had been an employee of Earl Spencer, the brother of Princess Diana. The documents included in Annex 3 are those that I consider it necessary and proportionate to publish. Annex 4 contains extracts of Investigation interviews and written statements to the Investigation that I consider it necessary and proportionate to publish.]
4. Shortly after seeing the interview on screen, Mr Wiessler contacted the BBC to express his concern that there had been some connection between the bank statements and the interview. I say at once that, so far as I am aware, nobody has questioned the propriety of what Mr Wiessler did at Mr Bashir's request. But Mr Wiessler was worried that there may have been some impropriety in the commissioning of the statements.

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<sup>2</sup> National Westminster Bank, News International fake bank statement dated 16 March 1994 and Penfold Consultants (Jersey) fake bank statement dated 15 June 1994 (Annex 3, pages 1-3)

5. His approach to the BBC led to a meeting between Mr Bashir and senior BBC personnel, including Tim Gardam (who was Head of Weekly Programmes in BBC News and Current Affairs) Mr Bashir told them that the bank statements had not been shown to Princess Diana. He obtained a note dated 22 December 1995 from Princess Diana which stated that Mr Bashir had not shown her any documents or given her any information that she was not previously aware of. I shall refer to this as “the Diana note”. So far as the BBC was concerned, the Diana note was conclusive evidence that the fake bank statements had not been used by Mr Bashir to persuade Princess Diana to agree to the interview and that was the end of the matter.<sup>3</sup>
6. But early in 1996, there were rumours that there had been something wrong about the interview<sup>4</sup>. In late March, the BBC learnt that the *Mail on Sunday* had a story that Mr Bashir had shown the fake bank statements to Earl Spencer in order to secure an interview with Princess Diana. This led to a meeting in late March 1996 between Mr Bashir and Tim Suter (Managing Editor of Weekly Programmes in BBC News and Current Affairs). This was in turn followed by a meeting on 17 April 1996 between Mr Bashir, Tony Hall, now Lord Hall, (Managing Director of News and Current Affairs) and Anne Sloman (successor to Mr Gardam).
7. The conclusion of Lord Hall and Mrs Sloman was that Mr Bashir had been unwise and incautious to commission the fake bank statements from Mr Wiessler, but he was an honest and honourable man. The statements had played no part in Mr Bashir’s obtaining the interview with Princess Diana.
8. The story then rapidly disappeared from view. It did not come to life again until late in 2020. Earl Spencer, says<sup>5</sup> (and I accept) that he had come to believe that Mr Bashir had shown him the fake Waller bank statements “to groom me, so that he could then get to Diana for the interview he was always secretly after.” But it was not until late October 2020 that he received what he considered to be proof of this. The proof was in the form of papers released by the BBC pursuant to a request under the Freedom of Information Act 2000 (“FOIA”). He says that he was outraged by what he

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<sup>3</sup> Letter from Princess Diana to Martin Bashir dated 22 December 1995 (Annex 3, pages 20-22)

<sup>4</sup> Nicholas Fielding transcript of interview on 22 February 2021, 6/8-24

<sup>5</sup> Written statement of Earl Spencer received on 13 January 2021, pages 23-24

read. That is why, having turned down thousands of requests by the press for an interview, he agreed to be interviewed by Richard Kay of the Daily Mail. He gave Mr Kay a detailed account of how the faked Waller bank statements had played a critical part in securing the interview for Mr Bashir. Many of the points that he made were set out by Richard Kay in his Daily Mail article “BBC lies: the Spencer files” that was published on 7 November 2020<sup>6</sup>.

9. Despite initial reluctance, following an exchange of correspondence with Earl Spencer, Tim Davie (who is now the Director-General of the BBC) agreed to commission an independent investigation into the circumstances of the interview and the adequacy of the BBC’s investigation into the methods used by Mr Bashir to secure it.
10. I was appointed by the BBC on 19 November 2020. The Letter of Appointment, including my Terms of Reference (Appendix 1) and the Process Protocol (Appendix 2), are contained in Annex 1 to this Report.
11. The central questions that I have to address are (i) what steps did Mr Bashir take to obtain the interview; (ii) to what extent (if any) did he act improperly in obtaining the interview; and (iii) how effectively in December 1995 and March/April 1996 did the BBC investigate the circumstances leading to the interview.

*The process that I have adopted*

12. The BBC has made extensive disclosure of documents to the Investigation and various individuals have made extensive disclosure of documents as well. I append to this Report as Annex 2 a list of the individuals who have made written statements or sent letters to the Investigation (together with the positions they held at the material times) I have taken all of these contributions into account. I invited 18 of the individuals listed in Annex 2 to be interviewed by me. All of them accepted my invitation. Most of them had the benefit of legal advice in the preparation of their witness

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<sup>6</sup> *BBC Lies: The Spencer Files*, Daily Mail article dated 7 November 2020 (published online on 6 November 2020: <https://www.dailymail.co.uk/news/article-8922701/In-Earls-notes-Martin-Bashirs-lies-included-Prince-Edward-AIDS-writes-RICHARD-KAY.html>)

statements; and many were accompanied at the interviews by their legal representatives. Mr Bashir was accompanied by two legal representatives. I gave all those whom I interviewed at least 5 days' notice of the topics that I wished to cover with them; and I provided them with a bundle of relevant documents (most of which had been produced to me by the BBC). The interviews were all conducted by me on-line. I would have preferred to speak to each witness face to face, but the Covid-19 pandemic made this impossible. Despite its limitations, I felt that the interview process was a success. I am very grateful to everybody who wrote to me and attended for interview. This has not been a public inquiry. I have had no powers to compel anyone to write or speak to me; or to produce documents. The degree of cooperation on the part of everybody has been remarkable. I should also say that, in accordance with the Process Protocol (Appendix 2), I gave any individual whom I was minded to criticise, notice of the potential criticism and gave them 14 days in which to respond. I took their responses carefully into account before finalising the report. Fieldfisher LLP were appointed by the BBC as solicitors to the Investigation to assist me in carrying out my duties. I wish to thank Mr Martin Smith and his team for all the excellent work they have done to help me in the conduct of the Investigation.

*Martin Bashir*

13. Mr Bashir is at the heart of the Investigation. Although he was not a household name in 1995, by then he already had experience as a television reporter. Having joined the current affairs department of the BBC in 1989 on a programme called *Public Eye*, he joined *Panorama* in 1992. Between 1992 and 1995, he covered a range of stories for *Panorama*. But compared with other well-known individuals, he was a relatively junior reporter.
14. Although he did not have great experience, it is beyond doubt that he was an effective and skilled reporter. Anyone who watched the interview with Princess Diana must have been impressed by his qualities as an interviewer. Quietly spoken and gentle, he exuded charm, warmth and, above all,

empathy. Mark Killick, who was a senior reporter/producer on *Panorama* between 1988 and 1995, and who knew Mr Bashir well, told me:<sup>7</sup>

“...Martin’s greatest skill was he could persuade people to talk to him and on the record. It is a cliché, but he really could charm the birds from the trees.”

15. Mr Bashir seemed to have no difficulty in persuading Princess Diana in the interview to disclose some most intimate personal matters as well as to express her views on all manner of other things, including the future of the monarchy.
16. I interviewed Earl Spencer on 9 February 2021. I had hoped to receive Mr Bashir’s written statement before that interview so that I could invite Earl Spencer to comment on the material parts of it. Owing to Mr Bashir’s health problems, I did not receive it until 19 February. On 20 February, the Solicitor to the Investigation wrote to Earl Spencer asking him to comment on some aspects of Mr Bashir’s statement. Earl Spencer replied later that day and so I was able to explore the differences between their accounts with Mr Bashir when I interviewed him on 1 March.

### *The Terry Venables affair*

17. Mr Bashir made two programmes (screened in September 1993 and October 1994) about the then England football coach, Terry Venables. These programmes were produced by Mr Killick whose name appears, as I shall explain, in the Princess Diana interview story.
18. One of the companies mentioned in the first Venables programme was Penfolds Consulting (“Penfolds”), a company based in Jersey. Mr Killick commissioned a graphic from Mr Wiessler, which it seems included a reference to Penfolds. The graphic was used in the first programme, but the fact that it was a reconstruction was not disclosed on screen. On 12 April 1996, Mr Venables’ lawyer wrote to the BBC alleging that the

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<sup>7</sup> Mark Killick transcript of interview on 10 February 2021, 5/2-5

document used in the programme was false and sought an explanation and damages.

19. Mr Killick strongly disputes the suggestion that his commissioning of this graphic from Mr Wiessler can be compared with Mr Bashir's commissioning of the fake Waller bank statements. In the Venables case, he says, no-one ever challenged him about the graphic and the BBC was fully aware of it and agreed to its use<sup>8</sup>.
20. I mention these facts because various references were made to the Venables programmes after the airing of the Princess Diana interview. The name Penfolds was to assume particular significance. I shall say no more about the details of the Venables affair since I do not consider that it falls within my Terms of Reference to investigate it: see also paragraph 308 below.

**B. THE EVENTS LEADING UP TO THE AIRING OF THE INTERVIEW ON 20 NOVEMBER 1995**

*Events up to the first meeting of Mr Bashir and Earl Spencer*

21. The idea of the BBC seeking an interview with Princess Diana was not new. On 11 February 1993, Lord Hall wrote to Commander Patrick Jephson, her Private Secretary asking whether she would be interested in taking part in a BBC Television Interview. He said that he envisaged an interview with “a respected figure, perhaps Sue Lawley”. This request was politely, but firmly refused by Commander Jephson in his letter dated 17 March 1993.
22. On 29 June 1994, HRH Prince Charles the Prince of Wales, was interviewed on television by Jonathan Dimbleby. The interview was wide-ranging and included a description by Prince Charles of his failed marriage and his admission that he had committed adultery.

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<sup>8</sup> Mark Killick transcript of interview on 10 February 2021, 36/16-38/7

23. Early in 1995, Mr Bashir started research on a potential programme on the future of the UK monarchy<sup>9</sup>. By now, reporting on the unhappy marriage, to use Mr Bashir's words, "had grown into a vast industry, employing a large number of individuals, spawning content across a range of global media platforms"<sup>10</sup>. His sources encouraged him to look further into the possibility that Prince Charles' and Princess Diana's private phones were being bugged.
24. On 2 August 1995, Mike Robinson, a BBC producer, wrote to Commander Jephson asking whether it would be possible to meet Princess Diana "to discuss an idea that would involve Her Royal Highness". He mentioned Nicholas Witchell as the person the BBC had in mind for such a meeting. Mr Witchell had been a news correspondent attached to *Panorama*. In May 1995, he was appointed as one of the BBC's diplomatic correspondents. It is clear that Princess Diana was now very keen to talk to the BBC. I have no evidence of the reason for the change in her attitude to the idea of talking to the BBC. It is possible that it was, in part at least, as a result of the Prince Charles interview and the continuing media interest in the marriage. According to a statement I have received from Mr Witchell, the BBC decided to approach Princess Diana through her private secretary following a suggestion by Baroness Margaret Jay (who knew the Princess through the National Aids Trust, one of the charities supported by the Princess). Mr Witchell says that he told Baroness Jay that what the BBC had in mind was an interview focussing on the Princess's charitable work and exploring the role she sought for herself.<sup>11</sup>
25. On 23 August 1995, Nicki Cockell (who I assume was a member of her staff) sent Princess Diana a memorandum saying that the meeting with Mr Witchell was likely to be at 3.00 pm on 5 September. Princess Diana wrote a note on this memorandum "I am v. keen to be in this meeting, so please let me know when possible, the time".
26. For reasons that do not concern me, the editor of *Panorama*, Steve Hewlett, who sadly died in February 2017, seems to have decided to replace Mr

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<sup>9</sup> Written statement of Martin Bashir dated 19 February 2021 page 9, paras 28

<sup>10</sup> Written statement of Martin Bashir dated 19 February 2021 page 8, para 25

<sup>11</sup> Written statement of Nicholas Witchell dated 28 December 2020, page 1, para 8

Witchell with Mr Bashir as the person to take the Princess Diana interview project forward. Mr Witchell therefore withdrew from the planned meeting with the Princess.

27. In late August, Mr Bashir decided to further his investigations by attempting to make contact with Earl Spencer. Earl Spencer did not know Mr Bashir. They had never communicated with each other before. Earl Spencer has given me a detailed account of their meetings and discussions in August and September 1995. The account that follows is based on his diary and the contemporaneous notes that he made and has kept. Mr Bashir has produced no contemporaneous notes of the meetings and discussions. Earl Spencer told me that he is an “inveterate hoarder of [his] past records”<sup>12</sup>
28. Mr Bashir spoke to Carole Sprigg, Earl Spencer’s secretary on 24 August. The message she recorded included that Martin Bashir from *Panorama* had called: “not seeking interview or info. 15 mins of time to talk...No filming or interview—just talk”.<sup>13</sup>
29. On the same day, Mr Bashir wrote to her on *Panorama* notepaper:

“Thanks for your helpfulness during our telephone conversation earlier today. It was much appreciated.

I have spent the past three months investigating certain aspects of press behaviour. At present I am simply drawing material together. As I said it is not my intention to record or publish any discussion with Earl Spencer but simply to share some information which, I believe, may be of interest.

The BBC is more than happy to provide a letter of comfort confirming that a meeting would be strictly confidential...<sup>14</sup>”
30. Earl Spencer did not respond. He was away at the time. On 29 August, Mr Bashir called again asking to arrange a meeting. Their first brief meeting took place at Earl Spencer’s offices at NBC’s News Bureau in

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<sup>12</sup> Written statement of Earl Spencer received on 13 January 2021, page 7

<sup>13</sup> Handwritten telephone message by Carol Sprigg dated 24 August 1995 (2.30 pm) and transcript (Annex 3, pages 4-5)

<sup>14</sup> Letter from Martin Bashir to Carol Brigg [sic] dated 24 August 1995 (Annex 3, page 6)



London at 6 pm that day. There was a second meeting at Althorp on 31 August.

*Events until the meeting on 19 September 1995*

31. Earl Spencer says that at the meeting on 31 August, Mr Bashir said that he (Earl Spencer) was a particular target of the tabloids and that his household contained informants who were selling private information about him to that end of the media.<sup>15</sup> One of the members of Earl Spencer's household to whom Mr Bashir was referring was Mr Waller.
32. After this or their next meeting, Earl Spencer called Mr Hewlett and told him what Mr Bashir had said. He asked whether what Bashir had said was true. Mr Hewlett responded that he could vouch for him: "Martin is one of my very best."<sup>16</sup>
33. Mr Waller was employed on security at Earl Spencer's estate at Althorp. By about 1994, he and Earl Spencer had fallen out and Mr Waller's employment had come to an end. Earl Spencer had obtained an injunction restraining Mr Waller from talking to anyone about him or his family<sup>17</sup>. But he had not been able to serve the injunction on Mr Waller. In 1994, he had even engaged a private detective to try to trace Mr Waller. By the time of his meeting with Mr Bashir, Earl Spencer had still been unable to serve the injunction<sup>18</sup>.
34. Mr Bashir says that Earl Spencer told him that "there was an important story, which nobody in the media was covering but one that had real potential"; but he did not wish to discuss it further and suggested that they meet again at Althorp.<sup>19</sup> Earl Spencer denies having said any of this to Mr Bashir. He says that, if he wanted to disclose this important story to anyone, it would have been to colleagues who worked with him in NBC

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<sup>15</sup> Written statement of Earl Spencer received on 13 January 2021, page 7

<sup>16</sup> Written statement of Earl Spencer received on 13 January 2021, pages 8-9

<sup>17</sup> Written statement of Alan Waller dated 7 March 2021, page 1

<sup>18</sup> Email from Earl Spencer to the Investigation dated 20 February 2021

<sup>19</sup> Written statement of Martin Bashir dated 19 February 2021, page 10, para 31

News's bureau and not to a young BBC journalist who was unknown to him.

35. Earl Spencer has provided the Investigation with one of his manuscript notes which records:

“8/3/94 £4k News International-----£4k quarterly since  
4/6/94 £6.5k Penfolds-----4 payments, all less”<sup>20</sup>

36. As I shall shortly explain, these were payments allegedly made to Mr Waller. Earl Spencer says that the bank statements which purported to evidence these payments were an important link in the chain of events which led to the Princess Diana interview. The typescript that appears in square brackets on the top of the transcription of this note bears the legend “Lord Spencer’s handwritten notes of first meeting with Martin Bashir on 31 August 1995”. It would seem that these words were added to the transcription by Bates Wells Braithwaite, who were Earl Spencer’s solicitors at the time. They do not appear in the original manuscript document. Earl Spencer told me that the information recorded in the body of the note was not given to him by Mr Bashir on 31 August. He said that it definitely came later in the story<sup>21</sup>. He did not believe that Mr Bashir went to this meeting with the bank statements and Mr Bashir does not say that he did so either. Earl Spencer thought it was possible that Mr Bashir showed him the bank statements when he was leaving Heathrow Airport on 2 September.<sup>22</sup>

37. At the next meeting, Mr Bashir says that Earl Spencer launched into an attack on Mr Waller, saying that he was a criminal who had stolen property from him and had taken money from the press for leaking stories. Mr Bashir says that Earl Spencer told him that he had employed private detectives who were investigating Mr Waller.<sup>23</sup> Earl Spencer accepts that Mr Waller’s name came up in conversation (probably at the meeting of 31 August), but disputes Mr Bashir’s account of what he said. He says that Mr Waller had disappeared from his life the previous year and he was not

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<sup>20</sup> Earl Spencer's handwritten note of meeting with Martin Bashir on 31 August 1995 (Annex 3, pages 7-8)

<sup>21</sup> Earl Spencer transcript of interview on 9 February 2021, 14/14-15/2

<sup>22</sup> Earl Spencer transcript of interview on 9 February 2021, 9/10-11/4; 11/6-16

<sup>23</sup> Written statement of Martin Bashir dated 19 February 2021, page 10, para 33

obsessed with tracking him down. But he accepts that Mr Bashir offered to assist in finding Mr Waller and Earl Spencer was happy to take up the offer.

38. Mr Bashir has produced a copy of a note dated 2 September 1995 purportedly sent by Earl Spencer to him enclosing an unsigned affidavit made in 1994 by Paul Gammon, a private detective, which describes the unsuccessful efforts that he had made to find Mr Waller<sup>24</sup>. Two other documents were enclosed with this note. Earl Spencer has raised a doubt as to the authenticity of the note (because it is not on headed notepaper), but I do not need to resolve this doubt. I am content to assume that Earl Spencer did write the note on 2 September and did send the three documents that were enclosed with it.
39. Mr Bashir says that at this meeting Earl Spencer showed him a bank statement and told him that he wanted to prove that Mr Waller was receiving payments from outside sources, such as newspapers, that were attacking him and undermining his sister. Earl Spencer denies this in its entirety. Mr Bashir is somewhat uncertain whether Earl Spencer gave the bank statement to him or merely showed it to him<sup>25</sup>.
40. In a handwritten statement made at the request of Mr Suter on 28 March 1996, Mr Bashir wrote that, following the sacking of Mr Waller, private mail addressed to him continued to arrive at Althorp House; Earl Spencer opened a particular letter which was a bank statement; and Earl Spencer gave him (Mr Bashir) a copy of this bank statement and also another photocopy which referred to a security company.<sup>26</sup> Earl Spencer denies opening a letter addressed to Mr Waller and denies giving a bank statement to Mr Bashir.
41. Mr Bashir says that Earl Spencer telephoned him a few days later and said that he was in possession of a “smoking gun”. He asked Mr Bashir to come to his office and collect an envelope. Mr Bashir did so. The envelope

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<sup>24</sup> Note purportedly from Earl Spencer to Martin Bashir dated 2 September 1995 enclosing unsigned affidavit of Paul Gammon (Annex 3, pages 10-11)

<sup>25</sup> Written statement of Martin Bashir dated 19 February 2021, pages 10-11, para 34

<sup>26</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 3, and transcript (Annex 3, pages 23 and 28)

contained the three documents to which I have referred at paragraph 38 above<sup>27</sup>.

42. Mr Bashir says that they spoke again on the telephone the following day and that Earl Spencer told him that Mr Waller was clearly on the run and had obviously taken large payments from the press and even senior officials working in the Royal Household. In his written statement to this Investigation, he continues:

“He also said that his sister, the Princess of Wales, could vouch for the story though he wasn’t sure that she could offer any material evidence. Since Earl Spencer had raised the possibility of his sister corroborating his claims, I asked if it would be possible to speak with her and he said that he would see what he could do. Getting direct access to the Princess would obviously be hugely beneficial in moving any royal story forward though at this stage there was no guarantee that Earl Spencer might facilitate contact.”<sup>28</sup>

43. Earl Spencer disputes all of this. He says that he had no suspicions that Mr Waller had any dealings with the Royal Household. So far as he was aware, Princess Diana had no knowledge of Mr Waller’s existence. He denies having mentioned the possibility that Princess Diana might be able to corroborate his claims.

44. Mr Bashir says that he then received a call from a person called “Charles” to say that he could expect the call that he had arranged on Wednesday. Mr Bashir has produced a post-it note in support of this<sup>29</sup>. Earl Spencer says that he does not know who that “Charles” is.

45. Mr Bashir says that he then received a call from Princess Diana and they agreed to meet.<sup>30</sup> Earl Spencer contends that it is absurd to suggest that Princess Diana would have called Mr Bashir. She had not met him and he would remember if she had asked for his number. Having refreshed his memory by looking at the notes of what he said at the meeting with Lord

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<sup>27</sup> Written statement of Martin Bashir dated 19 February 2021, pages 11, para 38

<sup>28</sup> Written statement of Martin Bashir dated 19 February 2021, pages 11-12, para 39

<sup>29</sup> Undated post-it note for Martin Bashir regarding a call from "Charles" (Annex 3, page 9)

<sup>30</sup> Written statement of Martin Bashir dated 19 February 2021, page 12, para 40

Hall and Mrs Sloman on 17 April 1996, Mr Bashir accepts that his first meeting with Princess Diana was in the Knightsbridge apartment of one of Earl Spencer's friends and was also attended by Earl Spencer.<sup>31</sup> This was the meeting that took place on 19 September 1995.

46. In his statement to the Investigation, Mr Bashir says that "a few days later", Princess Diana called him again by telephone and the two of them went on a five hour return car journey to the New Forest. They discussed Mr Waller. Mr Bashir says that she described him as one of Earl Spencer's "pet hates" and said that she believed that Commander Richard Aylard, Prince Charles' Private Secretary, might have set up a fund to pay Mr Waller.<sup>32</sup> In his handwritten statement of 28 March 1996, Mr Bashir said:

"By now I had developed a close relationship with HRH The Princess of Wales. She mentioned that she had some important information about Alan Waller. She suggested that a Jersey-based Trust fund had paid him money. She believed that this Trust fund may have been set-up and run by Richard Aylard, HRH The Prince of Wales' private secretary. She also said that she knew of the exact amounts of money that were paid and also the precise amount which had been paid by News International for Alan Waller's help in the story subsequently published by 'The Sun'. I took these details down".<sup>33</sup>

47. In this statement, Mr Bashir said that he showed what he called the "graphicised" Waller bank statements to Earl Spencer on the occasion of his last visit to see him at Althorp House.<sup>34</sup> He also said that he did not explain where the information contained in the statements had come from. He said it seemed obvious that they were not bank statements because they were both printed on A4 sheets.

48. Before I make my findings on the fake Waller bank statements, I need to refer to the Jephson/Aylard statements. These were the Jephson/Aylard

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<sup>31</sup> Written statement of Martin Bashir dated 19 February 2021, page 12, para 40

<sup>32</sup> Written statement of Martin Bashir dated 19 February 2021, page 13, para 42

<sup>33</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 4, and transcript (Annex 3, pages 23-24 and 28)

<sup>34</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 7, and transcript (Annex 3, pages 25 and 28-29)

bank statements which Earl Spencer says purported to show substantial payments into an alleged joint Jephson/Aylard bank account.

*The Jephson/Aylard bank statements*

49. As I have said, at that time Commander Aylard was the Prince of Wales' Private Secretary (having formerly served Princess Diana) and Commander Jephson was Princess Diana's Private Secretary. Earl Spencer says in his written statement<sup>35</sup> that he met Mr Bashir at Althorp on 14 September 1995 and that it was at this meeting that Mr Bashir showed him bank statements which, he said, showed that Commander Aylard and Commander Jephson were receiving secret payments from "dark forces, hostile to my sister".
50. He says that (i) the Jephson/Aylard statements were shown to him by Mr Bashir some time *after* the fake Waller bank statements had been shown to him; (ii) the Jephson/Aylard statements were the catalyst for his decision to introduce Princess Diana to Mr Bashir; but (iii) seeing the fake Waller statements was also a crucial link in the chain that led to his introducing Princess Diana to Mr Bashir.
51. He also says in his written statement<sup>36</sup>:

"I clearly remember, when being shown the Aylard/Jephson bank statements that I pointed out to Bashir at (sic) that this bank account was based in the Channel Islands. I also clearly remember Bashir answering—without missing a beat—that this was because Aylard came from the Channel Islands...

I remember two other things from this showing to me of the alleged Aylard/Jephson account: first, that Bashir did not release it from his hands—he held it in his own hands, at all times; and he appeared agitated.

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<sup>35</sup> Written statement of Earl Spencer received by the Investigation on 13 January 2021, page 10

<sup>36</sup> Written statement of Earl Spencer received by the Investigation on 13 January 2021, pages 11-12

Bashir held it with only the top part (showing the name and address of the account, which—other than the Channel Islands element, I do not recall) and the bottom part (with various transactions) visible. The middle part was covered over by Bashir: the whole sheet was, essentially, folded like a letter, with top and bottom on show, but the middle shielded from sight. I have no idea why it was folded in this way, but the awkwardness of Bashir at this time has stuck in my mind.

Secondly, I remember the size of two sums that were recorded as being paid into this account: £10,000 and, separately, £30,000”.

52. There are two noteworthy features of this account by Earl Spencer. First, most of the details of it are not recorded in any contemporaneous document. At first sight it may seem that Earl Spencer has performed a remarkable feat of memory in recalling them after approximately 25 years. Secondly, it is surprising that a person who made and kept detailed notes of meetings did not record the important details contained in the Jephson/Aylard bank statements. The lack of any mention of these details in Earl Spencer’s notes of the meeting of 14 September is to be contrasted with the details that he recorded of the payments and payers shown on the fake Waller statements (paragraph 35 above). Moreover, according to Earl Spencer, the details in the Jephson/Aylard bank statements that he was shown struck him as so important that he contacted his sister to tell her about them almost immediately.
53. Mr Bashir denies the whole of Earl Spencer’s account. He says that he knows nothing about the Jephson/Aylard statements. And it is right to say that the documents described by Earl Spencer have not been produced to the Investigation. Mr Bashir makes a number of points about these documents<sup>37</sup>:
- (i) There is nothing in any of the notes that Earl Spencer has produced that indicates that Mr Bashir showed them to him;

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<sup>37</sup> Martin Bashir note for the Investigation dated 5 March 2021, pages 4-5

- (ii) During the investigations carried out by the BBC in December 1995 and March/April 1996, there was no mention of any bank statements other than the fake Waller statements;
- (iii) It is not clear when it is alleged by Earl Spencer that the Jephson/Aylard statements were shown to him;
- (iv) It has never been suggested that Mr Wiessler mocked up any other statements than the fake Waller statements. Earl Spencer has not identified any graphic designer other than Mr Wiessler as being relevant;
- (v) Mr Bashir could not have had access to the Jephson/Aylard bank details. He did not have BBC funds to enable him to obtain them; and
- (vi) He has consistently admitted that he commissioned the faking of the Waller statements: his denial of commissioning the Jephson/Aylard statements is, therefore, to be believed.

54. I accept that there is force in some of these points. It is clear beyond doubt that Mr Wiessler faked the Waller statements. There is no evidence that he faked the Jephson/Aylard statements. There was considerable reference to the fake Waller statements during the December 1995 and March/April 1996 investigations. This was because Mr Wiessler had reported his work on these statements to the BBC and had made no such report in relation to the Jephson/Aylard statements. I do find it surprising that, if Earl Spencer's account in relation to the Jephson/Aylard statements is correct, there is no reference to them in any of the documents.

55. And yet despite the points made by Mr Bashir, in particular the absence of documentary support for the details of Earl Spencer's account, I accept what he says about the Jephson/Aylard bank statements for the following reasons:

- (i) I found Earl Spencer to be a credible and convincing witness. On the other hand, there are significant parts of Mr Bashir's account



which I am unable to accept. I have already referred to some of them. It is of particular relevance at this point to record that on three occasions in December 1995 and March 1996, he told the BBC that he had not shown the fake Waller bank statements to anyone. He then admitted that this had been untrue. This important lie assumes particular importance at a later stage of the story. I therefore have real reservations about Mr Bashir's credibility and the reliability of important parts of his account and I treat his evidence with caution.

- (ii) Earl Spencer's note of his meeting with Mr Bashir on 14 September does contain references to both Commander Aylard and Commander Jephson. Unless these notes are a fabrication, it is clear that Mr Bashir mentioned both men by name on that occasion. I am satisfied that the notes are genuine and summarise some at least of what Mr Bashir said to Earl Spencer at the meeting. This is an important point. It prompts the question of why Mr Bashir mentioned the two names to Earl Spencer and is a strong indication that he is not telling the truth when he says he knows nothing of the Jephson/Aylard bank statements.
- (iii) Earl Spencer's account of the Jephson/Aylard bank statements is not recent. When interviewed by Sally Bedell Smith (biographer of Princess Diana) in the summer of 1998, he said of Mr Bashir "he had forged bank statements of Patrick Jephson and Richard Aylard as well."<sup>38</sup>
- (iv) In the light of the detail of the account that Earl Spencer has given to me about the Jephson/Aylard statements, either he is lying or he is telling the truth. There is no scope for innocent mistake here. As I have said, I found Earl Spencer a credible witness. Regrettably, I cannot say the same of Mr Bashir.
- (v) Earl Spencer has given me a very detailed account of his recollection of the Jephson/Aylard statements and what Mr Bashir said about them and the circumstances in which he did so. I do not believe that

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<sup>38</sup> Sally Bedell Smith notes of interview with Earl Spencer dated Summer 1998, (Annex 3, pages 74-75)

Earl Spencer has invented these details. He had no reason for doing so and it would have been extraordinary if he had done so.

- (vi) For completeness, I should refer to a *Daily Mail* article by Richard Kay which was published on 7 November 2020. It states in the middle of a long passage about the meeting of 19 September that, according to Earl Spencer, Mr Bashir “then produced what he said was a [Jephson/Aylard bank statement]...But there was no opportunity for either Diana or the earl to examine the document closely”. If Earl Spencer did tell Mr Kay that the statement was shown to him for the first time when Princess Diana was present on 19 September, that would indeed be fundamentally at odds with the account that he gave to me which I accept for the reasons I have given. I do not accept that this is what happened. If Mr Bashir had shown Princess Diana and Earl Spencer the Jephson/Aylard statements on 19 September, Earl Spencer would surely have added this to the list of 38 items in his notes (paragraphs 118 to 134 below), but he did not do so.
56. I conclude, therefore, that probably on 14 September 1995, Mr Bashir (i) obliquely showed Earl Spencer the Jephson/Aylard statements (paragraph 51 above) and (ii) gave him the information about the payments shown in the statements to which Earl Spencer has referred. It is likely that these statements were not the product of the work of a graphic designer, but that they were created by Mr Bashir and that the information allegedly contained in them was fabricated by him.
57. I accept the evidence of Earl Spencer that it was seeing the Jephson/Aylard statements and/or being told by Mr Bashir about their contents that was “the absolute clincher” as regards what induced him to introduce Princess Diana to him (see further paragraph 116 below). I reject as fanciful Mr Bashir’s suggestions as to why Earl Spencer made this unlikely introduction. I discuss this further at paragraphs 108 to 114 below.
58. Mr Bashir has recently said that he had no notice of the allegations relating to the Jephson/Aylard statements and that it would therefore be inappropriate for me to make any findings about them. I reject this. He

was well aware of the allegations and denied them at paragraph 74 (1)(k) of his statement to the Investigation dated 19 February 2021. At his interview on 1 March, I put the allegations to him clearly and he answered them. He did not say that he was taken by surprise. His interests were protected by his solicitors who were present at the interview. No objection was taken at the time I asked the questions or at the end of the interview when I asked him whether there was anything more that he wanted to say.

*The fake Waller bank statements: the circumstances in which they were made*

59. I must now return to make my findings on the fake Waller bank statements. Mr Waller and Mr Robert David Harper were business partners who had a current account with National Westminster Bank, 155 North Street, Brighton BN1 1GN. The name of the account was “Mr Robert David Harper & Mr Alan James Waller Trading As Weider Health & Fitness”. The account number was 00414301. Mr Waller has told me<sup>39</sup> that this account was closed on 9 March 1994. The fake statements are dated 16 March 1994 and 15 June 1994. Moreover, neither Mr Waller nor Mr Harper had heard of Penfolds or conducted business with or accepted payment from News International.<sup>40</sup> There is no reason to doubt what they say.
60. Between April 1986 and October 1995, Mr Wiessler was employed full-time on a free-lance basis by the BBC as a graphic designer. In 1993, he became the design team lead on *Panorama* and remained in that position until October 1995. In his experience, the producer for a story would normally brief a graphic designer with a written requisition and a rough script written by the reporter. It was most unusual for a reporter to commission a graphic, especially by oral requisition. A graphic designer’s role was to help communicate and integrate parts of a story that could not be told through filmed interviews and shot footage alone.<sup>41</sup>

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<sup>39</sup> Written statement of Alan Waller dated 7 March 2021, page 1

<sup>40</sup> Written statement of Alan Waller dated 7 March 2021, page 1

<sup>41</sup> Written statement of Matthias Wiessler dated 23 December 2020, page 2, para 14

61. Mr Wiessler had worked with Mr Bashir on four documentaries. One of these was the Venables story to which I have referred at paragraphs 17 to 20 above.
62. In his written statement, Mr Wiessler describes the circumstances in which Mr Bashir commissioned him to make the two fake Waller bank statements. There is no doubt that Mr Bashir commissioned the statements and that Mr Wiessler submitted an invoice dated 16 October 1995 to *Panorama*. It was in the sum of £250 for work described in the following terms “To Complete Artwork for Panorama over night at short notice”.
63. Mr Wiessler was in his flat in Parliament Hill and on a period of two months' leave at the end of his contract with the BBC when he received a call from Mr Bashir. Mr Bashir said that he needed to come and see him as he had a job that needed doing in a great hurry. Mr Bashir told him that the *Panorama* designers were busy working on the programme and he wanted to see if Mr Wiessler could help mock up some documents. He described the job as small and confidential. Mr Wiessler said that Mr Bashir could come round straight away which Mr Bashir did within thirty minutes or an hour of his call.<sup>42</sup>
64. Mr Wiessler says that Mr Bashir said he needed a page from two separate bank statements. He could not discuss what the documents were for, but said it was a really important piece of work. In his written statement, Mr Wiessler says:

“He provided me with more detail, but it almost seemed he was not quite sure himself at first...With prompting, he told me where he wanted the dates placed and that the statement should be from National Westminster Bank in North Street, Brighton. When I asked him who the payee should be, he said ‘Penfolds’. I queried this, asking ‘Really? Wasn’t that in Venables?’ To the best of my recollection Martin replied, ‘That’ll do. Put Penfolds’. By ‘That’ll do’, I understood he wanted to close down my questions and it had this effect on me”.<sup>43</sup>

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<sup>42</sup> Written statement of Matthias Wiessler dated 23 December 2020, pages 4-5, para 26

<sup>43</sup> Written statement of Matthias Wiessler dated 23 December 2020, page 5, para 28

65. Mr Wiessler says that Mr Bashir gave him the branch address, account names, Penfolds' details, the sums of money and the balance. In his written statement, he says:

“That gave me some reassurance, although he seemed to work parts out as he talked to me. Not all of the information seemed readily available and he kept referring to his notebook, holding it close to his chest and looking as though he were solving the answers to some of my questions as we went along”.<sup>44</sup>

66. He also says that Mr Bashir told him that he had seen information corresponding to what he had been asked to mock up. He needed the documents by the following morning and he called for a BBC courier to come to take the documents to Terminal 2 at Heathrow Airport.

67. Some time before midnight, Mr Wiessler says he called Mr Bashir to say that the maths was wrong on one of the statements. The balance did not add up. He says that Mr Bashir told him to make the appropriate change, which he did.<sup>45</sup>

68. Mr Wiessler says he placed the two statements in an envelope marked “Martin Bashir”. The envelope was collected by a courier at about 6 am the following morning. Mr Wiessler still did not know what they were for and why they were being driven to Terminal 2.<sup>46</sup>

69. Mr Bashir does not dispute any of the substance of Mr Wiessler's account. There is some uncertainty about the precise date when the documents were made. But I do not find it necessary to resolve this, since the real issue as to dates and timing is whether (as Mr Bashir contends) he and Princess Diana had met and developed a close relationship before he showed the documents to Earl Spencer. It is an important part of Mr Bashir's case that he had already developed such a relationship with her before he showed the fake Waller documents to Earl Spencer; so that they did not influence

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<sup>44</sup> Written statement of Matthias Wiessler dated 23 December 2020, pages 5, para 30

<sup>45</sup> Written statement of Matthias Wiessler dated 23 December 2020, page 6, paras 34 and 38

<sup>46</sup> Written statement of Matthias Wiessler dated 23 December 2020, page 7, para 40

Earl Spencer's decision to introduce him to Princess Diana: I discuss this at paragraphs 91 to 93 below.

70. In previous accounts to the BBC Mr Wiessler said that he did the work in October 1995. He has explained in his written statement to the Investigation<sup>47</sup> that he had wrongly identified the date as being shortly before the end of his contract with the BBC on 13 October. He now realises that this was wrong. He had forgotten that he had nearly two months' leave and that he had done the work when he was not going in to the BBC, but was starting his own company. He also says that he has been made aware that the recollection of Earl Spencer is that he (Earl Spencer) was shown the fake Waller bank statements on 31 August. On reconsideration, therefore, Mr Wiessler says that Mr Bashir's visit to him must have been on or before 31 August. As I have said (paragraph 36 above), Earl Spencer is certain that he was in fact shown the statements after 31 August. I accept his evidence that he was not shown them on 31 August. He was shown them at one of the September meetings that took place before 19 September. Once Mr Bashir had secured an introduction to Princess Diana, he had achieved his goal. He no longer had any need to resort to faking bank statements to induce Earl Spencer to introduce him.

*Other issues relating to the fake Waller bank statements*

71. The other issues relating to these statements that I must consider are:
- (i) the source of the information they contained;
  - (ii) whether they were shown to Earl Spencer by Mr Bashir before or after he (Mr Bashir) had met Princess Diana;
  - (iii) why Mr Bashir commissioned the statements;
  - (iv) why Mr Bashir showed the statements to Earl Spencer; and

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<sup>47</sup> Written statement of Matthias Wiessler dated 23 December 2020, page 4, para 25

- (v) what induced Earl Spencer to introduce Mr Bashir to Princess Diana (there is no doubt that the introduction led directly to the interview).

*The source of the information*

72. An important question is what was the source of the information that Mr Bashir gave to Mr Wiessler: was it Princess Diana or Earl Spencer or was it an invention on the part of Mr Bashir? Mr Bashir says in his written statement to the Investigation:

“I contacted the programme’s graphic designer, Matt Weissler, and asked if he could sketch out graphic reconstructions of a bank statement in the name of Mr Waller with various sums of money received by him...As far as I can recall, I told him the information that had been given to me by the Princess of Wales concerning the amounts allegedly paid to Mr Waller by a Jersey-based fund and News International. In order to complete the details of the payers in the graphic reconstructions, I believe that I asked Matt to use the name ‘Penfolds’ for the Jersey-based fund—which is a name that came to mind to use as an example as it had arisen during the Venables story. It was a foolish addition and not a name that I had been told by the Princess...There was no checking of drafts, no discussion of meticulous details, no back and forth as would normally happen when graphics were commissioned. I simply left the request with Matt. I believe I was travelling over the next few days, to meet with other potential sources, which is why I had the graphics delivered so that I would have them on my person in case I was able to meet with Earl Spencer during this period of travel”.<sup>48</sup>

73. Mr Bashir says that Princess Diana gave him the information about the figures during the five hour return car journey to the New Forest<sup>49</sup> (paragraph 46 above).

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<sup>48</sup> Written statement of Martin Bashir dated 19 February 2021, page 14, para 48

<sup>49</sup> Written statement of Martin Bashir dated 19 February 2021, page 13, para 42

74. In his written statement to me, therefore, Mr Bashir says that the figures that he gave to Mr Wiessler were given to him by Princess Diana and the name “Penfolds” was a name that “came to mind”. In his 28 March 1996 statement<sup>50</sup> written for Mr Suter, he said that Earl Spencer gave him a copy of a Waller bank statement and another photocopy which referred to a security company; and that he asked Mr Wiessler to “reconstruct [the two bank statements] on the basis of the photocopy which Earl Spencer had given me”.<sup>51</sup> He also said that Princess Diana knew the precise amount that had been paid by News International for Mr Waller’s help in the story that was subsequently published by “The Sun” and he took the details down.<sup>52</sup>
75. Mr Bashir says that he was effectively ordered by Mr Suter to write the 28 March 1996 statement “under extremely difficult circumstances” when he was under great pressure<sup>53</sup>. He asks me to take this into account when considering any inconsistencies between this statement and accounts he has given on other occasions. I accept that the meeting with Mr Suter was likely to have been stressful for him. But he was able to give a detailed account. He is an intelligent and articulate person and I consider it reasonable to rely on his handwritten note as the best account that he could give at the time. In so far as it differs from accounts that he has given subsequently (and, in particular, the account he has given to the Investigation), it is more likely, if truthful, to reflect his recollection accurately than these later accounts, because it was given nearer the time to the events in question.
76. In the course of my interview of Mr Bashir, he said that the information that he gave to Mr Wiessler about the bank, the branch, the names and account number was provided to him by Earl Spencer, whereas the sums purportedly paid into the account were given to him by Princess Diana<sup>54</sup>.

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<sup>50</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 3, and transcript (Annex 3, pages 23 and 28)

<sup>51</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 6, and transcript (Annex 3, pages 24 and 28)

<sup>52</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 4, and transcript (Annex 3, pages 23-24 and 28)

<sup>53</sup> Martin Bashir transcript of interview on 1 March 2021, 20/25-21/2

<sup>54</sup> Martin Bashir transcript of interview on 1 March 2021, 22/7-24/3



77. Later in the interview, I asked Mr Bashir about the passage in his 28 March 1996 statement in which he said: “On seeing HRH The Princess of Wales she said in passing that the information concerning Alan Waller had not been true. She said that a source of hers had made a mistake.”<sup>55</sup> He did not say when this conversation took place.
78. As regards this alleged mistake, the exchange between Mr Bashir and myself included the following:
- “A. I was cooking in Kensington Palace, we were chatting about various things, and she said ‘Oh, by the way, I was wrong about that’ and her source was wrong and I said ‘Fine’....  
So it was just ‘Okay, that bit of information was wrong’. I believe I destroyed them and forgot about it completely....
- Q. I’d just like to understand, though, what she was saying was mistaken. So was it the sums of money. You’d been given these figures of £4,000 and £6,500?
- A. I think—my recollection, sir, is that she was basically saying, you know, the whole thing was not true, and, you know, ‘I’m sorry, I made a mistake’”.<sup>56</sup>
79. Mr Bashir’s version of events is therefore that (i) the information about the name and other details of the bank account came from Earl Spencer; (ii) the information about the amounts of the payments was provided by Princess Diana; and (iii) the name Penfolds Consulting (Jersey) was his invention. It is not clear where he says the name News International came from.
80. I say at once that, speaking generally, where there is a difference between the account given by Earl Spencer and that given by Mr Bashir, I prefer that of Earl Spencer. I found Earl Spencer a credible witness who gave me an entirely coherent and consistent account. On the other hand, as is apparent from this Report, there were significant parts of Mr Bashir’s account that I reject as incredible, unreliable and, in some cases, dishonest.

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<sup>55</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 8, and transcript (Annex 3, pages 25 and 29)

<sup>56</sup> Martin Bashir transcript of interview on 1 March 2021, 36/2-21

Earl Spencer denies that he showed Mr Bashir any of Mr Waller's bank statements. For that general reason alone, I reject Mr Bashir's account on this point. I would add that the fact (admitted by Mr Bashir) that he gave Mr Wiessler the name "Penfolds" because it "came to mind" is also a powerful reason for seriously doubting Mr Bashir's credibility. When I asked him to explain why he had invented this name, he said:

"It was a foolish thing to do. I think, in the circumstances, I think I wanted to—well, I had some information from the Princess about amounts of money. It seemed to accord with some of the things that Earl Spencer had said or alleged about Alan Waller. And I guess, you know, I, by this point, was already developing a close relationship with the Princess of Wales, and at the same time I felt a sense of obligation and appreciation to him, and I knew that, for him, the story that he wanted us to expedite was the story of this man, Mr Waller, and I put this together. It was a bit like a note in a file. I never intended to use this for broadcast. I would never, and have never, used anything in broadcast unless it was supported by sources and—it was just put in a file and, yes, it was a foolish thing to have done. I regretted it then and I continue to regret it."<sup>57</sup>

81. In my view, this is a wholly inadequate explanation of why he gave the name Penfolds to Mr Wiessler. It may have been a foolish thing to do. It was also dishonest. Mr Bashir knew that it was untrue.
82. But the fact remains that Mr Bashir was able to give Mr Wiessler the correct details of the Waller bank account (the name of the account, the account number and the name and address of the bank). How did Mr Bashir obtain these details? As I have said, Mr Bashir states unequivocally that they were provided to him by Earl Spencer. In his 28 March 1996 statement<sup>58</sup>, he said:

"Following Waller's sacking private mail, for him, continued to arrive at Althorp House. Earl Spencer opened a particular letter

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<sup>57</sup> Martin Bashir transcript of interview on 1 March 2021, 34/11-35/2

<sup>58</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 3, and transcript (Annex 3, pages 23 and 28)

which was a bank statement, Earl Spencer gave me a copy of that bank statement and also another photocopy which referred to a security company.”

83. Earl Spencer strongly denies this in his statement<sup>59</sup>. He says that, on reading material disclosed by the BBC pursuant to a FOIA request, he discovered for the first time that Lord Hall had reported in a statement to the Board of Governors in April 1996 that he (Earl Spencer) had shown Mr Bashir “some documents including [Mr Waller’s] bank statement”. Earl Spencer says: “I never showed Bashir anyone’s bank statement, so this is deeply upsetting and defamatory”<sup>60</sup>.
84. At my interview of him, Earl Spencer responded to paragraph 3 of Mr Bashir’s 28 March 1996 statement saying: “I’m adamant that I haven’t given anyone a copy or anything to do with his bank statement.”<sup>61</sup> He also denied having opened a letter addressed to Mr Waller containing a bank statement and giving a copy of the statement or another photocopy which referred to a security company.<sup>62</sup>
85. I found the evidence of Earl Spencer on this convincing. Moreover, it seems improbable that Earl Spencer would have shown Mr Bashir Mr Waller’s bank statements. It is true that on or about 2 September 1995 Earl Spencer probably gave Mr Bashir documents which showed that he was still interested in tracing Mr Waller. I am satisfied that this was because Earl Spencer was still interested in serving an injunction on Mr Waller. But I am not persuaded that Earl Spencer was interested in pursuing a vendetta against Mr Waller as Mr Bashir has suggested. Still less am I persuaded that, if he had wished to prove that Mr Waller was in the pay of News International, he would have furthered his aim by showing copies of Mr Waller’s bank statements to a young BBC reporter of whom he had never heard until he was approached by him in late August 1995. If he had wanted to expose Mr Waller in this way, Earl Spencer had other contacts whom he could have used for that purpose (for example, his colleagues at NBC). In other words, I do not consider that Earl Spencer had any reason

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<sup>59</sup> Written statement of Earl Spencer received by the Investigation on 13 January 2021, page 24

<sup>60</sup> Written statement of Earl Spencer received by the Investigation on 17 January 2021, page 25

<sup>61</sup> Earl Spencer transcript of interview on 9 February 2021, 46/7-8

<sup>62</sup> Earl Spencer transcript of interview on 9 February 2021, 46/17-23

to show Mr Bashir Mr Waller's bank statements or give him any information about them and I find that he did not do so. It is important to bear in mind that the initial contact between Earl Spencer and Mr Bashir was the result of an approach by Mr Bashir to Earl Spencer and not the other way round.

86. So how was Mr Bashir able to give Mr Wiessler the correct details of the Waller/Harper bank account? The information obtained by the Investigation does not enable me to answer this question. But for reasons that will become apparent, this does not prevent me from reaching a clear conclusion on the main question raised by the first paragraph of my Terms of Reference, namely how did Mr Bashir obtain the *Panorama* interview.
87. I can be far more confident when it comes to the names of the payers and the sums shown in the fake statements. Mr Bashir admits that he invented the name Penfolds. As I have already stated, Mr Waller says that neither he nor Mr Harper had had any dealings with Penfolds or News International. There is no reason to doubt the truth of this statement and I accept it. It is, therefore, very likely that, just as Mr Bashir had invented Penfolds for the June 1994 payment, so too he invented News International for the March 1994 payment.
88. As for the sums, I find it incredible that Princess Diana would have given Mr Bashir the figures for payments (i) by companies with which Mr Waller had had no dealings and (ii) into an account that had been closed on 9 March 1994. It is most unlikely that Princess Diana would have had access to details of or information contained in Mr Waller's bank statements at all, still less more than one year after Mr Waller had left his employment with Earl Spencer. I cannot accept Mr Bashir's evidence that, for no apparent reason, Princess Diana gave him the figures while on a car journey to the New Forest. Nor can I accept his account that, again for no apparent reason and without any explanation, Princess Diana told him that the information she had given was wrong.
89. More fundamentally, for the reasons that I give at paragraphs 91 to 93 below, I do not accept that Mr Bashir and Princess Diana had met and formed any kind of relationship before Mr Bashir showed the fake Waller

statements to Earl Spencer. For this reason alone, I reject Mr Bashir's account that the figures were given to him by Princess Diana. On the material that has been produced to the Investigation, I am driven to conclude that it is most likely that they were fabricated by Mr Bashir.

90. To summarise, although I do not know how Mr Bashir obtained the details of the Waller/Harper bank account, I am satisfied that Princess Diana did not provide Mr Bashir with the information about either of the two payments. I am, therefore, unable to identify the source of *all* the information shown in the fake statements. But for the purposes of this Investigation, it is sufficient that I find that the names of the payers and the amounts of the payments that appear on the fake statements were fabricated by Mr Bashir. As I have said, Mr Bashir admits that he fabricated the name Penfolds. Since the payment by News International was a fabrication, the obvious inference is that it too was created by Mr Bashir.

*Did Mr Bashir show the fake Waller bank statements to Earl Spencer before or after he had met Princess Diana?*

91. This is an important question because Mr Bashir has made much of the fact that, as he has always claimed, he was already in an established relationship with Princess Diana when he commissioned the fake statements (and even more so when he showed them to Earl Spencer). He made this point in his 28 March 1996 statement<sup>63</sup> (paragraph 100 below). He made the same point at the meeting with Lord Hall and Mrs Sloman on 17 April 1996 to which I shall come later. The notes of that meeting record that one of the things he said in response to the question why had he used Penfolds' name was that "he was already locked in a relationship with Diana. He had no need to persuade Spencer of anything". During his Investigation interview, I asked him why he invented the name Penfolds. He replied:

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<sup>63</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 11, and transcript (Annex 3, pages 26-27 and 29)

“.....well I had some information from the Princess about amounts of money....And, I guess, you know I, by this point, was already developing a close relationship with the Princess of Wales”<sup>64</sup>

92. I am in no doubt that Mr Bashir showed the fake Waller statements to Earl Spencer *before* he was introduced to Princess Diana. Earl Spencer’s account of the sequence of events is clear and entirely coherent. I have already dealt with the Jephson/Aylard statements and the part they played in the story at paragraphs 49 to 58 above. It seems to be accepted by both Earl Spencer and Mr Bashir that the fake Waller statements were shown by Mr Bashir to Earl Spencer early in September at the latest. On Mr Bashir’s account, Princess Diana gave him the details of the sums to be inserted by Mr Wiessler no later than very early in September. In my view, it is inconceivable that Mr Bashir and Princess Diana were already “locked in a relationship” by this time. Mr Bashir accepts that he first met her as a result of Earl Spencer’s introduction. There is no evidence to suggest that this first meeting took place earlier than 19 September, let alone that it happened long enough before the date when Mr Bashir showed the statements to Earl Spencer to enable Princess Diana and Mr Bashir to have established a close relationship by that time.

93. I conclude that Mr Bashir showed the fake statements to Earl Spencer before there was any contact between Princess Diana and himself; and certainly before he had established a close relationship with her.

*Why did Mr Bashir commission the making of the fake Waller bank statements?*

94. In his statement of 28 March 1996, Mr Bashir said<sup>65</sup>:

“As part of the process of collating material I began to put a file together. This file contained photocopies of private correspondence between HRH The Princess of Wales and other members of the

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<sup>64</sup> Martin Bashir transcript of interview on 1 March 2021, 34/12-18

<sup>65</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 6, and transcript (Annex 3, pages 24 and 28)

Royal Family, private notes from the Accounts Department at Buckingham Palace, etc. I decided to add the two bank statements which HRH The Princess of Wales had mentioned concerning Alan Waller, to this file. I asked Matt Wiessler to reconstruct them on the basis of the photocopy which Earl Spencer had given me...At this stage there was no plan to publish any documents but merely to organise a research file in the normal way”.

95. In his written statement to the Investigation, he said<sup>66</sup>:

“I did feel under some pressure to respond to [Earl Spencer’s] desire for an investigation into [Waller] particularly after he had encouraged his sister to make contact with me. I did not want to upset him because he was still, at this stage, an important source. Since I had no reason, at that stage, not to believe what the Princess had said about monies being paid to Mr Waller, I decided to mock-up a couple of documents that would detail the claims she was making. There was never any intention to broadcast them, at least unless I had independently verified the content, but I must have believed that they might impress Earl Spencer and encourage him to continue providing any further information he might have. However, crucially, I did not show him the graphic reconstructions to get access to the Princess of Wales nor to manipulate her as has been alleged ....”

96. He added<sup>67</sup>:

“the graphic reconstructions would also have been added to a research file, as a record of allegations, and it might also have been possible that these mock-ups could be shown to Steve Hewlett and even re-drafted to reflect all the details accurately and featured in a programme if we did obtain incontrovertible evidence of what Earl Spencer and the Princess of Wales had been claiming. This did not happen.”

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<sup>66</sup> Written statement of Martin Bashir dated 19 February 2021, pages 13-14, para 46

<sup>67</sup> Written statement of Martin Bashir dated 19 February 2021, page 14, para 47

97. In the course of his Investigation interview, he elaborated on this.<sup>68</sup> In summary, he maintained that the reason why he commissioned the statements was to have them for some potential future programme.<sup>69</sup>
98. In fact, he has put forward two reasons for commissioning the statements: (i) to impress and encourage Earl Spencer to continue providing him with information; and (ii) to keep them in a file for possible future use. Neither of these reasons explains why Mr Bashir commissioned the statements at night and in a great hurry; why they had to be couriered to Heathrow Airport; and why, most unusually, they were commissioned orally (rather than by written requisition) by a reporter (rather than by the producer). If these two reasons given by Mr Bashir for commissioning the statements were his true reasons, there was no urgency that justified his behaving in this way.
99. The idea that Mr Bashir would have commissioned the statements in the way that he did simply to place them in a file for possible future use does not stand up to scrutiny. I do not accept it. In my view, Mr Bashir probably commissioned the statements in order to show them to Earl Spencer. But the central question that I must answer is why he wanted to show them to Earl Spencer.

*Why did Mr Bashir show the fake Waller bank statements to Earl Spencer?*

100. I have set out part of the explanation that he has given at paragraph 95 above, namely, to impress Earl Spencer and encourage him to continue providing further information. The explanation he gave in his statement of 28 March 1996 was as follows<sup>70</sup>:

“The question has been asked of me—why did I show those documents to Earl Spencer. Since I had already established a warm relationship with HRH The Princess of Wales and since no mention

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<sup>68</sup> Martin Bashir transcript of interview on 1 March 2021, 68/1-69/19; 69/21-71/8; 71/12-15

<sup>69</sup> Martin Bashir transcript of interview on 1 March 2021, 68/18-22

<sup>70</sup> Handwritten statement by Martin Bashir concerning documents produced for the purposes of research dated 28 March 1996, para 11, and transcript (Annex 3, pages 26-27 and 29)



had been made of an interview, I maintain that I was not seeking to impress or manipulate her. This has been confirmed by her statements since transmission.

I believe that I was, in the course of a developing relationship with Earl Spencer, keen on fostering my contact with him. They were shown in passing and although I did not need to impress him (because he was keen on asking me about his action against the paper) I suppose that I wanted to encourage the relationship. In the event they made no difference whatsoever but I acknowledge that, with hindsight, I should either have a) explained what they were and where the information had come from or b) not shown them to anyone.

This was a serious error and one for which I must take full responsibility. But there was no intent to deceive and if I had known they were inaccurate, then they would have been destroyed.”

101. So the reason he gave on 28 March 1996 was that he wanted to develop his relationship with Earl Spencer. At his meeting with Lord Hall and Mrs Sloman on 17 April 1996, he was asked why he had commissioned the “forged” document. The notes of the meeting record his answer: “At the time it was just one of those things” and “I didn’t think it was a big deal”. The report of the meeting that Lord Hall sent to the Director-General, John Birt (now Lord Birt), includes: “I have talked to Martin at length about his reasons for compiling the graphic: -he has none, other than he wasn’t thinking”.

102. I have already rejected Mr Bashir’s assertion that he was introduced to Princess Diana *before* he showed the fake Waller documents to Earl Spencer. This sequencing has been crucial to Mr Bashir’s case that he did not show the fake documents to Earl Spencer in order to secure an introduction to Princess Diana, since his relationship with Princess Diana had already been established. I accept that my rejection of Mr Bashir’s sequencing does not necessarily lead to the conclusion that he showed the fake documents to Earl Spencer in order to persuade him to make the introduction. For the reasons given at paragraph 98 above, I am not persuaded that Mr Bashir showed the statements to Earl Spencer in order to encourage him to continue to provide information. It seems to me that

the obvious reason was that he wanted to encourage Earl Spencer to introduce him to Princess Diana.

103. Mr Bashir says that, if he was using the statements in order to ingratiate himself with Princess Diana, he would have been more likely to have commissioned fake statements that were connected with her. I accept that this might have been perceived as the more obvious way to bring about the introduction that he sought. But I do not find the indirect route that he chose of gaining access to her by Earl Spencer an unlikely thesis. When the press became interested in early 1996, that is precisely what they thought might have been Mr Bashir's intention. In their *Mail on Sunday* article published on 7 April 1996<sup>71</sup>, the journalists Nick Fielding and Jason Lewis posed two questions:

“Did Bashir intend to show the faked documents to Earl Spencer?

And if he did intend to do so, was he hoping to convince Earl Spencer he was the right person to interview his sister?”

104. So far, I have been considering why Mr Bashir showed the statements to Earl Spencer, a question which, as we shall see, the BBC was unable to answer at the end of its investigations in December 1995 and March/April 1996. But I must now examine what part, if any, the statements played in inducing Earl Spencer to introduce Mr Bashir to Princess Diana.

*What induced Earl Spencer to introduce Mr Bashir to Princess Diana?*

105. There is no doubt that Mr Bashir met Princess Diana as a result of being introduced to her by Earl Spencer. That is what Earl Spencer says. Mr Bashir also says so at paragraph 10 of his 28 March 1996 statement and he accepted this at his Investigation interview<sup>72</sup>.

106. Earl Spencer says in his written statement<sup>73</sup> that he told Princess Diana about the Jephson/Aylard statements. At his Investigation interview, he

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<sup>71</sup> *Diana's BBC Man and Fake Bank Statements* Mail on Sunday article dated 7 April 1996

<sup>72</sup> Martin Bashir transcript of interview on 1 March 2021, 39/12-15 and 41/1-4

<sup>73</sup> Written statement of Earl Spencer received by the Investigation on 13 January 2021, page 13

said that she was probably being phone-hacked at the time.<sup>74</sup> He thought that reading things in the press that she had only mentioned to close friends had made her extremely unsettled. In these circumstances, he decided to tell Princess Diana about the sums that had apparently been paid to Commanders Jephson and Aylard. He says that when he told her about Jephson and Aylard, “she was absolutely intrigued, and wanted to learn more as quickly as possible: she had felt spied on for a while and what I told her seemed to fit with her general fears”. He therefore arranged for her to join him for lunch at Althorp at 12.30 on 17 September and for Mr Bashir to join them at 2 pm. He had to re-arrange the date and they met at 4 pm on 19 September.

107. Princess Diana and Mr Bashir had never previously met. There must have been a compelling reason why Earl Spencer was willing to introduce this relatively young reporter to her. I find the reason that Earl Spencer has given plausible and convincing. If the Jephson/Aylard statements shown to him by Mr Bashir were genuine, they revealed a state of affairs that would obviously be of concern to Princess Diana and Earl Spencer would want to apprise her of what had been going on.
108. I have already referred (at paragraph 42 to 46 above) to the completely different account given by Mr Bashir of how he came to meet Princess Diana. In short, he says that he asked Earl Spencer if it would be possible to speak to her to see whether she could corroborate his claims that Mr Waller had taken large payments from the press and even senior administration officials in the Royal Household; Earl Spencer said he would see what he could do; and Princess Diana subsequently called Mr Bashir and they agreed to meet.
109. I find Mr Bashir’s account of how he first met Princess Diana incredible. First, even if I were persuaded that Earl Spencer had told Mr Bashir about his claims against Mr Waller, I do not believe that he would have told Mr Bashir that Princess Diana could vouch for or corroborate these claims. I have seen nothing to suggest that Princess Diana knew anything about Mr Waller or Earl Spencer’s claims against him, still less how she could vouch for or corroborate them.

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<sup>74</sup> Earl Spencer transcript of interview on 9 February 2021, 23/12-24/9

110. Secondly, it is most improbable that Princess Diana would have called Mr Bashir whom she had not previously met and did not know. It was far more likely that a meeting would have been arranged directly by Earl Spencer. That is what he says happened and I accept his account.

111. Thirdly, I should refer to the note that Mr Bashir sent to Earl Spencer on 20 September (the day after the first meeting between Mr Bashir and Princess Diana). The note reads:

“Charles

A brief note to say how grateful I am for all your efforts on my behalf. I believe, sincerely, that we can do this and do it extremely well.

With sincere thanks.

Martin<sup>75</sup>”,

112. I asked Mr Bashir about this note at his interview.<sup>76</sup> He said that in the second sentence of the note, he was saying that “the purpose was to try and see if we could bottom out this series of allegations that he had been making over a period of time about Mr Waller”. Earl Spencer could not shed any light on the meaning of the note. When I drew Mr Bashir’s attention to the first sentence, he said:

“...But I think what I mean by that is, you know, the effort to arrange the meeting on my behalf”.

113. I find it difficult to believe that Mr Bashir was expressing his gratitude to Earl Spencer for arranging a meeting if (as he says) the purpose of the meeting was to enable him to obtain corroboration for Earl Spencer’s claims against Mr Waller. That makes no sense. But if the purpose of the meeting was to further Mr Bashir’s ambition to meet Princess Diana in order to interview her, then the first sentence of the note makes perfect sense.

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<sup>75</sup> Handwritten note from Martin Bashir to Earl Spencer dated 20 September 1995 (Annex 3, page 19)

<sup>76</sup> Martin Bashir transcript of interview on 1 March 2021, 63/4-64/7

114. In summary, therefore, Earl Spencer says (and I accept) that the introduction was made by him at the request of Princess Diana following his revelation to her of the information contained in the Jephson/Aylard statements. I am in no doubt that the immediate cause of the introduction was the Jephson/Aylard statements.

115. The next question is whether the fake Waller bank statements contributed to the introduction and therefore to the securing of the interview.

116. Only Earl Spencer knows the answer to this question. So I asked him what part he thought the fake Waller bank statements played in his decision to make the introduction. He said that the Jephson/Aylard statements were the “absolute clincher”<sup>77</sup>. He believed that the statements were true since they came from a *Panorama* journalist who had been vouched for by the head of *Panorama* (paragraph 32 above). They were clearly relevant to Princess Diana. Mr Waller had nothing to do with her, but Commander Jephson certainly did. He then said:

“A. ....I think Waller was a very easy in to me and I was effectively groomed for the second hit. It was always going to be the things to do with Diana that were going to get to Diana. I would never have mentioned the Waller things to Diana. They were of no interest to her—well might I have mentioned it over lunch? Possibly. But that was never going to get Bashir to Diana. It was the direct threat to her that I felt I had to report.

.....

Q. So what part do you think the Waller statements played in bringing about the interview?

A. Well, they weren’t irrelevant because, of course, it hooked me in. I mean, I was duped. So that was clearly their purpose. So yeah when I flippantly say ‘They had nothing to do with it’, of course they did. It was the breadcrumb towards the trapdoor....He very cleverly came to me on my number one bugbear: the bad behaviour of the press, which of course is ironic, but that’s what he came to me with. When he had

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<sup>77</sup> Earl Spencer transcript of interview on 9 February 2021, pages 43/1-45/5

hooked me in on that by showing me a bank statement which seemed to prove what he was saying, then he played his ace.”

Statements made by Earl Spencer elsewhere that the Waller statements were irrelevant should be understood in the light of this evidence.

117. I have already given my reasons for rejecting Mr Bashir’s assertion that he had formed a relationship with Princess Diana before he showed Earl Spencer the fake Waller bank statements and the Jephson/Aylard statements (paragraphs 91 to 93 above). The first time he met her was at the meeting attended by Earl Spencer on 19 September. My reasons for rejecting Mr Bashir’s assertion (at the risk of some repetition) are as follows:

- (i) It is agreed by Earl Spencer and Mr Bashir that Earl Spencer introduced him to Princess Diana. In other words, they had not met or spoken to each other before they were introduced.
- (ii) For the reasons that I have given and for the further reasons that I shall give in relation to other issues, I have found Earl Spencer to be a credible and truthful witness. On the other hand, Mr Bashir has demonstrably lied in certain important respects. It follows that, where there is disagreement between the two of them as to what occurred in relation to a particular point, I have a strong disposition to prefer the account of Earl Spencer.
- (iii) Earl Spencer is very clear that the meeting between Princess Diana, Mr Bashir and himself took place on 19 September. He has a diary entry “D” for 4 pm on that day. I have seen no evidence of a meeting between Mr Bashir and Princess Diana on any earlier date.
- (iv) Mr Bashir had established no kind of relationship with Princess Diana before their first meeting on 19 September. In my opinion, Mr Bashir invented the idea that he and Princess Diana had already established a relationship before he showed the fake Waller statements in order to prove that, in showing the statements to Earl Spencer, he did not intend to use Earl Spencer to secure an interview with Princess Diana.

## *The meeting of 19 September 1995*

118. Earl Spencer made what he says was a contemporaneous note of this meeting. It contains no fewer than 38 numbered items of information that he says were given to him by Mr Bashir orally at the meeting (items numbered 1 to 22 and 17 to 32)<sup>78</sup>. No suggestion has been made to me that the content of this note is true: see also paragraph 131 below. In his written statement to the Investigation, Earl Spencer says<sup>79</sup>:

“I soon became concerned by what Bashir was saying. There were some oddities that were very perplexing, including:

- His saying Diana was being watched by MI6, when he had told me it was MI5 who were doing the surveillance;
- His accusation that someone hostile to Diana had been bribed with prostitutes provided for him in the Langham Hilton Hotel—just as Bashir had said was the case with the *Express* reporter Shekhar Bhatia, when talking to me previously;
- His saying the sum Richard Kay was bribed with was £14,000—the exact same sum as he had quoted to me in another alleged bribe beforehand.

It seemed highly improbable, as did some of his wilder comments about the Queen and Prince Edward.

I also felt, in this meeting, that I was listening to a man who was not telling the truth. He was overexcited, but also shifty.

The straight fact was that the things he had told me during our meetings at Althorp did not fit with what he was telling Diana now.

At the end of the meeting, I politely showed Bashir out of the flat and the building without letting him know that I had rumbled him. I then immediately apologised to Diana for having wasted her time and explained that I believed Bashir to be a fantasist or a fraud and told her why. I was clearly upset, and deeply apologetic...”

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<sup>78</sup> Earl Spencer's handwritten notes of meeting with Martin Bashir and Princess Diana dated 19 September 1995 and transcript (Annex 3, pages 12-18)

<sup>79</sup> Written statement of Earl Spencer received by the Investigation on 13 January 2021, pages 14-15

119. In his Investigation interview<sup>80</sup>, Earl Spencer said that he had a “totally clear” recollection of the meeting. He particularly took notes “to make sure I could remind Diana of what had been said, you know, if she progressed things”. He said that she did not say very much at the meeting, He remembered Mr Bashir “sitting there with an A4-sized notebook and he sort of went through them”. Earl Spencer did not remember Princess Diana contributing. He thought that Mr Bashir was “scattering these things widely to see where Diana bit and she did bite Legge-Bourke, and the Jephson thing was obviously incredibly worrying. So I think that’s how he learnt to progress those theories.”

120. Earl Spencer added<sup>81</sup>:

“I didn’t know if he was a liar or a fantasist, but I knew he was bad news, in my opinion, and that was the end of him for me. I see, actually, I was very intrigued to see he did call a couple of times afterwards, but that was the end of my engagement with him, really”.

121. He has not seen Mr Bashir since 19 September 1995<sup>82</sup>.

122. Mr Bashir had quite a lot to say at his Investigation interview about Earl Spencer’s note of the meeting.<sup>83</sup> He told me that he might have said some of the things that had been recorded; it was highly unlikely that he would have said some of the other things that were attributed to him; and he was certain that he did not say yet other things that he was recorded as having said. He said that he thought that the note was “a collation of material which probably was written some time later, or even possibly last year, for the purpose of a newspaper story. I say that because of the content.”<sup>84</sup>

123. In a schedule to the note that he sent to me on 5 March 2021, Mr Bashir has set out his comments on each of the 38 points. In his answers to my questions (supplemented by his note), Mr Bashir says that, if the statements recorded in Earl Spencer’s note of the meeting were made, most of them

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<sup>80</sup> Earl Spencer transcript of interview on 9 February 2021, 24/15; 25/2-27/18

<sup>81</sup> Earl Spencer transcript of interview on 9 February 2021, 26/16-21

<sup>82</sup> Written statement of Earl Spencer received by the Investigation on 13 January 2021, page 16

<sup>83</sup> Martin Bashir transcript of interview on 1 March 2021, 45/22-56/4; 56/21-58/19

<sup>84</sup> Martin Bashir transcript of interview on 1 March 2021, 46/19-22



must have been made by Princess Diana. But he does not have any recollection of the details of what was said at the meeting. The points he makes are based on the content of Earl Spencer's note. I shall give a few examples.

124. Point 3 in Earl Spencer's note, viz "MI6 taped C + Aylard: 'in end game'— D told Aylard what she thought of him + that she wdn't divorce". Mr Bashir comments in his supplementary note: "Why would I be telling the Princess of Wales what she had told Mr Aylard herself? This is consistent with recording the Princess of Wales' comments".
125. Point 7, viz "Difficult relationship with William for D because of Tiggy. C's in love with her". Mr Bashir comments: "I cannot imagine that anyone would have told the Princess of Wales in their first meeting with her about her own relationship with her son. This must be a comment from the Princess to Earl Spencer."
126. Point 9, viz "Bugs on car. Senior police officers making money. 3 lines at K.P. bugged; mail read; disinformation down line; line on car bugged". Mr Bashir comments: "These sound like the sort of concerns that the Princess of Wales had at the time, as reported in the newspapers and her book by Andrew Morton. I never had any specific information about cars or lines being bugged. I read this note as a list of first-person recollections of the Princess of Wales".
127. Point 23, viz "Aylard + PC have strategy—special present for William 3 weeks ago—bleeping swatch". Mr Bashir comments: "If I had said this to the Princess of Wales, I imagine she could have had the Swatch checked and discover quite quickly that I was not telling the truth<sup>85</sup>".
128. Mr Bashir said to me at his interview:<sup>86</sup>

"I ask you, how is it possible that someone seeking to ingratiate himself with a member of the Royal Family would make comments

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<sup>85</sup> Schedule of points in Earl Spencer's handwritten note of meeting 19 September 1995 provided to the Investigation by Martin Bashir on 5 March 2021

<sup>86</sup> Martin Bashir transcript of interview on 1 March 2021, 59/3-17

like this that not only appear to be me telling her what she has told her friends or employed others to do, but also that has allegations in it that could be resolved in a minute, in a second? It just doesn't make sense, and I believe that much of it is probably fabricated and, as to the claim that it was written contemporaneously, for all these pages to have been the subject of that meeting—my recollection, that meeting was fairly brusque and fairly short. It wasn't a particularly friendly meeting, it wasn't a long meeting. Well, this is just extraordinary, that I am alleged to have said all of these things”.

129. The differences between what Earl Spencer and what Mr Bashir say about the meeting of 19 September are stark. If I were to accept what Mr Bashir says about it, I would be compelled to conclude that Earl Spencer fabricated the notes and that he has lied to me about them. The documents that I have read and the evidence that I have heard provide no clue as to what motive Earl Spencer might have had for such extraordinary fabrications at the time or indeed after the event. I entirely accept the truthfulness and accuracy of Earl Spencer's account. His reaction to what he says Mr Bashir said at the meeting (paragraphs 118 to 120 above) has the ring of truth. He was upset and angered by what he heard. I should add that Mr Bashir has recently suggested that, if Earl Spencer's note is genuine, he may have forgotten that the points that he itemised were made by Princess Diana. It follows from my acceptance of Earl Spencer's account that I do not accept this.
130. The meeting was arranged by Earl Spencer at the request of Mr Bashir. Mr Bashir wanted to impress Princess Diana in the hope that an interview and a story might ensue. In these circumstances, it is incredible that she would have done most of the talking and that Mr Bashir would have said little if anything. And yet this is what Mr Bashir suggests happened at the meeting. I reject what he says.
131. I am satisfied that Mr Bashir said most, if not all, of the things that are recorded in Earl Spencer's notes. It follows that he said some incredible things at the meeting that were wholly untrue. For example, point 20 reads: “Edward has AIDS? Royal Marsden hospital. Queen ill: heart. Eats for comfort”. Mr Bashir comments in his supplementary note: “These matters

could have been checked by the Princess of Wales quite easily and, if untrue, would prove me to be a complete fantasist. These matters are consistent with the type of things that the Princess of Wales later told me that her clairvoyant and mystic sources had told her”.

132. Mr Bashir places great weight on his point that he could not have said these things because they could easily have been checked by Princess Diana and found to be false with the consequence that his credibility would have been destroyed. This is a forensic point that at first sight seems to have some force. But I reject it for two reasons. First, in a credibility contest between Earl Spencer and Mr Bashir, Earl Spencer wins convincingly. Secondly, I am satisfied that, by the time of the meeting, Princess Diana had paranoid fears about various things, including that she was being spied on and in danger of her life (paragraph 134 below). Mr Bashir was aware of some of these fears. That is clear from what he is recorded as having said at the meeting of 19 September itself. By saying some of the things that he said at the meeting, he must have been intending to play on her fears in order to arouse her interest in him. He may have calculated that she would not check the veracity of what he was telling her (because she knew some of these things already); or that if she did check and find that they were wrong, he would find an explanation. It is impossible to know.

133. I do not propose to examine what happened at the meeting on 19 September any further because the key question for me is how Mr Bashir was able to secure the introduction to Princess Diana. I have already dealt with that. There is no doubt that, following the meeting, Princess Diana agreed to be interviewed by Mr Bashir. That is not surprising. By this time, she was very keen to give an interview, probably to the BBC (paragraphs 24 and 25 above). Mr Bashir was a charming and empathetic person who would immediately appeal to Princess Diana.

134. She was vulnerable and had paranoid fears. A note made on 31 October 1995 by Lord Mischon, her solicitor, provides a good insight into her mental state at the time<sup>87</sup>. It records a meeting between Princess Diana, Commander Jephson and himself. It states that Princess Diana had been

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<sup>87</sup> Note by Lord Mischon dated 31 October 1995  
([http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/diana\\_inq0006335\\_mishcon\\_note.pdf](http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/diana_inq0006335_mishcon_note.pdf))

informed of various things by reliable sources, including that “efforts would be made if not to get rid of her (be it by some accident in her car, such as pre-prepared brake failure or whatever), now and then, then at least to see that she was so injured or damaged as to be declared ‘unbalanced’. She was convinced that there was a conspiracy...” Mr Bashir would have little difficulty in playing on her fears and paranoia.

**C. DID MR BASHIR ACT IN BREACH OF THE 1993 EDITION OF BBC PRODUCERS’ GUIDELINES ON STRAIGHT DEALING?**

135. The 1993 edition of the BBC Producers’ Guidelines was applicable in September 1995. As a BBC journalist, Mr Bashir was required to observe the standards prescribed by these Guidelines. Chapter 1 included the following:

**“1 GENERAL**

Programme making for the BBC must be based on straight dealing.

Straight dealing is important to everyone involved. It reflects concern for the interests of the programme, the interests of the people who appear in it and the interests of the audience. None is automatically predominant and all are important.

...

**2 STRAIGHT DEALING IN PRODUCTION**

The need for straight dealing covers all the activities involved in making a programme.

...

**3 DEALING WITH CONTRIBUTORS**

Contributors ought to be able to assume without doubt that they will be dealt with in a fair way. They should not feel misled, deceived or misrepresented before, during or after the programme, whether they are public figures or ordinary citizens.

...

The need for straight dealing applies equally to people contacted for help or advice in the preparation of programmes even when they are not to take part in the programme itself”.

136. Richard Ayre was the BBC’s Controller of Editorial Policy from 1993 to 1996. His duties included codifying policies and publishing them in the Producers’ Guidelines and working with “content producers” at their request to give them advice about applying the standards to specific programme projects.

137. The evidence that Mr Bashir acted in breach of the straight dealing requirements set out in the 1993 Guidelines is overwhelming. I start with what Mr Ayre said at his interview<sup>88</sup>. This included the following:

Q. Thank you very much. You say in your statement -- I've numbered my version, it is page 6 of your statement, where you say -- I can't find it now. Anyway, you say:

"... if the tactics now alleged of Bashir were in fact used to secure even an introduction to the princess, they would have been a clear and serious breach of the Producers' Guidelines."

A. Clearly. Clearly a breach of straight dealings, absolutely clearly.

Q. It is just below section 6. The first paragraph under section 6.

A. Thank you.

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<sup>88</sup> Richard Ayre transcript of interview on 15 February 2021, 8/3-12/9

Q. You stand by that, I assume, and you have no doubt that that was the case?

A. I have no doubt that, if he did what is, as I understand it, alleged, that of course would have been unacceptable. Of course. To approach Lord Spencer or Joe Bloggs in the street using a false document, a false document which, if what I understand is alleged, what the press say is alleged by Lord Spencer, a false document which would have been defamatory of the people whose names were in it, if they were real people, and it would also have been a forgery, and it would have been a criminal offence. Of course it would have been indefensible.

Q. You say:

"... if the tactics now alleged ... were in fact used to secure an introduction ..."

Suppose that the tactics that were used did not actually secure that introduction, that it failed in its objective -- I'm not saying that's what happened here, but I want to see how far this goes in your opinion. We have a situation where Bashir shows these bank statements to Earl Spencer, and Earl Spencer thinks they are rubbish, he doesn't believe them, and nothing further happens. It is not this case, but what would your view have been in that situation about whether or not Bashir had breached the Guidelines?

A. It is completely immaterial whether he breached them with effect or with no effect. They would have been a breach of the Guidelines, they would have constituted a forgery and been defamatory of the people named in the bank statement, if they were real people.

Q. I will come back to that in a few minutes. But you will understand, I'm sure, from what you know about this case, that one of the features of the case which influenced those who were investigating Bashir, at any rate during the early stages, one of

the features that influenced them particularly was the fact that Princess Diana was [sic] sent a letter. Are you aware of the letter?

A. I'm aware that the letter that was lost was then found last November/December. But I've never seen it, I've never been told what's in it other than –

Q. I'll tell you what is in it. It's dated 22 December 1995. She says:

"Martin Bashir did not show me any documents nor give me any information that I was not previously aware of. I consented to the interview on Panorama without any undue pressure and have no regrets."

That's concerning the matter, that's what she wrote. My question to you is, the fact she wrote that letter, would that, in your view, have any relevance at all to whether or not Bashir had breached the Guidelines?

A. No. I really need to be very clear about this: his attempt, whether it was successful or not, to use Lord Spencer as a way of getting to the Princess by misleading him, deceiving him, lying to him, presenting him with a document which was a forgery, it is clearly completely unacceptable. I hope I don't need to be more decisive than that: utterly, utterly unacceptable.

Q. You are very clear about it, but it is a very important point in this investigation, because that letter which I have just read out to you from Princess Diana gave enormous comfort to those who were investigating. I hope I'm not overstating it, but my impression is that some of them, at any rate, thought that this really meant that there was nothing in this complaint and that they could draw a line under it.

A. Well, I repeat, I haven't seen the letter. Nobody has read it to me until you did. And my shorthand isn't what it was 50 years

ago. But I just wrote down part of what you said. She said that he had given her no information "that I was not previously aware of". That would seem to me not to exclude the possibility that he gave her what she calls information about alleged payments or alleged spying on her, or whatever, which she did believe she was previously aware of. In other words, if he reinforced a belief she already had, and if he reinforced it by telling her something which he did not know to be true, then that would still be deception.

Q. I do want to be quite clear about this. The deception that I'm putting to you for your comment is the use by Bashir of these made-up documents to show to Lord Spencer with a view to deceiving him and persuading him to effect an introduction to Diana. So it is a one-stage-removed point. Diana's letter, of course all she's able to talk about is information that was placed before her, documents that were placed before her.

A. Yes.

Q. I understand you to be saying that what she said about not having been shown any documents and not having been given any information of which she was not previously aware is of no relevance to whether or not there was a breach of the Guidelines

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A. Precisely.

138. Mr Ayre's opinion was supported by other senior members of BBC management, including Mr Gardam,<sup>89</sup> Mrs Sloman<sup>90</sup> and Lord Hall<sup>91</sup>. I accept the evidence of all of them. In view of the significance that the Diana note of 22 December 1995 assumed during the BBC's investigations in December 1995 and March/April 1996, it is therefore important to emphasise that it is irrelevant whether Mr Bashir achieved his purpose of securing a meeting with Princess Diana (and the interview) as a result of

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<sup>89</sup> Tim Gardam transcript of interview on 16 February 2021, 35/9-25

<sup>90</sup> Anne Sloman transcript of interview on 19 February 2021, 31/6-10

<sup>91</sup> Lord Hall transcript of interview on 24 February 2021, 33/23-34/9



showing the fake statements to Earl Spencer or not. It was sufficient that he used the statements by showing them to Earl Spencer in order to try to secure a meeting with her. In fact, for the reasons that I have given, showing the statements to Earl Spencer was an important link in the chain of events that led to the meeting and the interview.

139. Mr Bashir does not seem to accept that he acted in breach of the Guidelines. I found what he said to me on this subject confusing and difficult to follow. It is necessary to set out a passage from the transcript of his evidence<sup>92</sup>:

Q. Oh, you don't accept you were in breach of the Guidelines?

A. No, no, sorry, forgive me. What I'm saying is that the mocking up of those documents was a mistake.

Q. I know it was a mistake. But was it in breach of straight and fair dealing?

A. Well, at the stage at which I was showing them, I believed them to be true and accurate, and the evidence had been provided by the source, Earl Spencer himself. So it is difficult for me to concede, when he had given me the bank statements -- statement. I had got the information about the amounts from his sister, and I'd shown them to him. I accept that it was wrong of me to do so because I may have been wanting to impress him, but, in terms of clearly breaching the guideline, what I'm trying to explain is that I think it was slightly more complicated because it wasn't a case of me selling him a story; he had sold me the story.

Q. I understand that. I'm sorry to press you on this, but it is important. I think you are saying that what you did was wrong, but you are not accepting that it was in breach of the Guidelines of straight and fair dealing. Can you make it absolutely clear so that I understand where you stand on that: was it or was it not, in your view, a breach of straight and fair dealing?

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<sup>92</sup> Martin Bashir transcript of interview on 1 March 2021, 91/23-94/17

- A. When I believed the documents to be accurate, I wasn't deceiving anybody. At the point at which it came apparent that there was no basis to the allegations, that the Princess withdrew the claim that she had told me originally, at that point, absolutely, there was no value to the documents. But when they were shown, they were shown on the basis that the material I had from Earl Spencer and the conversations with the Princess of Wales suggested there was some substance to that story.
- Q. So at the time you showed the documents to Earl Spencer, you're saying that, in your opinion, there was no breach of straight and fair dealing?
- A. I believed what I had been told by both parties and that is why I did it.
- Q. So no breach of straight and fair dealing?
- A. I can't have been trying to get access to the Princess of Wales because I'd already had it. So what was the purpose? The purpose of the document was to encourage him to retain the relationship as a source. But I wasn't trying to use the document to develop a relationship with the Princess of Wales. That was already in play. That had already happened. We'd already met. So it wasn't --
- Q. I will just ask you once more, a "yes" or "no", if you can: was it or was it not a breach of the Guidelines of fair and straight dealing to show those statements to Earl Spencer when you showed them? Just "yes" or "no", if you can?
- A. I don't think it was a breach when I showed them.
- Q. Fine
- A. I'm sorry, but, at the time, I believed what I had been told. I subsequently realised -- when the Princess told me that there was no substance to what she'd said, now if I'd done anything with those documents then, it would have been in breach of the Guidelines. No question. And my reflection on this is I wish I'd obviously never done it in the first place, but when I showed

the documents, I genuinely believed that there was substance to what I'd been told, and also, the second point is that I can't have been using them to manipulate the Princess of Wales or her brother because I already had a relationship with her. So there was no intention to deceive."

140. I regret to say that this passage shows that Mr Bashir is unable to face up to the obvious fact that he acted in breach of the requirement of straight dealing. Instead, his response to considerable pressure from my questions was to produce a confusing justification of his position based in part on the lie that, when he showed the fake statements to Earl Spencer, he believed them to be true, since the source of the material contained in the statements had been provided by Earl Spencer himself and (as regards the amounts) by Princess Diana. I have already explained why I reject this.

141. I am in no doubt that Mr Bashir committed a serious breach of the requirement of straight dealing in commissioning the fake Waller statements. The breach was aggravated by his showing them to Earl Spencer, whether he did this (as he contends) for the purpose of ingratiating himself generally with Earl Spencer or (as I have found) for the particular purpose of engineering a meeting between himself and Princess Diana. Either way, Mr Bashir committed a serious breach.

142. I have concentrated on the fake Waller bank statements. That is mainly because it was the faking of these statements that was investigated by the BBC in December 1995 and March/April 1996. But I should not overlook the Jephson/Aylard statements. What I have said in relation to the fake Waller bank statements applies with equal force to these statements. In using the Jephson/Aylard statements in the way that I have described at paragraphs 49 to 58 above, Mr Bashir clearly also acted in serious breach of the requirement of straight dealing.

**D. DID THE BBC FAIL TO SUPERVISE MR BASHIR?**

143. On 18 November 2020, *The Times* published a powerful and impassioned article by Tom Mangold (a distinguished former *Panorama* reporter) which

made a number of serious allegations against the BBC and, in particular, against Mr Hewlett.<sup>93</sup> One of the allegations was expressed in these terms:

“[Mr Hewlett] allowed Bashir, an untested operator, to work without a senior Panorama producer who should have been constantly at his side, on the biggest and most sensitive story the programme had tackled.

It is an immutable BBC law that current affairs reporters, no matter their reputation and experience, have producers who are their working bosses and the management’s paid policemen. Given that Bashir wasn’t a staff reporter, but a contractual freelance, it was even more crucial for him to be supervised at every stage. To launch him without any immediate supervision from day one of the project meant Hewlett was taking a big gamble, for he would have no control nor awareness of Bashir’s dangerous ethical behaviour”.

144. I asked Mr Killick to comment on this. He told me<sup>94</sup> that it was normal to have a reporter working alongside a producer on an investigation; but in the case of an interview (such as this was), the position was not so clear. He also made two other points. First, Mr Bashir was not an untested reporter. He had won awards and broken big stories with him and other producers. Secondly and anyway, if a reporter is determined to be a rogue and cover his tracks, a producer would not necessarily be able to find out and intervene.

145. It is clear from the evidence that Mr Bashir did not have a programme producer<sup>95</sup>. That seems to have been the reason why Mr Hewlett himself was supervising Mr Bashir, in so far as anyone was performing that role in the period leading up to the interview. Mr Gardam told me that it was clear to him that Mr Hewlett was “keeping very close contact with Bashir on what was a very sensitive story.”<sup>96</sup> Lord Grade, who had had very

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<sup>93</sup> *Diana, a cover-up and why the BBC must finally come clean* The Times article dated 18 November 2020 (<https://www.thetimes.co.uk/article/tom-mangold-on-diana-a-cover-up-and-why-the-bbc-must-finally-come-clean-80tsjlmx8>)

<sup>94</sup> Mark Killick transcript of interview on 10 February 2021, 11/24-14/7

<sup>95</sup> Tim Gardam transcript of interview on 16 February 2021, 7/1-10

<sup>96</sup> Tim Gardam transcript of interview on 16 February 2021, 13/9-11

considerable and important managerial experience of television, told me<sup>97</sup> that he thought it “fairly odd” that no senior producer had been appointed to hold Mr Bashir’s hand. I am inclined to conclude that, having regard to the sensitivity and high-profile nature of the story, there was insufficient supervision of what Mr Bashir did, in particular in the run-up to the meeting with Princess Diana which led directly to the interview itself. I am not at all convinced, however, that, if he had been supervised more closely, Mr Bashir’s activities would have been revealed. In short, although there may be real force in Mr Mangold’s allegation, I am not persuaded that better supervision would have prevented Mr Bashir’s successful deception.

146. I propose to say no more about this issue, because it is not central to the issues raised by my Terms of Reference.

**E. CONCLUSIONS ON PARAGRAPHS 1 TO 3 OF MY TERMS OF REFERENCE**

147. For the reasons I have given, I am satisfied that:

- (i) Mr Bashir commissioned the fake Waller bank statements and showed them to Earl Spencer;
- (ii) Mr Bashir produced and showed the Jephson/Aylard bank statements to Earl Spencer, which contained information that had probably been fabricated by Mr Bashir;
- (iii) he acted as described in (i) and (ii) so as to deceive Earl Spencer and induce him to arrange the meeting with Princess Diana;
- (iv) by gaining access to Princess Diana in this way, he was able to persuade her to agree to give the interview; and
- (v) by acting as described in (i) and (ii), Mr Bashir acted inappropriately and in serious breach of the 1993 edition of the Producers’ Guidelines on straight dealing.

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<sup>97</sup> Lord Grade transcript of interview on 22 February 2021, 6/2-5

148. By his deceitful behaviour, therefore, Mr Bashir succeeded in engineering the meeting that led to the interview. But it is important to add that Princess Diana would probably have agreed to be interviewed by Mr Witchell, or a BBC journalist of similar experience and reputation, even without the intervention of Mr Bashir. It is clear that by early to mid-August 1995 at the latest, she was very keen on the idea (paragraphs 24 and 25 above). This was some time before Mr Bashir's first meeting with Earl Spencer on 31 August 1995.

**F. THE EVENTS FROM THE AIRING OF THE INTERVIEW UNTIL 22 DECEMBER 1995**

149. The significance of 22 December 1995 is that this was the date of the Diana note to which I refer at paragraph 5 above, in which she stated "Martin Bashir did not show me any documents, nor give me any information that I was not previously aware<sup>98</sup>. I consented to the interviews on Panorama without any undue pressure & have no regrets". As I shall explain, the BBC management believed that this note put an end to any concerns about the methods deployed, in particular by Mr Bashir, in securing the interview.

150. Suspicions have been raised in the media that the Diana note was a forgery, but I am satisfied that it is a genuine document. Harbottle & Lewis, solicitors representing the Duke of Cambridge and the Duke of Sussex, have told me that the handwriting, notepaper and signature would appear to indicate that the author was Princess Diana. Moreover, an account has been provided to me on condition of confidentiality of what became of the document between, probably, early in 1996 and November 2020. The person concerned was asked early in 1996 by someone in BBC Management to "guard it with his life" (or words to that effect). At some point, he took it home for safekeeping and filed it in his study. When he moved house, he took it (and other documents relating to the Diana interview) to his new house. In about early November 2020, he became aware of the news story that the Diana note was missing. He searched for it and found it together with the other BBC documents that he had kept.

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<sup>98</sup> Letter from Princess Diana to Martin Bashir dated 22 December 1995 (Annex 3, pages 20-22)

On 10 November 2020, he informed the BBC’s Legal Department. On the same day, someone from the BBC went to his house and collected the Diana note and the other BBC documents. I see no reason not to accept the truth of the whole of this account.

151. To return to 1995, there is no doubt that the interview was a sensational success, nationally and internationally. It was also a cause for celebration at the BBC. The day following the interview, Lord Hall sent congratulatory handwritten notes to Mr Hewlett, Mr Bashir and others. The note to Mr Bashir read as follows:

“Dear Martin,

You should be very proud of your scoop. It was the interview of the decade—if not of our generation. But equally importantly, you handled it with skill, sensitivity and excellent judgement. There were many pitfalls awaiting us—you avoided them all. I also think you have carried yourself during this whole episode in absolutely the appropriate fashion. You have changed the way we report the monarchy.

Thank you.  
Tony”

152. But the storm clouds started to appear almost immediately. Mr Wiessler had watched the *Panorama* interview. Seeing Mr Bashir on screen, he immediately made the connection between the fake Waller bank statements and the interview<sup>99</sup>. He had been worried all along about Mr Bashir’s use of the name Penfolds. Within a few days of the airing of the programme, he expressed his concerns to Peter Molloy who was a series producer at the time. Mr Molloy says<sup>100</sup> that Mr Wiessler told him that he was concerned that he might have played a role in obtaining the interview by deception. Mr Molloy recommended that he talk to Mr Hewlett, Mr Suter and Mr Gardam. Mr Wiessler behaved responsibly and appropriately in

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<sup>99</sup> Written statement of Matthias Wiessler dated 23 December 2020, page 7, para 43

<sup>100</sup> Written statement of Peter Molloy dated 14 December 2020, page 1

approaching the BBC to express his concerns. So far as I am aware, nobody has suggested otherwise.

153. Mr Wiessler also contacted Mr Killick on 22 November. Mr Killick had produced the Terry Venables programmes for which he (Mr Wiessler) had created a graphic to which I have referred at paragraphs 17 to 20 above.

154. Mr Wiessler faxed the two fake bank statements to Mr Killick. Mr Killick was immediately suspicious about the authenticity of the documents. He thought that it was just about conceivable that News International had made the payments shown on the statements; but it was inconceivable that Penfolds had made payments too. Mr Killick's suspicions were already aroused by what Mr Wiessler had told him about the circumstances in which Mr Bashir had commissioned the documents. He reluctantly concluded that there was a real possibility that the bank statements may have been used to deceive someone "and the likeliest target seemed to be Earl Spencer who was widely known as the gatekeeper to Diana."<sup>101</sup>

155. The following day, Mr Killick met Mr Bashir in the BBC canteen and showed him the bank statements. He asked him what the documents were for. He says that Mr Bashir was clearly very angry that he had the documents, refused to answer any questions and said that it was none of his business.<sup>102</sup>

156. Mr Killick says that he was becoming increasingly aware of the potential enormity of what may have happened. His recollection is that he decided to seek advice from two senior colleagues, namely Mr Mangold and Harry Dean (who had been a deputy editor of *Panorama*). The recollections of Mr Mangold and Mr Dean are that it was Mr Mangold who involved Mr Dean. These differences of recollection are unsurprising and unimportant. But I prefer the evidence of Mr Mangold and Mr Dean: it accords with what appears in a confidential note that Mr Mangold wrote for Mrs Sloman on 11 April 1996<sup>103</sup>. In that note, Mr Mangold recorded that he received a call from Chris Blackhurst of *The Independent* newspaper. Mr

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<sup>101</sup> Written statement of Mark Killick dated 10 December 2020, page 2

<sup>102</sup> Written statement of Mark Killick dated 10 December 2020, page 2

<sup>103</sup> Extract of note from Tom Mangold to Anne Sloman dated 11 April 1996 (Annex 3, page 45)



Blackhurst wanted to talk about Mr Bashir and faked documents. In the light of this call and for other reasons, Mr Mangold decided to bring Mr Dean into the loop.

157. Like Mr Killick, Mr Mangold contacted Mr Bashir. They had a brief conversation. Mr Mangold told me: "...the call went nowhere at all and he simply said 'If you have got a problem, raise it with the editor'. He was fairly blunt about it".<sup>104</sup> In his written statement, Mr Mangold said that Mr Bashir told him to address Mr Hewlett "as he knows all about it"<sup>105</sup>
158. Mr Dean, Mr Killick and Mr Mangold decided that the only thing to do was to refer the problem up the line to Mr Hewlett. This was clearly the correct next step for them to take.
159. The four men duly met on 4 December. At this meeting, Mr Killick explained his concerns. Mr Hewlett was furious, saying that they were none of their business; they had no right to raise them; and they were to leave the matter to him and not to talk to anyone about the matter<sup>106</sup>. At his Investigation interview, Mr Mangold described the meeting as "brief and unpleasant". It was obvious to him that Mr Hewlett knew all about the problem, having already spoken to Mr Bashir about it<sup>107</sup>.
160. Mr Dean confirmed that at the start of the meeting "Things were initially a tad bad tempered..."<sup>108</sup>. But according to him, Mr Hewlett calmed down and the meeting ended with him thanking them for bringing the issue to his attention. Mr Dean said that subsequently Mr Hewlett called him back for a private meeting in his office. He was scathing about Mr Killick who, he claimed, had been leaking information about the programme as he was jealous of Mr Bashir's success. He assured Mr Dean that the information in the Waller bank statements was true and that the statements had not been shown to Princess Diana.<sup>109</sup> In my view, the obvious source of these assertions was Mr Bashir, with whom it is clear Mr Hewlett had already had conversations.

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<sup>104</sup> Tom Mangold transcript of interview on 15 February 2021, 15/18-21

<sup>105</sup> Written statement of Tom Mangold statement undated, page 2

<sup>106</sup> Written statement of Mark Killick dated 10 December 2020, page 3

<sup>107</sup> Tom Mangold transcript of interview on 15 February 2021, 18/25-21/10

<sup>108</sup> Written statement of Harry Dean dated 5 December 2020, page 2, para 10

<sup>109</sup> Note from Harry Dean to Anne Sloman dated 12 April 1996 (Annex 3, pages 46-47)

161. The following day (5 December), there was another meeting between Mr Hewlett and Mr Dean. Mr Hewlett explained that one of the matters Mr Dean had raised at the meeting the day before (the inclusion of the name Penfolds in one of the statements) was not in fact an issue. Mr Dean said to Mr Hewlett that it was odd that the same name appeared on what he called the 'Diana bank statements'. Mr Hewlett said that “it was all a coincidence” and “the information on the statements was correct.”<sup>110</sup>
162. Both Mr Mangold and Mr Killick say that at the end of the meeting, they told Mr Hewlett that they thought he should approach Earl Spencer to see what he had to say about the allegations that the statements had been faked and that the information contained in them was false. Mr Dean does not recall this. I return to the significance of approaching Earl Spencer later.
163. Clive Edwards was Deputy Editor of *Panorama* between 1995 and 2001. On 4 December 1995, he was in his office next door to Mr Hewlett’s office during the meeting to which I have referred. He heard raised voices. When the meeting was over, he went into Mr Hewlett’s office. He said that Mr Hewlett was furious and complained that “they were jealous and were trying to undermine the Diana programme.”<sup>111</sup>
164. I have gone into the details of what happened between the airing of the interview and December 1995 because a great deal of material has been produced to the Investigation on that subject. But as will become apparent, much of it is only of incidental importance to the questions raised by my Terms of Reference.
165. Some time in mid-December, there was a burglary at Mr Wiessler’s flat and the two discs of the graphic work that he had created for Mr Bashir had been removed from the box in which they were kept and had been stolen. Mr Molloy describes<sup>112</sup> seeing Mr Wiessler looking shocked. He advised Mr Wiessler to report the burglary to the police and the BBC.

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<sup>110</sup> Written statement of Harry Dean dated 5 December 2020, page 2, para 12

<sup>111</sup> Written statement of Clive Edwards dated 17 December 2020, page 1, para 7

<sup>112</sup> Written statement of Peter Molloy dated 14 December 2020, page 2

166. Mr Wiessler decided to call Mr Gardam. He says that he told Mr Gardam the whole story. “Tim Gardam did not appear to me to be reassuring or effective, but he said ‘leave it with me. I have to speak with the relevant people’”. Mr Wiessler says that Mr Gardam called him later to say that the matter was being handled and he should not worry.<sup>113</sup>
167. The accounts of Mr Gardam and Mr Suter as to how they met Mr Wiessler differ slightly from that of Mr Wiessler. I believe that nothing turns on these differences. Mr Suter says that Mr Wiessler came to see him on 21 December and gave his account of how the documents had been commissioned by Mr Bashir. He told Mr Suter that (i) the documents might have been intended in some way to persuade Princess Diana to take part in the interview; and (ii) he might now be being “set-up” as the fall guy (he feared that the stolen discs might have gone to the press)<sup>114</sup>.
168. Mr Suter thought that this was clearly a very significant issue. He immediately asked Mr Wiessler to repeat it in his presence to Mr Gardam. Mr Gardam included an account of their meeting in his handwritten note dated 28 March 1996 which has been transcribed as Annex 2 to his written statement to the Investigation<sup>115</sup>. Mr Gardam wrote this note immediately before he ceased to be Head of Weekly Programmes, News and Current Affairs on 1 April 1996 and gave it to the office of Lord Hall. Mr Wiessler duly repeated the account he had given to Mr Suter.
169. Mr Gardam says that he had another conversation with Mr Wiessler after the meeting. There is some disagreement about what Mr Wiessler said at this meeting, but I do not need to resolve this. It is sufficient to say that, after this further conversation with Mr Wiessler, Mr Gardam and Mr Suter saw Mr Hewlett. Mr Hewlett apologised for not having briefed them on what had happened following Mr Wiessler’s initial approach to the BBC. Mr Gardam records in his Annex 2:

“[Mr Hewlett] had been assured that the allegation was groundless. It was being motivated by Killick’s jealousy of not having been part

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<sup>113</sup> Written statement of Matthias Wiessler dated 23 December 2020, pages 8-9, paras 53-54

<sup>114</sup> Written statement of Tim Suter dated 11 December 2020, page 2

<sup>115</sup> Handwritten statement by Tim Gardam dated 28 March 1996 and transcript (Annex 3, pages 30-41)

[of the] team that made the programme. He also believed Killick was [the] source of leaks to the press from the Panorama office.”

170. There is little room for doubt that the source of Mr Hewlett’s assurance must have been Mr Bashir himself. As I have said, by this time, Mr Hewlett had spoken to Mr Bashir. There is nothing to suggest that Mr Hewlett had any other basis for giving this assurance.

171. Following this meeting between Messrs Gardam, Suter and Hewlett, all three of them saw Mr Bashir. This is how Mr Gardam described what happened in his Annex 2:

“Tim Suter, I and Hewlett then saw Martin Bashir [and] asked for a full account of what had happened. Bashir [said] that the documents in question were based on information from the Princess of [Wales. He] had been given information by her concerning a man called [Weller (sic) whom] she believed was being paid via a Trust Fund to [leak stories on] her. It was possible he was in the employ of not merely [News] International but some official surveillance, [possibly even] the Security Services. He had one original document, [a Weller?] bank account, and information regarding two [more.] He had made up graphics of the other two in order to [record the] information. However, he had shown these to no-one. [He] therefore could not have used the documents to [secure the] interview as the information on them came from the [Princess of Wales herself].

We expressed some surprise at why Bashir had needed to turn the information into a graphic at this stage. He also told us that, as the source of the payment into the account was unknown, he had substituted a [name] which had occurred to him, knowing it to be false, but in order to complete the graphic. Again, we found this action difficult to comprehend.

.....

We accepted that Bashir was telling the truth, though we stated that the decision to make up a graphic representation of the document was unwise, and, given the fact that the programme was in a research stage, wholly unnecessary. I therefore asked him in addition to provide independent evidence from the Princess that she had not been shown the documents. This she was, I [was] told happy to do.

I was able to reassure Wiessler by telephone that I now had firm reason to believe why the Princess could not have been shown any of the documents he had made, but thanked him for coming to see me. He had also told me that the disc on which he had made the artwork had disappeared. He feared it had been stolen. However, given the explanation by Bashir, there seemed little to be gained by pursuing this.

The following day, we received a letter from the Princess which stated she had never been shown any documents or told anything of which she was not already aware. She remained happy with the way the interview had been conducted and had no regrets. We believed this ended the matter.”

172. In his written statement to the Investigation, Mr Gardam says that it did not occur to him that Mr Bashir might have shown the fake documents to Earl Spencer<sup>116</sup>. The possibility that he may have done so does not seem to have occurred to anyone in December 1995.

173. I asked Mr Gardam about this. He told me that the first time Earl Spencer’s name was mentioned as a person to whom the documents might have been shown was in March 1996, and that he had acted swiftly as soon as he learnt of this. He accepts that he knew as early as in September or October 1995 that Earl Spencer had introduced Mr Bashir to Princess Diana<sup>117</sup>, but he says that this would not have seemed “hugely significant”. He told me that Earl Spencer did not feature in their thinking when the issue of the fake documents was first raised.<sup>118</sup> The entire focus was on Princess Diana and

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<sup>116</sup> Written statement of Tim Gardam dated 11 December 2020, page 8, para 30

<sup>117</sup> Tim Gardam transcript of interview on 16 February 2021, 16/1-25

<sup>118</sup> Tim Gardam transcript of interview on 16 February 2021, 18/2-3

whether the documents had been shown to her and used to persuade her to give an interview<sup>119</sup>.

174. I asked Mr Gardam whether he believed what Mr Bashir told him and whether he had received from him the “full account” that he sought. He replied<sup>120</sup>:

“The particular point I found hard to understand was why he had made up the documents from the material he had, because if he was making these up to hold the information, he did not need to make them up as a graphic document. That just did not make sense to me.

He admitted that he’d asked Wiessler to make the documents. As you say, he had claimed he had this bank statement, he had a detailed account of what was in the document. I felt I had a full account from him of what he said he had done.

In hindsight, given what happened in March, I could have pressed him more on where did the original bank statement come from, but the point which did not make sense to me was why he had made up these graphics to hold in a dossier of secure papers that he was assembling as a research dossier so the programme could be made. That’s why I say in my statement it was completely unnecessary...”

175. Mr Gardam continued:

“...it was a very unwise thing to have done because there were now allegations he’d shared this document which he had created...I did decide...that we had no option but to approach the Princess of Wales to get an assurance from her that she had not seen any documents...It was quite a dramatic thing to decide to do, but I felt that that was the only way we could get independent corroboration of what Bashir had told us.”<sup>121</sup>

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<sup>119</sup> Tim Gardam transcript of interview on 16 February 2021, 24/1-12

<sup>120</sup> Tim Gardam transcript of interview on 16 February 2021, 31/20-32/12

<sup>121</sup> Tim Gardam transcript of interview on 16 February 2021, 32/23-33/20

176. Mr Gardam was not aware that Mr Killick and Mr Mangold had suggested to Mr Hewlett that Earl Spencer should be approached (paragraph 162 above). Mr Gardam told me that he cannot “...reconcile between [his] focus on the Princess of Wales and others’ focus on Earl Spencer.”<sup>122</sup> But he felt “...[they] acted quite decisively in going to the Princess of Wales because that was at the heart of the matter.”<sup>123</sup>

177. In my view, Mr Gardam and Mr Suter acted correctly in wanting to know what use Mr Bashir had made of the fake documents. And they were right to focus on whether they had been used to secure the interview. Other uses might also have amounted to a breach of the Editorial Guidelines on straight dealing, but the most egregious breach would have been to use the documents to secure the interview.

178. At his Investigation interview, Mr Gardam explained why the Diana note provided him and his colleagues with the assurance that they wanted. He said:<sup>124</sup>

“...reading [the note] 25 years later, that sense of, ‘I have no regrets’ underlined, it was as categorical a sort of assurance as I could have hoped—we could have hoped to have received, I think, about the allegation that was to the front of our mind, which was to do with her being shown the documents...at that moment when we had received the letter, I didn’t think it occurred to I or any of my colleagues that ‘What about Earl Spencer?’ I categorically know it did not occur to me and I don’t believe it occurred to any of us.”

179. With the benefit of hindsight, it can be seen that they should have considered the possibility that Mr Bashir secured the interview indirectly by showing the documents to Earl Spencer. But they did not know in late December 1995 that Mr Bashir had lied when he said that he had not shown the documents to anyone and that he had in fact shown them to Earl Spencer in September 1995. This lie was not revealed until late March 1996 (paragraph 190 below).

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<sup>122</sup> Tim Gardam transcript of interview on 16 February 2021, 42/12-14

<sup>123</sup> Tim Gardam transcript of interview on 16 February 2021, 42/24-43/1

<sup>124</sup> Tim Gardam transcript of interview on 16 February 2021, 46/9-47/8

180. It is understandable that they focused on the Diana note. If she assured them that she had not been shown any documents and had not been influenced by any information of which she was not already aware, at first sight that should have been enough to allay their concerns. Even if not articulated, these concerns must have been whether she had been deceived into giving the interview by being shown the fake documents and/or being told the false information they contained. It was the right thing to do, and a bold step to take, to approach Princess Diana to seek to allay these concerns.

181. But should Mr Gardam and Mr Suter have gone further? In particular, should they have approached Earl Spencer who might have told them some or all of the things that he has told the Investigation? I do not find this an easy question to answer. I have concluded that it would not be reasonable to criticise them for failing to take that further step. The indirect and real target of Mr Bashir's deceptions was Princess Diana. Although it can now be seen that his deceptions operated on the mind of Earl Spencer, it is understandable that it did not occur to Mr Gardam and Mr Suter to take the matter further in December 1995.

182. I do, however, consider that they too readily accepted that Mr Bashir was telling the truth about the fake documents. As Mr Gardam says, the explanation that he gave them made no sense. In my view, they should have pressed him further and insisted on an explanation. But I acknowledge that this would have been a difficult thing to do. It was also a task that defeated Mr Suter, Mrs Sloman and Lord Hall in late March and April 1996 as I describe later.

## **G. EVENTS FROM 22 DECEMBER 1995 TO END OF APRIL 1996**

183. Contrary to the hopes and expectations of Mr Gardam and his colleagues, the Diana note did not end the matter. Mr Fielding says<sup>125</sup> that in March 1996, "hints that there was something amiss [about the Princess Diana interview] were already by this time beginning to circulate around Fleet

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<sup>125</sup> Written statement of Nick Fielding dated 6 December 2020, page 2



Street”. This led Mr Fielding to speak to Mr Wiessler and learn about the fake Waller bank statements.

184. On 21 March, Jonathan Holborow, who was the Editor of the *Mail on Sunday*, wrote to Earl Spencer asking whether he would talk about a story that he was planning to publish at the weekend. He wrote:

“The nub of this is that Martin Bashir, who, as you recall, interviewed Her Royal Highness The Princess of Wales for the Panorama programme, secured the interview through contact with you after explaining that he was doing a programme about telephone bugging. I understand that in order to convince you of his bona fides Mr Bashir showed you two documents purporting to come from the Security Services which indicated that telephones at Kensington Palace had been tapped. We understand that the documents he showed you were bogus.

The Mail on Sunday understands that following you being shown these documents, Bashir was able to secure the Panorama interview with the Princess.

I am approaching you direct because I know you feel strongly about the underhand way in which some newspapers and broadcasting companies have acted against both you and your sister in the past and as a senior editor I would very much like to talk to you about the sequence of events”.

185. On 22 March, Earl Spencer replied that he had thought very hard about whether he should comment or not; but he had decided that “it would not be helpful for me to make any statement on this matter”. Earl Spencer explained in his written statement to the Investigation that he decided not to reply because (a) he did not want to say anything publicly that “might be perceived as an undermining of [his] sister Diana’s decision to talk to Panorama”; and (b) he was trying to settle into an anonymous family life in South Africa and the last thing he wanted was to help one of his tabloid tormentors.<sup>126</sup>

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<sup>126</sup> Written statement of Earl Spencer received by the Investigation on 13 January 2021, page 21

186. In the event, *The Mail on Sunday* did not run the story that weekend. But Mr Holborow's letter caused Earl Spencer to contact the BBC. He contacted Mr Gardam through the office of Lord Birt. It is likely that Earl Spencer spoke to Mr Hewlett because he wrote Mr Hewlett's name on a response that he drafted (but did not send) to Mr Holborow's letter. Mr Gardam states in Annex 2 to his written statement that Mr Hewlett told him that he had spoken to Earl Spencer:

“I understood the Mail on Sunday had come to him [Earl Spencer] with a story about forged documents being shown to him in order to secure the interview with his sister. I spoke to Steve Hewlett who offered to ring him as he had spoken to him at the beginning of Bashir's enquiries and had confirmed he worked for Panorama. Hewlett was read a statement that Earl Spencer proposed to issue to the press. It said that Bashir had indeed come to him with certain allegations about specific journalists. As a result, Spencer had introduced him to the Princess. At no time was an interview mentioned. This confirmed our knowledge of the story. Earl Spencer let Steve Hewlett know he was somewhat resentful of the fact that Bashir had not got back in touch, after their meetings.”<sup>127</sup>

187. Mr Gardam described to me in some detail what happened in the next few days. On 22 March 1996, he spoke to Mr Hewlett and asked him to ring Mr Bashir. Mr Bashir confirmed to Mr Hewlett that he shown the “graphicised” document to no-one and he specifically mentioned Earl Spencer. On the basis of this information, Mr Gardam informed Richard Peel that there was no foundation for the Mail on Sunday story<sup>128</sup>. Mr Peel was Head of Communication and Information between 1993 and 1996.

188. The following day, Saturday 23 March, Mr Gardam was telephoned at home by three *Mail on Sunday* journalists. These included John Dobbie the Executive Editor, who suggested that documents had been shown to Princess Diana and Earl Spencer, and that BBC Management had known of this before the interview and had subsequently tried to keep it quiet. Mr

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<sup>127</sup> Handwritten statement by Tim Gardam dated 28 March 1996 and transcript (Annex 3, pages 32-33 and 39)

<sup>128</sup> Handwritten statement by Tim Gardam dated 28 March 1996 and transcript, (Annex 3, pages 32-33 and 39)

Gardam contacted Mr Bashir, who once again said that nothing had been shown to Princess Diana or Earl Spencer.

189. Later the same day, the BBC Press officer spoke directly to the Editor who gave a clear account of *The Mail on Sunday* story. This suggested that the specific allegation was that Earl Spencer had been shown “codded” documents which had persuaded him to recommend to his sister that Mr Bashir should be given an interview.

190. Mr Gardam then spoke to Mr Bashir again. This time, Mr Bashir admitted having shown the documents to Earl Spencer. Mr Gardam told Mr Bashir that this overturned every assurance the BBC had been given and the BBC would have to consider its position. At his Investigation interview, Mr Gardam said<sup>129</sup>:

“...this [date] I remember absolutely crystal clear, because, you know, it was one of those moments when you just go cold, and I know exactly where I was standing at the time and (inaudible). I actually took a great effort not—to keep temperate, actually because I was absolutely staggered that a BBC journalist....could have behaved like this. It would never have occurred to me that a BBC journalist would lie (a) to produce something to deceive someone, and then at the same time to lie to his editor and managers”.

191. Mr Bashir insisted that showing the documents had not been in the context of requesting an interview. The agreement by the Princess to an interview was at a later date and she did not discuss the question of an interview with him.

192. Mr Gardam made it clear to me that he felt that he had been deceived by Mr Bashir when he falsely denied having shown the documents to anyone. Others made the same point. There is no doubt that Mr Bashir had lied and maintained the lie until he realised that it was no longer sustainable. This was most reprehensible behaviour which casts considerable doubt on his credibility generally. But it was not as reprehensible as commissioning the

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<sup>129</sup> Tim Gardam transcript of interview on 16 February 2021, 52/10-20

fake statements in the first place and using them in the way that I have described to induce Earl Spencer to introduce him to Princess Diana.

193. Annex 2 to Mr Gardam’s statement includes the following:

“After taking legal advice from Roger Law, the BBC drafted a statement, true to the best of our belief, that it was utterly untrue to state that forged documents, or any documents, had been used as a means of coercing the Princess to an interview nor was there any truth in the allegation that the BBC had known of this, and hushed it up.

However, the same day I agreed with the MD of NCA, Tony Hall, that the BBC needed to find out the entire truth behind Bashir’s activities, given he had misled us when asked specifically about the graphicised documents and appeared to have acted unethically and in breach of the Guidelines. On the Monday, there was a meeting where it was agreed that a full enquiry would be undertaken + action decided upon when the full facts were known. Given that I was leaving the BBC 3 days later, this would be conducted by [Mr Suter], to ensure continuity in the management’s handling of this event”.

*Mr Bashir’s interview with Mr Suter and Mr Peel on 28 March 1996*

194. Following Mr Bashir’s admission that he had shown the statements to Earl Spencer, Mr Suter and Mr Peel were asked by Lord Hall to interview Mr Bashir to get a full and true account of what had happened.<sup>130</sup> Information about what happened at this interview has been provided to the Investigation by Mr Suter. Mr Peel seems to have no recollection of the interview<sup>131</sup>. Mr Suter described how Mr Bashir wrote his manuscript statement of 28 March. He told me that he thought that Mr Bashir was telling the truth<sup>132</sup> but he added:

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<sup>130</sup> Tim Suter transcript of interview on 19 February 2021, 13/15-16/19

<sup>131</sup> Richard Peel transcript of interview on 16 February 2021, 21/25-22/8

<sup>132</sup> Tim Suter transcript of interview on 19 February 2021, 17/13-22

“There were elements of [his account] that were hard to understand, that had always been hard to understand, which is why he felt he needed to create these documents in the first place. But, given that he had now admitted that he had, on this occasion, used them, but given the point at which they were used and the provenance of the information contained in them and the state of the relationship that he already had with the Princess, I thought it was a credible statement...”

195. Mr Suter was aware that Mr Bashir had lied more than once when saying that he had not shown the statements to anyone. In my view, this should at least have led him to be sceptical about the credibility of Bashir’s account and his scepticism should have been heightened by the fact that Mr Bashir could give no explanation for what he had done.

196. I asked Mr Suter why it had not occurred to him to approach Earl Spencer to ask for his version of events. Mr Suter replied:

“I don’t think that I would have been the person in the position to take that decision, to be honest. I was asked to pursue this part of the investigation, which was to get a clear account from Bashir of what he had done, but I was not—it would not, I think, have been for me to pursue a conversation with Earl Spencer.”<sup>133</sup>

197. After this interview and following a consultation with Lord Hall, Mr Suter drafted a letter to Mr Bashir dated 4 April 1996<sup>134</sup>. He wrote:

“I have consulted Tony Hall and others within the senior management of News and Current Affairs, and it is clear to us, from the account you have given and from the corroboration we have received, that your dealings with the Princess in securing the interview were absolutely straight and fair. We are completely satisfied that the interview was freely given; that the Princess was placed under no pressure by you or anybody else; and that she was

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<sup>133</sup> Tim Suter transcript of interview on 19 February 2021, 18/23 -19/3

<sup>134</sup> Letter from Tim Suter to Martin Bashir dated 4 April 1996 (Annex 3, page 42)

neither shown any documents nor told anything she did not already know.

However, it is also clear to us that the creation and use of some material in the early preparation for the programme was in breach of the BBC's Guidelines on straight dealing. This breach was compounded by your failure to inform the then Head of Department of the use made of this material when directly questioned by him.

You should be in no doubt of the seriousness with which we view this, nor of the reprimand that this letter represents. I shall be consulting Tony Hall on his return to the office to discuss any next steps.

We believe that no purpose is served by making this a matter of public record. However, we retain the right, if future events require it, to make this letter public and to justify the action we have taken".

198. It seems probable that this letter of reprimand was not sent. That is suggested by entry 17 in the timeline dated 22 April 1996 which is part of the report that Mrs Sloman prepared for Lord Hall on that date. There is no indication in Mr Bashir's employment records that he was reprimanded. But whether the letter was sent or not is less important than its contents. Mr Suter cannot recall whether the text of the letter was agreed with Lord Hall, but the timeline entry says that it was agreed with him and that is also suggested by the wording of the letter itself. The importance of the letter is that it reflects the joint view of Lord Hall and Mr Suter at the time. Mr Suter was careful to emphasise to the Investigation that this was an interim view.<sup>135</sup> I accept this, not least because, as I explain below, Lord Hall soon concluded that it would be necessary to investigate the matter further, this time with direct involvement by himself.

199. I asked Mr Suter some questions about the detail of the letter. Since the letter was not sent and the interim conclusions expressed in it were to be superseded by the later investigation, I do not need to go into this in great detail. Mr Suter explained to me that he and Lord Hall based their

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<sup>135</sup> Tim Suter transcript of interview on 19 February 2021, 25/8

conclusion that Mr Bashir’s dealings with Princess Diana were “absolutely straight and fair” on the fact that (i) she had not been shown the documents; (ii) the relationship she had with Mr Bashir, however it was initiated, had developed independently; (iii) the information contained in the statements originated from Princess Diana; and (iv) at the time when the documents were used (by being shown to Earl Spencer), Mr Bashir had already established an independent relationship with the Princess<sup>136</sup>.

200. Mr Suter accepted that the truth of (ii), (iii) and (iv) depended on accepting at face value the truth of what Mr Bashir told him. I do not consider that Lord Hall and Mr Suter were justified in concluding, even on an interim basis, that Mr Bashir’s dealings with Princess Diana in securing the interview were absolutely straight and fair. They reached this conclusion by relying in large part on the uncorroborated assertions of Mr Bashir when they knew that he had lied about something that was highly material to the propriety of the methods used by him to secure the interview. This error was compounded by their failure to approach Earl Spencer and take into account what he had to say. They should have approached Earl Spencer once they knew that Mr Bashir had shown the documents to him. The fact that Mr Bashir had previously lied in saying that he had not shown them to him should have set alarm bells ringing in their ears. I discuss the issue of the failure to approach Earl Spencer in detail in relation to the later investigation at paragraphs 266 to 275 below.

*Mail on Sunday article 7 April and the BBC press logs of 6 and 7 April*

201. By now the BBC was aware that media pressure was increasing. This is evident from the press log of 6 April<sup>137</sup>:

**“NCA/PANORAMA/MARTIN BASHIR/MAIL ON SUNDAY”**

From Richard Peel. C.CINCA. John Ryan (Ass Ed, MoS) said that MoS was conducting an investigation into a series of documents, designed to resemble bank statements, which were commissioned by

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<sup>136</sup> Tim Suter transcript of interview on 19 February 2021, 25/10-27/23

<sup>137</sup> BBC Press Office Log dated 6 April 1996 (Annex 3, page 43)

‘Panorama’ reporter Martin Bashir. Ryan said the statements purported to show details of a joint bank account held by Mr Robert Harper & Mr Alan Waller, trading as Weider Health and Fitness. He said the statements had been created by a BBC graphics artist. Ryan asked a series of questions about the documents: who had commissioned them, had their authenticity been called into question, and were any senior BBC staff informed about concerns over their veracity? After consulting Tony Hall, MD NCA, Editor ‘Panorama’ Steve Hewlett and DCA, gave MoS the following statement: ‘the draft graphic reconstructions on which this story are based have no validity and have never been published. They were set up in the early part of an investigation and were discarded when some of the information could not be substantiated. They were never in any way connected to the ‘Panorama’ on Princess Diana, and there was never any intention to publish them in the form in which they have been leaked. Their use would never have been sanctioned at a higher editorial level, and if they had been transmitted it would have been a clear breach of our editorial Guidelines.’”

202. Lord Hall told me that the thrust of the statement incorporated in this press log would have been worked on by Mr Peel and Mr Suter and agreed by himself. Mr Suter denies that he was involved. He says that he was abroad for a week from 29 March and he is not on the list of the persons who were consulted in the preparation of the log. I accept that he was not involved. It is obvious that this press log answered none of the specific questions that Mr Ryan of *The Mail on Sunday* had asked. Mr Peel told me that the questions could have been answered specifically, but that it was not unusual to produce a general statement rather than specific answers. He thought, with the benefit of hindsight, that it was a poor piece of committee drafting and that a response such as that given in the press log for 7 April would have been more appropriate.<sup>138</sup>

203. On 7 April, *The Mail on Sunday* published a long article by Mr Fielding and Mr Lewis. It was headed “**DIANA’S BBC MAN AND FAKED BANK STATEMENTS**”<sup>139</sup>. The article described in considerable detail how Mr

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<sup>138</sup> Richard Peel transcript of interview on 16 February 2021, 9/24-11/15

<sup>139</sup> *Diana’s BBC Man and Fake Bank Statements* Mail on Sunday article dated 7 April 1996



Bashir commissioned the statements from Mr Wiessler. Much of the detail coincided with the findings that I have made earlier in this Report. The article also presciently included the following:

“The Earl was in a legal wrangle with Alan Waller and had issued an injunction against him.

Two further questions arise from this. Did Bashir intend to show the faked documents to Earl Spencer?

And if he did intend to do so, was he hoping to convince Earl Spencer he was the right person to interview his sister?”

204. This edition of the newspaper also contained “Opinion” piece headed **“FAKES THAT THREATEN THE BBC’S INTEGRITY”** which included:

“...now bits of the past that Panorama would prefer not to be known have started to surface.

The BBC has long adopted a condescending, if not sneering, attitude to popular newspapers.

Mr Bashir’s conduct, however, seems to have gone far beyond what even the most circulation-driven newspaper could hope to justify as being in the public interest.

...

Although never screened, the BBC has not denied the existence of these fake statements or fully explained either why they were created or why they had to be delivered so urgently to Mr Bashir at Heathrow Airport. More important, Panorama has not fully explained Mr Bashir’s intention at the time the documents were faked.

If the BBC's worldwide reputation for integrity is to be maintained, the Director-General, Mr John Birt, must act swiftly".

205. The 7 April press log<sup>140</sup> was issued after the publication of *The Mail on Sunday* article to which I have just referred. It stated:

**"NCA/PANORAMA/MARTIN BASHIR**

From Richard Peel, C.CINCA. See yesterday's log. John Hamshire (D.Mail) and Chris Blackhurst (Independent) both asked if the documents referred to in today's MoS story had played any part in the Princess Diana interview. Replied: when the documents came to light and it was suggested they might have been used in relation to this interview, we launched a thorough investigation. No connection was drawn. Asked whether Princess Diana had confirmed there was no connection said that she had, and referred them to her press office...Blackhurst called again and asked: Had the statements been shown to Earl Spencer? Had they been produced in conjunction with an earlier investigation? Had Earl Spencer been questioned by the BBC? Responded by reiterating our position from statement; confirmed the graphics had been put together for a wider investigation, and said we had nothing further to add. Jon Ungoed-Thomas (D. Mail) asked for BBC view on the creation of the documents. Replied it was obviously not something we condoned and referred him back to final paragraph of original statements. When asked if Martin Bashir had been officially disciplined, replied that he had not."

206. I cannot agree with Mr Peel that the responses given in the 7 April press log were more specific or otherwise more appropriate than those that were given in the 6 April press log: it provided no substantive answer to Mr Blackhurst's specific questions of (i) whether the statements had been shown to Earl Spencer and (ii) whether the BBC had questioned Earl Spencer. In that respect, it did little more than reiterate the statement contained in the earlier press log.

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<sup>140</sup> BBC Press Office Log dated 7 April 1996 (Annex 3, page 44)

207. Mr Peel sought to justify this response by saying that there was an ongoing investigation and that it was prudent to be careful in answering these questions before the investigation had been completed.<sup>141</sup> Lord Hall defended the unforthcoming nature of the responses contained in both press logs<sup>142</sup>. He said of the earlier one:

“No, and I think it is the sort of holding statement that press people put out when we are asked questions that we don’t know the answer to. I think there are—or are working on the answer to. This looks to me very much like a holding statement....Looking back on it, I think the line ‘they were never in any way connected to the ‘Panorama’ on Princess Diana’ is far too strong.”

And of the later one:

“...you are in the middle of an investigation or an inquiry, we haven’t spoken formally to Bashir, and so it is by means of a holding statement, and the second point is, we would not normally go forward and give the press ideas about stories that we were or were not investigating.”

208. I understand a general reluctance to give the press information relevant to a current or pending investigation. But I would make these two points. First, it is difficult to see how the investigation would have been imperilled by revealing the (now incontestable) facts that (i) Mr Bashir had shown the statements to Earl Spencer and (ii) the BBC had not questioned Earl Spencer. It was incorrect for Lord Hall to suggest that the BBC did not know the answers to Mr Blackhurst’s two specific questions. Secondly and in any event, some form of honest holding response pending the investigation would have been preferable to the prevaricating reference back to the obfuscatory statement contained in the 6 April press log. In his written statement to the Investigation, Mr Fielding described this statement as “a perfect essay on evading the point and denying the truth”.<sup>143</sup> I think

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<sup>141</sup> Richard Peel transcript of interview on 16 February 2021, 24/21-25/21; 26/21-28/24; 31/5-23, 32/21-36/25

<sup>142</sup> Lord Hall transcript of interview on 24 February 2021, 39/19-40/1; 43/19-24

<sup>143</sup> Written statement of Nick Fielding dated 6 December 2020, page 5

this is a fair description. Lord Hall said that this was a “very good line”, but that:

“what the press office were doing throughout this was trying to make sure that we had enough space to investigate thoroughly and to come to conclusions in our own time, as opposed to against deadlines that the press are pushing you on...”<sup>144</sup>

209. I would have been more impressed with this statement if the BBC had answered the questions that had been asked once the investigation had been completed later in the month. But no such answers were given then or at any time.

210. I should mention at this point in the chronology the article written by Mr Blackhurst that was published in *The Independent* on 8 April 1996. It was headed “**BBC quizzed Diana over Bashir ‘fake’**”<sup>145</sup>. The article referred to the December 1995 inquiry in which Mr Bashir had been cleared. It included:

“It has been suggested that it was Mr Bashir’s warm relationship with Earl Spencer which eventually led to him securing the interview.....

Asked if Mr Bashir had shown the faked documents to Earl Spencer during the preparations for the programme on the Royal Family, the spokesman said: 'I don't know. All I know for certain is that they weren't used to secure an interview with Diana.’”

*Press articles about BBC rivals being “out to get” Mr Bashir: a smear campaign?*

211. Mr Mangold has collated 12 newspaper articles many of which referred to “jealous colleagues, troublemakers and leakers”. For example, on 8 April

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<sup>144</sup> Lord Hall transcript of interview on 24 February 2021, 40/10-14

<sup>145</sup> *BBC quizzed Diana over Bashir 'fake'* The Independent article dated 8 April 1996 (<https://www.independent.co.uk/news/bbc-quizzed-diana-over-bashir-fake-1303788.html>)

*The Daily Mail* published an article under the headline “Could a BBC rival be out to get Bashir?” which included:

“Mr Bashir—who claims the allegations are part of a smear campaign conducted by jealous rivals—insisted he never used the statements while trying to obtain the interview<sup>146</sup>”.

212. Alison Kelly (née Jackson) was Publicity Officer for *Panorama* in October 1995. At her Investigation interview, she said that she recalled being asked to inform the *Panorama* team that the BBC was briefing the press that it suspected that stories about fake bank statements were being leaked by jealous colleagues. During her interview, she said the following<sup>147</sup>:

“A.....I distinctly recall arriving in the Panorama offices, which were in White City...and I was asked to make this remark. I do recall it, yes, and I do recall a certain amount of hostility about that, which was tricky for me, because obviously I had to work with all of those journalists on different programmes each week.....It wouldn't have been [Steve Hewlett's] style. He wouldn't have done that to me, I don't think. I don't know who did it.....But I do remember doing it and I remember it being quite awful”.

213. Lord Hall said that he was not aware that anyone had been instructed to brief the press along these lines. He would not have countenanced such briefing.<sup>148</sup>

214. I have no reason to doubt that Lord Hall was telling the truth on this. But equally, I am certain that the account given to me by Mrs Kelly was true as well. It is clear that someone at the BBC instructed her to give this briefing to the press. The material that I have seen and heard does not enable me to identify that person. Lord Hall rightly recognised that such briefing was quite wrong and fell far below the standards of fairness and integrity for which the BBC is renowned.

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<sup>146</sup> *Could a BBC rival be out to get Bashir?* Daily Mail article dated 8 April 1996

<sup>147</sup> Alison Kelly transcript of interview on 17 February 2021, 15/4-25

<sup>148</sup> Written statement of Lord Hall dated 18 January 2021, page 24, para 60

215. I need say no more about this because it does not strictly fall within my Terms of Reference. I shall now continue with the chronology.

*The BBC Board of Management meeting of 15 April 1996*

216. As I have said, Mrs Sloman replaced Mr Gardam on 28 March. She was asked to report to Lord Hall on the background to the allegations that had been reported in the press of unethical conduct in connection with the Princess Diana interview.

217. Mr Dean says that he was summoned by Mrs Sloman; she told him that she “totally supported” what Mr Hewlett had done (when approached in December 1995); Mr Bashir had behaved “stupidly” and she thought that nobody cared about the story; what mattered was the leaks and that he (Mr Dean) needed to be very careful of the company he kept.<sup>149</sup>

218. Mrs Sloman strongly denies having spoken in these terms to Mr Dean. She said to me:<sup>150</sup>

“I completely deny—that’s just not my language. I honestly deny that. That’s not the sort of thing I would have said.....Of course the story was important, but we knew about the story. What was new—what was happening at that moment, and that’s what I was trying to deal with, was the leaks that were going on.”

219. I have little doubt that Mrs Sloman did speak to Mr Dean substantially in the terms that he has described. It is not surprising that he can still recall the words of warning that Mrs Sloman used. I am sure that he did not fabricate his account. As for Mrs Sloman, I am satisfied that she honestly believes that she did not speak in the way that Mr Dean has described. It is not surprising that she does not recall doing so after 25 years.

220. But the issue of whether Mrs Sloman spoke to Mr Dean in this way is of no direct relevance to my Terms of Reference.

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<sup>149</sup> Written statement of Harry Dean dated 5 December 2020, page 3, para 15

<sup>150</sup> Anne Sloman transcript of interview on 19 February 2021, 45/15-46/7

221. A Board of Management meeting was held on 15 April. The minutes record Lord Hall as having said:

“...it was already clear that, while mistakes had been made, the BBC’s position was more robust than might appear from the press.

Martin Bashir had been undertaking a wider investigation when the opportunity of interviewing the Princess arose. Information which had been received from a reliable source had been put into graphic form. The graphics had been discarded when Bashir had concluded that the information could not be substantiated. The Princess of Wales had confirmed that the ‘documents’ had played no part in her decision to give an interview”.<sup>151</sup>

222. At his Investigation interview, Lord Hall confirmed that, by saying the position was more robust than might appear from the press, he was referring to the Diana note (whose existence was not widely known) and not the “separate issue with Earl Spencer”.<sup>152</sup>

223. It is true that the Diana note appeared to give the BBC a solid defence to an allegation that Mr Bashir had secured the interview by showing the fake statements to Princess Diana. To that extent, it might have been right to say that the BBC’s position was more robust than might appear from the press. But by 15 April, Lord Hall knew that it was being suggested that Mr Bashir might have secured the interview indirectly by showing the documents to Earl Spencer. That is what had been suggested in *The Mail on Sunday* article of 7 April. It was also the suggestion that underpinned the questions asked by Mr Blackhurst on 8 April, i.e. whether the statements had been shown to Earl Spencer and whether the BBC had questioned Earl Spencer.

224. Lord Hall’s statement that the BBC’s position was more robust than might appear from the press indicates that, probably unconsciously, he may not have had an entirely open mind when embarking on the investigation. I am

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<sup>151</sup> Minutes of BBC Board of Management meeting on 15 April 1996 (Annex 3, pages 48-50)

<sup>152</sup> Lord Hall transcript of interview on 24 February 2021, 49/3-12

sure that he would dispute this. But in my view, the second paragraph that I have quoted at paragraph 221 above provides some support for this suggestion. To say to the Board that “the opportunity of interviewing the Princess arose” gave no hint of the complex circumstances in which Mr Bashir commissioned the statements from Mr Wiessler (which by now were known to the BBC). The statement that the opportunity of interviewing Princess Diana arose made it appear that Mr Bashir had taken advantage of a chance opportunity. It is true that the minutes record Lord Hall as saying that mistakes had been made, but the overall impression created by what he is recorded as having said is that he regarded the BBC’s position as defensible.

225. The reference to information “from a reliable source” having been put into graphic form was a reference to Mr Bashir’s account that the source for the information contained in the statements was Princess Diana and possibly Earl Spencer as well: see paragraphs 3 to 5 of Mr Bashir’s statement of 28 March 1996. Lord Hall presented these facts to the Board as if they were uncontroversial. And yet he knew (but did not tell the Board) that they derived from Mr Bashir’s uncorroborated version of the facts and that Mr Bashir had lied on three occasions on a matter of considerable importance, i.e. whether he had shown the fake statements to anyone and, in particular, to Earl Spencer.

226. In saying that the minutes of what Lord Hall told the Board indicate that he may not have had an entirely open mind, I take account of the point that Lord Hall made to me that the minutes were no more than a summary of what he said at the meeting. I have no doubt that he will have said more. But the minutes are the formal record of the meeting and their flavour is clear.

*The meeting of 17 April 1996 between Lord Hall, Mrs Sloman and Mr Bashir*

227. Mr Gardam had been unable to get to the bottom of what Mr Bashir had done or why he had done it, although he believed that the Diana note proved conclusively that the fake statements had not been used to influence Princess Diana to agree to the interview. Mr Suter had not got to the bottom



of what Mr Bashir had done or why he had done it either. So it was that Lord Hall decided to try to get to the bottom of it himself. The importance to the BBC of the meeting of 17 April 1996 is demonstrated by the fact that Lord Hall participated in it. It was unusual for someone in Lord Hall's senior position to participate in a meeting with a relatively junior reporter. An issue concerning the propriety of a junior reporter's conduct would usually be dealt with by the reporter's line manager. Fairly detailed notes were made of the meeting. It is necessary to set out certain parts of it in the body of this Report:

“Martin gave a lucid and detailed account of the events leading up to his interview with the Princess of Wales, the headlines of which were:

(paragraphs 1 to 5 summarise Mr Bashir's account of the early stages of his investigation of the Royal Family)

6. In a second meeting with Spencer, Alan Waller's name came up. Spencer said 'I want to show you something' and produced a Bank Statement of Waller's. Waller, who Spencer suspected of being planted in his home by the Security Services, had left his employment by this time, but his mail was still arriving there. Spencer said 'There's a big story here'. Spencer gives the bank statement to Martin.
7. By the end of August, the investigation has run into the sand, Steve Hewlett encourages Martin 'to go for her'.
8. A third meeting with Spencer takes place. Martin asks to meet his sister. Spencer says he hasn't seen her for two years (they had fallen out when he had refused to let her come and live at Althorp) but he rang her and arranged a meeting.
9. This took place in a Knightsbridge flat belonging to one of Spencer's girlfriends.
10. That evening the Princess of Wales bleeped Martin and said thank you. The relationship is established.

11. A number of subsequent meetings take place, at one of which she gives him copies of a correspondence between her and the Duke of Edinburgh and at another says that Waller had received payments from News International and a Jersey Trust Fund, the name of which she didn't know. She doesn't reveal what her sources are.
12. Martin had lost touch with Spencer but now rang him to arrange another meeting. He had collected a substantial pile of documents by this time and at this point he asked Matt Wiessler to make up the false bank statement. When he showed it to Spencer he said 'I've got some information'. He did not explain they were reproductions but drew attention to the fact that the information on the Jersey-based off-shore fund 'may not be accurate'. That was his last meeting with Spencer.
13. Subsequently Steve pressed him to ask the Princess for an interview. He did. She agreed. She never saw the false bank statement. It had nothing whatever to do with her decision to give the interview. When pressed by Tony about the circumstances of the forged document, Martin said:
  - It was done in a rush because he didn't want to leave it in Wiessler's hands longer than necessary. Wiessler had been unable to do it that day but had recently gone freelance and wanted the work so had done it overnight. Martin was flying to Scotland to talk to a former policeman. That's why he suggested the Sock Shop drop.
  - 'On previous occasions when Mark Killick and I needed a document and couldn't take it away, we would record a description of it and draw it' to make a graphic representation afterwards. We did it on Venables and Budge. Mark did it on Westminster. In those instances

the mocked-up graphics were based on hard factual evidence. This one clearly wasn't.

- Why? 'At the time it was just one of those things'. 'I didn't think it was a big deal'.
- On previous programmes with Killick 'I did people and he did paper'. He'd always compile a brilliant folder of research. I was trying to get together a pile of evidence as an addendum to my research brief to present to Steve. I was trying to do something I wasn't very good at.
- Why use Penfold's name?... [content concerned with the Venables programme] I just put it down. It was stupid'
- He was already locked in a relationship with Diana. He had no need to persuade Spencer of anything."<sup>153</sup>

228. I asked Mrs Sloman, Lord Hall and Mr Bashir about this meeting. But before I consider what they said about it, I need to refer to the report that Lord Hall subsequently wrote to Lord Birt. The first part of the report reproduces almost verbatim the notes of the 17 April meeting, but it adds the following:

"To sum up on the Spencer issue:

- I have talked to Martin, and others involved, and I am satisfied of the following points:
  - the graphic had no part whatsoever in gaining the interview with the Princess of Wales. We also have her word in writing for that.
  - the graphic was not intended for transmission; in fact the information soon turned out to be false.

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<sup>153</sup> Note of a meeting between Martin Bashir, Tony Hall and Anne Sloman dated 17 April 1996 (Annex 3, pages 51-53)

- nonetheless, to produce such a graphic was unwise. He shouldn't have done it.
- I have talked to Martin at length about his reasons for compiling the graphic:
  - he has none, other than he wasn't thinking.
  - I believe he is, even with his lapse, honest and an honourable man. He is contrite.
- As I said, this had no impact on the investigation or the interview. I am writing to him requesting that his action was incautious and unwise, and that he should be a great deal more careful in the future.
- [the next section of the report is concerned with the Venables programme].
- I am carrying out the following actions:
  - [information concerned with the Venables programme]
  - Richard Ayre will draw up 2 guidelines to cover:
    - (a) The use of reconstructed material
    - (b) The payment of people who supply information to investigative programmes.
  - Further, because TRUST is the most vital quality necessary in our journalism, we will also carry out a review of all aspects of our investigative journalism to ensure those issues of trust and straight dealing—are paramount
- The final point concerns the actions of those who leaked material to the press:
  - we are taking steps to ensure that the graphic designer involved—Matthew Wiessler—will not work for the BBC again (when a current contract expires in the next few weeks)

-- In addition, between now and the summer, we will work to deal with leakers and remove persistent trouble-makers from the programme”<sup>154</sup>

229. Shortly after the meeting, Mrs Sloman wrote a summary note. She says that it was “for internal use only, hence the informal language. It was short, sharp and to the point. I had not conducted a quasi-legal inquiry nor had I been asked to do so.”<sup>155</sup>

The summary included the following:

- “1. The Diana story is probably now dead, unless Spencer talks. There’s no indication that he will.  
...
3. Management will have to decide what action if any to take privately or publicly about Bashir, what to do about his contract and how long he should stay on Panorama...
4. Management will have to decide what to do about the other participants in this sordid saga in order to enable Panorama to settle down as a team without a) constant leaks to the press, b) staff running their own agendas...
5. The guidelines on commissioning graphics may have to be looked at. There is nothing specific in the Producer’s Guidelines at the moment.”<sup>156</sup>

230. Before I return to the meeting of 17 April, I should mention the BBC Board of Management meeting of 29 April which was attended, among others, by Lord Birt and Lord Hall. Under the heading “MARTIN BASHIR”, the minutes record:

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<sup>154</sup> Briefing note from Tony Hall to John Birt regarding Martin Bashir and the Mail on Sunday allegations (Annex 3, pages 54-60)

<sup>155</sup> Written statement of Anne Sloman dated 11 December 2020, page 1, para 9

<sup>156</sup> Summary Note prepared by Anne Sloman dated 22 April 1996 (Annex 3, page 68)

“Tony Hall said he had concluded a personal investigation into allegations made against Martin Bashir over his conduct in the course of two *Panorama* investigations.

In connection with inquiries into events surrounding the Royal Family, Bashir had been working on a story concerning allegations of serious impropriety. These had been allegations: there had been evidence but no proof. In the course of this investigation Bashir had come across some financial information from a high level source. Bashir had commissioned graphic representations of the information. He intended to show these “graphics” to his editor at a later date to illustrate his thesis. He put a false name on the graphic, and that had been foolish. He had not revealed the information to anyone outside the close circle [of] his informant. Tony Hall was certain that there had been no question of Bashir trying to mislead or do anything improper with the document and that it had played no part in the Princess of Wales’ decision to give an interview to *Panorama*. Tony Hall concluded that Bashir was an honest man who was deeply remorseful about an action which had been incautious.<sup>157</sup>”

231. I now return to the meeting itself. Mr Bashir says that he has no recollection of the meeting.<sup>158</sup> I shall now set out the key parts of the accounts given to me by Lord Hall and Mrs Sloman about the meeting and the reports that flowed from it. Although Lord Birt did not attend the meeting, he had quite a lot to say about it and the conclusions reached by Lord Hall and Mrs Sloman. I shall deal with what Lord Birt said after I have dealt with the accounts of Lord Hall and Mrs Sloman.

### *Lord Hall*

232. In his written statement to the Investigation, Lord Hall says<sup>159</sup>:

“At this distance of time I remember very little of that meeting beyond what is recorded in the note. I do know that we pushed

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<sup>157</sup> Minutes of BBC Board of Management meeting on 29 April 1996 (Annex 3, page-71)

<sup>158</sup> Martin Bashir transcript of interview on 1 March 2021, 94/18-24

<sup>159</sup> Written statement of Lord Hall dated 18 January 2021, pages 25-26, para 63

Martin Bashir hard on the details because we were very concerned that he had lied to the BBC at the end of 1995 by failing to tell us that he had shown the false documents to Earl Spencer. The note reflects the fact that I pressed Martin Bashir on the details, but not the questions that I asked. I am not surprised about that. This was not a formal outside led investigation. It was, however, a detailed review to satisfy ourselves that we were now in possession of all relevant information. I believed that it had served this purpose. We had now (i) established that Earl Spencer had been shown the false bank statement, but we also had (ii) the note from the Princess of Wales that she had not seen it, and (iii) Martin Bashir's confirmation that by then he was locked in a relationship with her and that he had no need to persuade Earl Spencer of anything. The documents were never transmitted and Martin Bashir never did a program on Earl Spencer. I would certainly have asked more questions than are recorded in the note, but the note records the essence of what we were told which would have been sufficient in my view. Indeed, my recollection is that by the end of the meeting, Martin Bashir was in tears and came across as completely remorseful." (enumeration added).

233. It is important to make the point that Lord Hall and Mrs Sloman were in possession of the information in (i) and (ii) at paragraph 232 above before they embarked on their investigation; and the confirmation in (iii) was Mr Bashir's uncorroborated assertion.

234. Lord Hall says that the aim of the "detailed review" was "to find out the entire truth behind Bashir's activities."<sup>160</sup> He was determined, once and for all, to get to the bottom of it. As he told the Investigation, it was unusual for him as chief executive (to use his description), having previously asked Mr Suter and Mrs Sloman to conduct a "full inquiry", to say: "Yes, but I want to also meet Bashir."<sup>161</sup>

235. In answer to my question why he and Mrs Sloman accepted the truth of Mr Bashir's account (in particular the truth of his statement that he had shown

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<sup>160</sup> Lord Hall transcript of interview on 24 February 2021, 22/21-23

<sup>161</sup> Lord Hall transcript of interview on 24 February 2021, 50/4-9

the fake documents to Earl Spencer after he had established a relationship with Princess Diana), he said<sup>162</sup>:

“Well, it goes back to the interview that Anne and I did with Bashir, and he was contrite, it was not the softest interview of all time, or whatever it was that Tom Mangold said about it. We spent a lot of time going through it with him and we felt at the end of that process that we’d got to the bottom of it, that he was telling us the truth about what happened”.

236. I asked him why he did not contact Earl Spencer before reaching the conclusion that “the graphic had no part whatsoever in gaining the interview” and that Mr Bashir was “even with this lapse, honest and an honourable man”. His response was that there had been contact with Earl Spencer through Mr Hewlett (paragraph 186 above). The following exchange took place between Lord Hall and myself<sup>163</sup>:

“Q. ....But once it was clear [the documents] had been shown to Earl Spencer, then what had to be investigated was whether the showing of those documents to Earl Spencer had somehow led Earl Spencer to introduce Bashir to Princess Diana?

A. The timeline we had from Bashir... by the time he was with the Princess of Wales, he went back to Earl Spencer with his documents, and that was the thing which he did which, when you look back on it, you think what on earth was he doing that for? But that happened after he got a relationship with the Princess of Wales through Earl Spencer.

Q. The trouble is...that you seem to have believed everything that Bashir told you about when he first met Diana, and the fact that he’d already got an established relationship with her before these documents were shown to Earl Spencer. All that comes from Bashir. But you never check that, that time sequence with

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<sup>162</sup> Lord Hall transcript of interview on 24 February 2021, 30/15-21

<sup>163</sup> Lord Hall transcript of interview on 24 February 2021, 25/14-26/19



Spencer, because he would have told you he fundamentally disagreed with it?

- A. Well, I go back. Steve Hewlett had spoken to Earl Spencer. He was the main contact to Earl Spencer. I just repeat what I said earlier. So, you know, Earl Spencer had said to him ‘The interview was never discussed with me. That wasn’t a factor that came up when I talked to Bashir about the relationship with the Princess of Wales and getting him to see the Princess of Wales’”.

237. A little later, Lord Hall said<sup>164</sup>:

“When I saw that Spencer had talked to Hewlett, I thought, well, that’s the answer to the question of, why didn’t we speak to Spencer, because he had been spoken to. So I would want to know more about that before I said well, you know, we should have done something more with him”.

238. Lord Hall accepted that he did not get a satisfactory explanation from Mr Bashir of why he had commissioned the fake statements. As for the separate question of why Mr Bashir showed the statements to Earl Spencer, I have already referred to Mr Bashir’s explanation (paragraph 11 of his 28 March 1996 statement) that he wanted to encourage the relationship that he was in the course of developing with Earl Spencer. Lord Hall said of this explanation<sup>165</sup>:

“Again, I don’t find it amazingly convincing, but, on the other hand, as a journalist, I can understand why he would want to keep his contact going with Earl Spencer, because that’s what journalists and people like Martin kind of do. But—so that has some credibility, that he was keeping his contacts going. But, again, the main point of the story—just to come back, when the main point of the story is getting the interview with the Princess of Wales on air, it seems like a very odd thing to spend time doing.”

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<sup>164</sup> Lord Hall transcript of interview on 24 February 2021, 56/11-16

<sup>165</sup> Lord Hall transcript of interview on 24 February 2021, 58/13-22

239. To conclude the salient parts of what he said at the interview about his conclusions following the 17 April meeting, I should refer to the following exchange between him and myself

“A. ....Again, I say [the Diana note] coloured a lot of our thinking on, was she influenced or not. Was she tricked to put it at its crudest, I suppose, into doing this interview? And that letter, we all felt, said, absolutely not: she knew what she was doing.

Q. I know we have covered this already, but it is so important. You never really addressed, and certainly don't address in [the report to Lord Birt] the possibility that she was indirectly persuaded to give the interview through the introduction that had been effected by her brother as a result of the showing of the faked documents to him?

A. When you have a letter from someone who at that point was alive and we could have gone back to at any time saying ‘I was not aware of any documents. I was not shown anything I didn't already know’—I mean, you've got the letter. I don't need to go through it. That is very, very powerful. Because, at any point, we could have gone back to her and said, ‘Just come again: were you duped in some sort of way on this?’, and she was clear she wasn't”.<sup>166</sup>

### *Mrs Sloman*

240. Mrs Sloman was also able to give me a detailed account at her Investigation interview.<sup>167</sup> She rejected Mr Mangold's statement that Mr Bashir “was given what must have been the cosiest formal interview of his life by Hall

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<sup>166</sup> Lord Hall transcript of interview on 24 February 2021, 71/8-72/3

<sup>167</sup> Anne Sloman transcript of interview on 19 February 2021, 18/24-29/11; 30/15-34/1; 46/19-47/14; 48/14-52/12

and Sloman.”<sup>168</sup> She said that the meeting lasted about an hour and a half. It was not cosy or comfortable for someone to be called in for their two bosses to cross-examine them. But she was keen to emphasise that this was not a “formal” interview as part of a disciplinary process with the involvement of human resources personnel. She said that it would have been conducted differently if it had been a quasi-legal inquiry.

241. She repeatedly said that to “mock up” the documents was a “stupid thing to do”; and that Mr Bashir “couldn’t cope” and was “out of his depth”.

242. One of the questions that I explored with Mrs Sloman was why no approach was made to Earl Spencer to ask for his version of what had happened. She said that he was not involved at this point; he had not been in touch with Princess Diana after he had made the introduction; he had told *The Mail on Sunday* that he didn’t have anything to say; and the BBC had no particular reason to talk to him.<sup>169</sup>

243. Mrs Sloman said that the main purpose of the meeting was to find out why Mr Bashir had commissioned the fake documents. She said<sup>170</sup>:

“We knew, at that stage, what he’d done. But what was the point of it? I think that was where I was coming from: why did you do it; what was the point of it? His explanation was, he didn’t really know why he did it, it was a stupid thing to do. And we bought that. And that was my view.”

244. She accepted that Mr Bashir had not provided an explanation. She said<sup>171</sup>:

“A. I just think he was flailing around. I don’t think he did it—see the real link is whether that document, mocked up for whatever reason, really played a part in her decision to give the interview, and, for me, that link isn’t there. That link is quite tenuous. The link is to the introduction. But she could have been introduced

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<sup>168</sup> *Diana, a cover-up and why the BBC must finally come clean* The Times article dated 18 November 2020 (<https://www.thetimes.co.uk/article/tom-mangold-on-diana-a-cover-up-and-why-the-bbc-must-finally-come-clean-80tsjlmx8>)

<sup>169</sup> Anne Sloman transcript of interview on 19 February 2021, 11/18-14/5

<sup>170</sup> Anne Sloman transcript of interview on 19 February 2021, 19/7-12

<sup>171</sup> Anne Sloman transcript of interview on 19 February 2021, 47/2-48/13

and had phone conversations with him and never agreed to give an interview....

Q. ....so for him, the key was to get to meet her. Once he met her, it was downhill all the way in getting the interview. The key question, I think, is how did he get to meet her in the first place?

A. I think you're absolutely right. Where I just question that thought is how key this document was; him cosyng up to Charles Spencer ....But, I don't know, how key was that one thing in the process of him softening up Earl Spencer? That's all. I'm merely questioning. I'm not offering any answers".

245. There then followed this important exchange between Mrs Sloman and myself<sup>172</sup>:

“Q. You never really bottomed out that question of how key a part did those documents play in effecting the introduction that Charles Spencer says he made of Bashir to Diana? That's the question. I'm just suggesting to you that your investigations didn't really go anywhere near enabling you to form a conclusion about the answer to that question?

A. I think you're right, Lord Dyson, but I would say in my defence, that I was never asked to do that. What I was asked to do was go and sort out the situation, to find out why Martin did it, not what he'd done, because we knew what he'd done, but why he'd done it. I wasn't asked to answer the question you have just posed.

246. I also asked Mrs Sloman to comment on Lord Hall's report to Lord Birt. She agreed that Mr Bashir was contrite and really very sorry. She thought that she might have toned down “a fraction” the assessment that he was “honest” and “honourable”<sup>173</sup> And then the following exchange:

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<sup>172</sup> Anne Sloman transcript of interview on 19 February 2021, 48/16-49/3

<sup>173</sup> Anne Sloman transcript of interview on 19 February 2021, 51/8-16

“Q. Let’s be blunt: he wasn’t honest, was he?”

A. No, not all the time.....So I don’t think he was a congenital liar. I think he was just silly.

Q. Well, he was more than silly. I mean, silly—

A. Okay, that he was very unwise and made a very foolish mistake, which he is paying a very, very heavy price for.”

247. Finally, I asked Mrs Sloman about her summary note (paragraph 229 above) and in particular the first paragraph: “The Diana story is probably now dead, unless Spencer speaks. There’s no indication that he will”. I suggested to her that these words implied that she thought that, if Earl Spencer did talk, the story would spring to life again, or at least there was a risk of that happening. She responded<sup>174</sup>:

“It was unfortunate wording. It does lead to that implication, but that honestly is not what I meant. It really wasn’t. There was no indication that he was going to spin out the story, that he was going to come public.....He had gone very, very quiet and there was no reason to suppose he would talk. It sounds a bit like the Mafia, but it wasn’t meant that way, I promise you.....That’s not the way I was thinking at all. It was just a journalistic judgement. He’d gone quiet. He hadn’t said anything. So unless he does—and it was true, wasn’t it? It was true for 25 years.

### *Lord Birt*

248. Lord Birt has no recollection of commissioning Lord Hall’s inquiry, although he accepts that he did so. Much of what Lord Birt said during the course of the Investigation interview was based on his reading of the documents. He has no specific recollection of the events independently of the documents. He also expressed his views on a number of issues to which I shall shortly refer and defended what was done, in particular by Lord Hall and Mrs Sloman. He said:<sup>175</sup>

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<sup>174</sup> Anne Sloman transcript of interview on 19 February 2021, 37/10-38/16

<sup>175</sup> Lord Birt transcript of interview on 2 March 2021, 21/5-25

“...the mental model that I had before I was acquainted with this body of evidence was that, actually, the prime source [for the material in the faked statements] was Earl Spencer.....and I still don't know whether Martin Bashir's version of the truth or Earl Spencer's version of the truth is correct. They obviously are saying very, very different things. But my understanding was that Earl Spencer had shown the bank statements—had opened the envelope of his departing head of security, had shared a copy of those bank statements with Martin. I'm not saying this is the case: I'm saying what I understood and what I remembered. What I remembered was that the—essentially these faked documents were created on the basis of the bank statements that Earl Spencer had shared with him, with Martin Bashir, and I did understand that there was some information in there which was simply wrong, but that had come from other sources.”

249. He also said that it was reasonable for Lord Hall and Mrs Sloman to accept the account that Mr Bashir gave them at the meeting of 17 April<sup>176</sup>:

“He was a young person. He had, to the best of my knowledge, no form. It was not unreasonable, I think, for Anne and Tony to take what he said at face value. To state the obvious, Earl Spencer had not come forward, and, as I said to you in my letter, if Earl Spencer had come forward with the huge amount of information that's contained in the Mail on Sunday, then it would have transformed the investigation.”

250. Lord Birt developed the point later<sup>177</sup>:

“Was there a good reason to think he wasn't telling the truth? We have discussed this. He was persuasive, he was young, he had no form. He gave a very detailed—I have read his account [of 28 March 1996] for the first time...It is full of the kind of detail which makes it feel authentic about what people told him, and so on. It may be a fiction, but I think it was perfectly reasonable for Anne and Tony, and indeed others, recognising that he told one significant untruth, it

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<sup>176</sup> Lord Birt transcript of interview on 2 March 2021, 25/5-12

<sup>177</sup> Lord Birt transcript of interview on 2 March 2021, 55/4-55/20

was perfectly reasonable for them, absent somebody coming forward—there was no counterfactual. Normally, if you are very familiar with investigations, I’m very familiar with investigative journalism, you need a counterfactual to give some grist to the mill. You have got to believe—there has got to be a very good reason for believing that there is an alternative truth, and it was absent at the time.”

251. Later in the interview<sup>178</sup>, he repeated that, if Earl Spencer:

“had come forward with all the information he has in the Mail on Sunday, including saying he was shown other material and that the bank statements—he was shown bank statements much earlier on, and so on, that would have prompted a massive investigation within the BBC, which indeed it has, 25 years on”.

252. And he added<sup>179</sup>:

“.....the obvious occurred to me, that Earl Spencer, according to Martin Bashir, had stolen the bank statements of his head of security and shared a copy of that with the BBC.

For 25 years, I have thought that that was the reason he didn’t come forward and that’s why he didn’t comment at (sic) the Daily Mail

back in 1996. Now, that may not be true, but if you ask me, if I had read that [Mrs Sloman’s summary of 22 April 1996] at the time, which I didn’t, I don’t think, what would I have thought it referred to, I would have thought it referred to the fact—we all saw Spencer as the essential source for the faked documentation”.

253. When I put to Lord Birt that Lord Hall and Mrs Sloman knew that Mr Bashir had previously lied on three separate occasions when he said that he had not shown the faked statements to anyone, Lord Birt said:

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<sup>178</sup> Lord Birt transcript of interview on 2 March 2021, 49/17-23

<sup>179</sup> Lord Birt transcript of interview on 2 March 2021, 58/19-59/5

“and obviously that is a very material point. The documents don’t tell me what I’m sure happened, was that he was challenged on that and why. I’ve obviously speculated in my own mind...the only defence I can see for Martin Bashir is that he was trying to protect his sources...the documents are rather silent on what his—in fact, are silent, that I’ve seen, on what his explanation for that is...”

254. I asked Lord Birt for his reaction to Lord Hall’s report to him. He said<sup>180</sup> that he didn’t quite agree that Mr Bashir had provided no explanation for the faked statements. He said:

“Firstly, I entirely accept that it may be a load of nonsense from Martin, which you may uncover. But I return to what I said to you before, that Martin had no form. He was a relatively new reporter to Panorama, relatively inexperienced.....So I read that, and I read a foolish young man who has done something daft because he thinks he’s replicating what a more experienced person would have done in the circumstances. So it wouldn’t—it may seem—given all we know, it may seem ridiculous, but it was believable at the time”.

255. He then said that the reason why the faked statements did not create more waves was that<sup>181</sup>:

“Martin accepted that he shouldn’t have done this, so he’d owned up to the crime; and secondly, the Princess of Wales had written a letter saying ‘I never saw it’. So it didn’t rise to the level as an issue that it would have done if a whole host of other things had perhaps been understood.”

256. Finally, I asked Lord Birt about a letter dated 10 June 1996 that he wrote to Mr John Garrett MP in response to a letter from the MP enclosing a letter and newspaper cutting from his constituent<sup>182</sup>. The newspaper cutting was of an article by Paul Donovan that was published in *The Sunday Times* on 28 April 1996<sup>183</sup>.

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<sup>180</sup> Lord Birt transcript of interview on 2 March 2021, 34/12-35/18

<sup>181</sup> Lord Birt transcript of interview on 2 March 2021, 36/3-9

<sup>182</sup> Letter from Lord Birt to John Garrett MP dated 10 June 1996 (Annex 3, pages 72-73)

<sup>183</sup> *A Graphic Deception?* Sunday Times article dated 28 April 1996 (See footnote 189)



257. Lord Birt's letter in reply included the following:

“These allegations were immediately and thoroughly investigated by the BBC and colleagues in News and Current Affairs were satisfied that the documents had played no part either in securing an introduction to the Princess, or in the subsequent granting of the interview.

We are aware that there has also been press speculation that these documents were shown to people other than the Princess in the course of the investigation.

I am assured that these allegations have also been promptly and thoroughly looked into, and the BBC has been able independently to verify that the documents were put to no use which had any bearing, direct or indirect, on the *Panorama* interview with the Princess of Wales”.

258. Lord Birt accepted at his Investigation interview that this letter was based on the premise that he accepted that Mr Bashir's account was true. I have referred at paragraph 249 above to why Lord Birt said it was reasonable for Lord Hall and Mrs Sloman to believe that Mr Bashir was telling them the truth. But the last paragraph quoted above was not based on what Mr Bashir had said at all. In this paragraph, Lord Birt claimed that there had been independent verification that the documents were put to no use which had any bearing “direct or indirect” on the interview. I accept that it was reasonable to invoke the Diana note as evidence that the documents were put to no use which had any *direct* bearing on the interview. But there was no basis for stating that the BBC had any verification that the documents were put to no use which had any *indirect* bearing on the interview. The true position was that the BBC did not know whether the documents had been put to a use which had an indirect bearing on the interview and the letter did not disclose this.

*Conclusions on investigations in March and April 1996*

259. I have already expressed some conclusions on the investigation conducted by Mr Suter at the end of March (paragraph 200 above). In this section of my report, I shall focus on the meeting of 17 April and the reports that flowed from it.
260. Lord Hall had decided that it was necessary to go further than the interim conclusion that had been reached on the basis of Mr Suter’s interview and Mr Bashir’s statement of 28 March. The issues that they had been investigating were highly sensitive and were the subject of wide and legitimate public interest. The suggestion that the Princess Diana interview had been secured by deception had not gone away and Lord Hall recognised that it was important for the BBC to resolve it once and for all.
261. Although he had decided not to hold a full-blown independent inquiry, he was determined, with the assistance of Mrs Sloman, to get to the bottom of the matter. In other words, Mr Bashir’s statement called for further probing. To that end, Lord Hall decided that he and Mrs Sloman should meet Mr Bashir in person. The purpose of the meeting was to enable them to satisfy themselves that they were in possession of “all relevant information”, conduct a “full inquiry” and “find out the entire truth behind Bashir’s activities” (paragraphs 232 and 234 above).
262. I have considered whether Lord Hall was mistaken in not arranging for the further investigation to be conducted by a team that was completely independent of *Panorama* and, possibly, even of the BBC itself. Lord Grade said to me<sup>184</sup>:
- “[The senior management] all seemed to have a vested interest in the story being stood up and the programme never being tainted, and they ignored what had actually happened, and only an independent investigation could have teased that out, or at least pointed out the anomalies”.
263. Lord Birt made the point to me that Mrs Sloman was “essentially an independent person, because she came primarily from radio and she had

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<sup>184</sup> Lord Grade transcript of interview on 22 February 2021, 20/24-21/4

no—to the best of my understanding, she had no vested interest in this matter at all.”<sup>185</sup> I think that Lord Hall might well have been better advised to introduce an element of true independence. But it was reasonable not to take that course. With respect to Mr Mangold, who clearly thinks otherwise, I consider that it was reasonable for Lord Hall to think that he and Mrs Sloman had the skills necessary to conduct a searching and effective investigation. The fact that, for reasons that I shall explain, in my view they failed to do so does not mean that it was not reasonable to believe that they would succeed.

264. It is important to bear in mind some of the background to the meeting of 17 April. Lord Hall and Mrs Sloman knew the following:

- (i) Mr Bashir had not shown Princess Diana any documents or given her any information of which she was not previously aware.
- (ii) Mr Bashir had shown the fake statements to Earl Spencer.
- (iii) He had lied on three separate occasions (21 December 1995 and 22 and 23 March 1996) when he said that he had not shown the fake statements to anyone.
- (iv) The press were asking searching questions (press log 7 April) about whether the statements had been shown to Earl Spencer; whether Earl Spencer had been questioned by the BBC; and (*The Mail on Sunday* article of 8 April) whether Mr Bashir intended to show the fake statements to Earl Spencer and, if so, whether he was hoping to convince Earl Spencer that he was the right person to interview Princess Diana.
- (v) They had Mr Bashir’s detailed written account dated 28 March 1996.

265. In my view, Mr Bashir’s lies were significant. They went to an issue (whether he had shown the statements to Earl Spencer) that was central to the questions that were to be considered by Lord Hall and Mrs Sloman,

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<sup>185</sup> Lord Birt transcript of interview on 2 March 2021, 24/10-13

namely, in precisely what circumstances were the fake Waller bank statements commissioned by Mr Bashir, what use did he make of them and why he did it. Whether Lord Hall and Mrs Sloman were able to obtain reliable answers to these questions would be crucial to a successful outcome of the investigation. Lord Hall said that he was very angry when he heard about Mr Bashir's lies: "I recall that well...It does stick in your mind". I have already referred to Mr Gardam's outraged reaction (paragraph 190 above). I would have expected Lord Hall and Mrs Sloman to insist on an explanation from Mr Bashir of why he had lied on this important issue. There is no indication in the note of the meeting that Lord Hall and Mrs Sloman taxed Mr Bashir about these lies and insisted on an explanation for them. At the very least, the lies should have led them to be sceptical about the credibility of Mr Bashir's account.

266. An important question for me to consider is why Lord Hall and Mrs Sloman did not speak to Earl Spencer before they reached their conclusions. The significance of this point was recognised by Lord Birt, when he said that (i) if Earl Spencer had come forward with all the information he gave to *The Mail on Sunday* in December 2020, this would have prompted a massive BBC investigation; and (ii) it was reasonable for Lord Hall and Mrs Sloman to believe Mr Bashir because there was no "counterfactual to give some grist to the mill" (paragraphs 250 and 251 above).

267. These comments by Lord Birt are very revealing. The first is an implicit recognition that the investigation that was carried out by Lord Hall and Mrs Sloman was less effective than it would have been if they had questioned Earl Spencer. In my view, that is tantamount to an admission that the investigation was not in possession of "all the relevant information" or able to "find out the entire truth behind Bashir's activities".

268. I agree with Lord Birt's second point. In my view, it was not possible for Lord Hall and Mrs Sloman to carry out a thorough investigation without asking searching questions of both Mr Bashir *and* Earl Spencer. One needs to go no further than Mr Bashir's statement of 28 March 1996 to see how important it was to hear what Earl Spencer had to say. He would have strongly disputed much of what Mr Bashir wrote, including:

- (i) That Earl Spencer gave Mr Bashir copies of the Waller bank statement which he had opened, although it had been addressed to Mr Waller at Althorp House (paragraph 3);
- (ii) Mr Bashir had developed a close relationship with Princess Diana before he commissioned the fake statements and showed them to Earl Spencer (paragraphs 4 and 11);
- (iii) Princess Diana continued to pass on information and documentation to Mr Bashir before he commissioned the fake statements (paragraphs 5 and 6); and
- (iv) He showed the fake statements to Earl Spencer on his last visit to Althorp House.

269. If it had been impossible to speak to Earl Spencer, I accept that Lord Hall and Mrs Sloman would have had to do their best without him. But they never even tried to contact him and invite him to answer some of their questions so as to furnish themselves with the material they needed to test Mr Bashir's account (Lord Birt's "counterfactual"). I am satisfied that, if approached by the BBC in April 1996, Earl Spencer would have been willing to answer their questions. He would have been outraged by important parts of Mr Bashir's 28 March statement and would have wanted to give his contrary account to the BBC (as he has done to me). His reluctance to speak to *The Mail on Sunday* at the time is explained by his antipathy to the press. No such considerations would have led him to refuse to speak to the BBC. I asked Earl Spencer whether he would have been willing to speak to the BBC in April 1996, although he had been unwilling to speak to *The Mail on Sunday* at that time. He responded:<sup>186</sup>

“Well they’re a slightly different kettle of fish to the Mail on Sunday and they needed to know it and I would have felt a duty to tell them. I’m a great respecter of the BBC, actually—obviously this episode aside—and I would have wanted to give them the truth. Would I have checked with Diana? I think I probably would. But I think I

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<sup>186</sup> Earl Spencer transcript of interview on 9 February 2021, 63/23-64/6

would have explained to her that I had a duty to tell the truth in this matter so it could be got to the bottom of”.

270. I need to examine the reasons given to justify the decision to proceed with the investigation without Earl Spencer. I refer to paragraphs 236 and 237 above, which summarise what Lord Hall said on this point. In essence, he said that he knew that Earl Spencer had already spoken to Mr Hewlett and for that reason he considered that there was no need to approach Earl Spencer for more information. Even if Lord Hall had been aware of the facts that Mr Gardam recorded in Annex 2 to his statement (paragraph 186 above), I do not consider that they justified the failure to approach Earl Spencer. First, Lord Hall and Mrs Sloman were seeking to find out “the entire truth behind Mr Bashir’s activities” (paragraph 234 above) and to succeed where Mr Suter had failed (paragraph 227 above). What was required was a full investigation. Secondly, *The Mail on Sunday* article of 7 April 1996 had been published since the conversation between Earl Spencer and Mr Hewlett. It had asked two specific questions (paragraph 203 above), the second of which was pertinent to the issue of whether there was a link between Earl Spencer’s being shown the fake Waller statements and his introduction of Mr Bashir to Princess Diana. Thirdly, to rely on Mr Gardam’s report of what Mr Hewlett had told him that Earl Spencer had said to him was unwise. The scope for mistake or misunderstanding arising from this third hand report was obvious. It was unsafe to accept its truth unless it was confirmed by Earl Spencer. There is no doubt that it was possible to speak to Earl Spencer. Fourthly, the report of the conversation given in Annex 2 to Mr Gardam’s statement is odd and raised questions which called for an answer. It was known that the “forged documents” were the fake Waller statements. *The Mail on Sunday* story was that it was these documents which had been shown to Earl Spencer by Mr Bashir to secure the interview. By contrast, Mr Gardam’s report says that Earl Spencer had told Mr Hewlett that Mr Bashir had come to him with allegations “about specific journalists” and “as a result” he had made the introduction. At the very least, what was reported as to the reasons for the introduction was far from clear and needed to be clarified if possible.

271. I have summarised at paragraph 242 above why Mrs Sloman said they did not contact Earl Spencer. In my view, these were insufficient reasons for

not trying to speak to Earl Spencer either. The fact that he had not been in touch with Princess Diana since the interview was not a good reason for not trying to contact him. Nor was the fact that he had told *The Mail on Sunday* that he had nothing to say to them. His unhappy relationship with the tabloid press did not mean that he would be unwilling to speak to the BBC. Again, he was not asked. The fact that he spoke to Mr Hewlett was a good indication that he would have been willing to speak to Lord Hall and Mrs Sloman. I found the evidence of Earl Spencer that, if asked, he would have been willing to speak to the BBC (paragraph 269 above) entirely credible and I accept it.

272. As for Lord Birt, I refer to paragraphs 249 and 251 above. In short, Lord Birt's view is that Lord Hall and Mrs Sloman were, in effect, entitled to disregard Earl Spencer because he (Earl Spencer) did not come forward and present himself to them for questioning. I disagree with Lord Birt, Lord Hall and Mrs Sloman had set for themselves the task of finding out the entire truth by conducting a thorough investigation. They could not carry out this task effectively and get to the bottom of what Mr Bashir had done and why he had done it without obtaining highly material information from Earl Spencer. There is no reason to suppose that Earl Spencer was even aware of the internal investigation that Lord Hall and Mrs Sloman were conducting. In these circumstances, it is wholly unrealistic to suggest that Earl Spencer should have come forward and proffered his evidence. And even if Earl Spencer had been aware of the investigation, his failure to come forward would not have been a good reason for Lord Hall and Mrs Sloman to shut their eyes to what he might have to say. I find it surprising that Lord Birt sought to defend Lord Hall and Mrs Sloman on this point. As he said, "you need a counterfactual to give some grist to the mill". Earl Spencer would have provided that counterfactual. It was incumbent on Lord Hall and Mrs Sloman to take all reasonable steps necessary to obtain it. If he had been approached, Earl Spencer would have provided the counterfactual as he has done to the Investigation. With the benefit of the information that Earl Spencer would have given, I do not believe that Lord Hall and Mrs Sloman would have felt able to reach the conclusions that they did.

273. In my view, the failure to interview Earl Spencer was a most serious flaw in the investigation. Without hearing from him, Lord Hall and Mrs Sloman were at a grave disadvantage. They were denied the benefit which has been accorded to me to assess Mr Bashir's evidence in the light of that of Earl Spencer. They denied themselves the opportunity even to discover that their accounts differed fundamentally on matters of critical importance. Unlike Mr Bashir, Earl Spencer had kept detailed contemporaneous notes of the key events. With the aid of these notes, he has been able to speak convincingly about them to me in 2021. He would have been able to do so perhaps even more compellingly in April 1996. Without Earl Spencer's contrary version, it was inevitably very difficult for Lord Hall and Mrs Sloman to test Mr Bashir and far more likely that they would accept Mr Bashir's account. For the reasons that I have set out in full in the first part of this report, having had the benefit of hearing from both Earl Spencer and Mr Bashir, I have had no difficulty in preferring the evidence of Earl Spencer. If Lord Hall and Mrs Sloman had questioned Earl Spencer, they would have been able to test Mr Bashir by asking him to comment on Earl Spencer's detailed account. In my view, if they had done this, it is very likely that they would have concluded that Mr Bashir had not even met Princess Diana before he commissioned the fake documents and showed them to Earl Spencer. Their acceptance of Mr Bashir's statement that "he was already locked in a relationship with Diana. He had no need to persuade Spencer of anything" was a key foundation for the conclusion (expressed in Lord Hall's report to Lord Birt): "I believe he is, even with his lapse, honest and an honourable man".

274. At paragraph 229 above, I have referred to the summary that Mrs Sloman wrote on or about 22 April and her conclusion that the Diana story was "now probably dead, unless Spencer talks. There's no indication that he will". As I have said, she explained why it should not be inferred from these words that she (and Lord Hall) thought that, if Earl Spencer did talk, the story would spring to life again, or at least that there was a risk of that happening.

275. In view of what Mrs Sloman said in answer to my question (paragraph 247 above), I am not willing to make the serious finding that she and Lord Hall consciously decided not to approach Earl Spencer for fear of what he might



say, although it might be inferred from the words she used in her summary that a deliberate decision was made not to do so for that reason. But at the very least, Mrs Sloman's summary shows, despite her protestations to the contrary, that it was understood by her that Earl Spencer might have something relevant and, indeed, important to contribute to the investigation that she and Lord Hall had undertaken. And her understanding must also have been shared by Lord Hall, since the two of them were working closely together. They must have considered whether to approach Earl Spencer. I reject the reasons that have been advanced on behalf of the BBC for their failure to do so as wholly unconvincing. It was a big mistake.

276. But the failure to question Earl Spencer was not the only mistake that Lord Hall and Mrs Sloman made. In my view, they cannot have scrutinised Mr Bashir's account with the necessary degree of scepticism. Even without Earl Spencer's version of the facts, they should have approached what Mr Bashir said with great caution for two reasons. First, they knew that Mr Bashir had lied three times on the centrally important question of whether he had shown the faked statements to anyone. This alone should have caused them to have serious doubts about his credibility. As I have said, it seems that they did not investigate the reasons for these lies.
277. Secondly, the fact that Mr Bashir was unable to provide them with any explanation of why he had commissioned the faked statements should also have caused them to have serious doubts as to whether he was being open and honest with them. In his report to Lord Birt, Lord Hall wrote of the reasons given by Mr Bashir: "at the time it was just one of those things"; "I didn't think it was a big deal", "I just put [Penfold's] name down. It was stupid"; and "he has [no reasons], other than he wasn't thinking". The failure to reach a conclusion on why Mr Bashir commissioned the fake statements (and showed them to Earl Spencer) was a fundamental failure by Lord Hall and Mrs Sloman to achieve the purpose of the investigation. But it should also have led them to have real doubts as to whether Mr Bashir was speaking the truth.
278. Mr Bashir must have known why he did it, but he was not telling them. They should have concluded that it was not acceptable that he could not (or would not) explain why he had done it and Lord Hall should have said so

in his report to Lord Birt and the Board. What Mr Bashir did was not an impulsive act done on the spur of the moment. It was carefully planned. On his version of the facts, the contents of the fake bank statements came from two separate sources. What he did was devious and dishonest. To dismiss his actions as no more than a mistake, unwise and foolish did not do justice to the seriousness of what he had done.

279. In my view, (i) without hearing from Earl Spencer; (ii) without receiving from Mr Bashir an explanation for what he had done (which was a serious breach of the Producers' Guidelines); and (iii) in the light of his unexplained lying on three occasions about whether he had shown the fake statements to anyone, Lord Hall could not reasonably have concluded that Mr Bashir was an honest and honourable man and should not have done so. Mrs Sloman did not unequivocally support this conclusion (paragraph 246 above).

280. Lord Birt told me that he thought that it was reasonable for Lord Hall and Mrs Sloman to accept the account that Mr Bashir gave them (paragraphs 249 and 250 above). He said that Mr Bashir was young, persuasive and had no form and that, in the absence of any counterfactual, it was reasonable to accept what he said. I do not agree. Even without the counterfactual that Earl Spencer would have provided, it was not reasonable for Lord Hall and Mrs Sloman to accept Mr Bashir's account. I do not consider that Lord Birt has sufficiently taken into account the fact that Mr Bashir had admitted lying on a centrally important issue on three occasions and that he had provided no credible explanation for commissioning the fake statements and showing them to Earl Spencer. I should make it clear that my disagreement with Lord Birt does not imply that I am criticising him for the inadequacy of the investigation that was conducted by Lord Hall and Mrs Sloman. Rather, it is my response to the opinion that he volunteered during the course of the Investigation interview. I make the same point in relation to my disagreement with Lord Birt's defence of the failure to interview Earl Spencer (paragraph 272 above).

281. In these circumstances, it is puzzling that Lord Hall and Mrs Sloman accepted Mr Bashir's account. He is a persuasive and charismatic person

as Princess Diana discovered during the *Panorama* interview. It may simply be that he successfully worked his charm on Lord Hall and Mrs Sloman.

282. They both say that they took the investigation very seriously and that Lord Hall pressed Mr Bashir hard at the meeting of 17 April. I am prepared to accept that he did so and that the interview was not the “cosiest formal interview of his life” as Mr Mangold suggested it was in his *Times* article of 18 November 2020.

283. But in the event, the interview was woefully ineffective. The investigation did not achieve its purpose of getting to the bottom of what Mr Bashir had done or why he had done it. In particular, it did not address the specific question of whether, by showing the fake statements to Earl Spencer, Mr Bashir was able to secure an introduction to Princess Diana and thereby an interview. That was a crucial omission. Lord Hall and Mrs Sloman knew or should have known that there was a real possibility that Mr Bashir had secured the introduction (and the interview) indirectly in this way. This possibility had been raised by journalists on 7 April and specifically by *The Mail on Sunday* in its article on 8 April. Without considering that possibility, Lord Hall had no basis for confidently asserting in his report to Lord Birt that “the graphic had no part whatsoever in gaining the interview”. For the reasons that I have given in the earlier part of this Report, Mr Bashir did in fact use the fake documents to secure the introduction and thereby the interview.

284. In short, the full investigation undertaken by Lord Hall and Mrs Sloman was no more effective than that undertaken by Mr Suter to which I have referred at paragraphs 199 and 200 above. They were no more able than Mr Suter to reach a conclusion on why Mr Bashir had acted as he had done. And they had no more material than was available to Mr Suter to enable them to reach a reliable conclusion on the crucial question of what part, if any, the fake Waller statements had played in inducing Earl Spencer to introduce Mr Bashir to Princess Diana. Like Mr Suter, they reached such conclusions as they were able to reach on the basis of the uncorroborated assertions of Mr Bashir and without the benefit of hearing from Earl Spencer.

## H. WAS THERE A COVER UP BY THE BBC?

285. This is sufficiently closely related to the question of how effectively the BBC investigated the circumstances leading to the interview that I consider that I ought to examine it. I discussed the cover-up question with a number of the witnesses whom I interviewed.

286. Both Mr Killick and Mr Mangold have stated in the strongest terms that there was a cover up of the methods employed by Mr Bashir to secure the interview. Mr Killick comments in his supplemental statement:<sup>187</sup>

“3. The documents provided to me show that the BBC management deliberately developed a false narrative to divert attention from the fact that its much lauded interview with Princess Diana had been obtained at best by dubious methods.

4. As a result, I believe this led to an institutional cover up and the deliberate character assassination of myself and my colleagues who had sought to speak the truth.”

287. The “character assassination” to which he refers is the description of himself and others (including Mr Mangold) as “jealous troublemakers” who were leaking to the press.

288. Mr Mangold has spoken and written in a similar vein. In his article in *The Times* on 18 November 2020 he pulled no punches, particularly in his criticisms of Mr Hewlett. What he wrote included:

“.....The true story, however, is much bigger than Bashir.

It is about the BBC cover-up, and how it lied and deceived not only to hide the failure of its editorial standards—there to protect the public from the antics of one rogue reporter—but to protect those in the chain of command who invariably must share responsibility for

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<sup>187</sup> Written statement of Mark Killick dated 7 February 2021, page 1, paras 3-4

the scandal. And the two central figures in this sorry saga? Steve Hewlett, then editor of Panorama, and me.

I do not pretend to have proof—after all cover-ups are designed not to leave fingerprints—but all the evidence points to Hewlett as being behind the BBC cover-up to protect himself, Bashir and the whole corporation.

I believe he personally organised a BBC operation to put the blame for the scandal on imaginary ‘jealous colleagues, troublemakers and leakers’ on Panorama staff. And who was the (unnamed) jealous colleague? Me.”

289. Mr Hewlett’s widow, Rachel Crellin has sent me a detailed and strong response to Mr Mangold’s accusations against her late husband. She makes the obvious point that, as he accepts, Mr Mangold had no proof of them. To this day, he has no proof of them, although he still believes them to be true. It is, of course, very sad and most unfortunate that I have not been able to put any of these accusations to Mr Hewlett. It is clear from evidence that I have received that he was a skilled and highly regarded editor of *Panorama*. For example, John Simpson wrote to me on 17 December 2020 saying that he was “tough-minded, principled and extraordinarily shrewd”. It was Mr Simpson’s firm belief that Mr Hewlett “had no knowledge of any forged documents, and that there was no attempt at a cover-up”. I shall revert to Mr Hewlett after I have reviewed some of the other material that bears on the cover-up issue (paragraphs 301 and 302 below).

290. At paragraphs 201 to 208 above, I have referred to the press logs of 6 and 7 April 1996 and the obfuscatory statement that was published in answer to pointed questions from the press. I do not need to repeat them here.

291. But there is a separate question of why the BBC did not report the allegations made against Mr Bashir (for example, in *The Mail on Sunday* on 7 April 1996). The press log for 23 April records:

“Paul Donovan (S Times) asked why the BBC had not reported the allegations made about Martin Bashir by MoS on 7.4.96 in its news

summaries and newspaper reviews. Consulted Stephen Mitchell, ED Radio News & C.CINCA and replied: ‘The BBC is proud of its track record on reporting issues about the Corporation objectively, when it is appropriate. Sometimes judgements are difficult. On this occasion allegations of a potentially defamatory nature, to which the BBC responded, were made by a newspaper. After careful consideration we decided the story was not sufficiently newsworthy’.

292. Mr Donovan’s question was reflected in his article that was published in *The Sunday Times* on 28 April 1996 which included the following:

“No BBC radio (or television) programme has covered the Bashir saga, or even alluded to it, in any way whatsoever. It has not made a single news bulletin on any network nor has it been mentioned in a single review of the papers, despite having been covered by at least five of them. The total absence of Panoramagate from the radio news programmes does not appear to be a complete coincidence. The BBC took immediate steps to defuse the risk of inquiries being made by them. The day after the Mail on Sunday’s revelations, the editors of Radio 4’s daily sequence programmes (Today, The World at One, PM and The World Tonight) found this e-mail message on their computer screens from a senior BBC news and current affairs executive: ‘If anyone asks about Bashir, the official line is: ‘it’s not interesting’.

...

It is important to note that neither the princess nor NatWest has made any complaint to the BBC. But the point is that, by the BBC’s own admission, it paid money to fabricate bank statements—for what precise reason it will not say and we do not know. Is that really a legitimate use of licence payers’ money? And if the BBC has a clean conscience, why does it not only refuse to answer questions, but also attempt to squash any interest its own programmes might have? And is it not at the very least odd, and slightly creepy, that not a single

BBC programme has touched a controversy that deals with matters of public concern?<sup>188</sup>”

293. I asked Mr Peel about this press log and Mr Donovan’s article.<sup>189</sup> He said: “This is all about editorial judgment. It is down to individual editors to decide whether they run a story or not...”<sup>190</sup>

294. What Lord Hall said was to similar effect.<sup>191</sup> Whether to cover a story would have been decided at “a programme maker’s level”. He said that he didn’t know from whom the “official line” had come; but the decision not to cover the story “was taken editorially and management had no part to play in [it]”.

295. Lord Birt said much the same.<sup>192</sup> He said:

“But there is no sense in which there would have been any diktat at the centre of the BBC, if that is what you are fearful of, saying ‘You can’t cover this story’; but it is a highly decentralised organisation. They don’t get diktats from the centre. Day by day, sequence editors and television and news have to make editorial decisions and deploy their resources.

.....there is no sense in which the BBC, in general, over time, has not reported on its own affairs and there is no sense in which the BBC ever, from a central position, says ‘Don’t report this story’, unless, you know there are examples.....But I can’t think there’d be any example where anybody would say don’t report on something which is a matter of public interest. I’m very sympathetic to the editors and journalists involved on just how difficult that would be for them”.

296. I accept that the BBC has a policy of “Editorial autonomy” to which it generally attaches great importance. I have given careful consideration to

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<sup>188</sup> *A Graphic Deception?*, Sunday Times article dated 28 April 1996

<sup>189</sup> Richard Peel transcript of interview on 16 February 2021, 38/15-39/17

<sup>190</sup> Richard Peel transcript of interview on 16 February 2021, 38/22-24

<sup>191</sup> Lord Hall transcript of interview on 24 February 2021, 66/20-70/7

<sup>192</sup> Lord Birt transcript of interview on 2 March 2021, 62/4-64/9; 64/15-19

what Lords Birt and Hall and Mr Peel said about it in their Investigation interviews, but I do not accept that the policy was applied in this case. I do not believe that, as a matter of editorial judgment, all the relevant BBC editors individually made decisions not to run the story because they considered that it was not sufficiently newsworthy to justify even a brief mention. There is no reason to doubt the accuracy of what Mr Donovan wrote in his article, namely that the BBC had an “official line” which was promulgated by “a senior BBC news and current affairs executive” at least to the editors of Radio 4’s daily sequence programmes. It was not being left to editors to exercise their individual judgments as to whether to cover the story. The press log for 23 April<sup>193</sup> provides further support for the existence of the “official line” to which Mr Donovan referred: see paragraph 292 above”.

297. If it had been left to the untrammelled judgment of the relevant editors, it would have been extraordinary if every single editor honestly believed that the story was not newsworthy. It was obviously of public interest. The interview had been a sensational success. The story that it had been secured by some form of deception was bound to be of general interest and not only because it concerned Princess Diana. There was a real public interest in an allegation that the BBC had not acted with the integrity for which it is renowned and in which it takes pride. As for transparency, in his autobiography *The Harder Path*, Lord Birt wrote<sup>194</sup>;

“Modern institutions in the end have to operate as the public would wish—and we did. And they have no choice any longer but to be completely transparent. There are no long-lasting secrets at the BBC.”

298. Even if *The Mail on Sunday* had been crusading on its own, that would have been sufficient to make the story one of legitimate public interest. The article of 7 April 1996 was detailed and appeared to be well-researched. But *The Mail on Sunday* was far from being a lone crusader. I have already referred to *The Sunday Times* and *The Independent* as well as

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<sup>193</sup> BBC Press Office Log dated 23 April 1996 (Annex 3, page 69)

<sup>194</sup> *The Harder Path* by Lord Birt, page 414



*The Mail*. Mr Donovan referred to there having been at least five newspapers which had covered the story.

299. Moreover, by late April the BBC had completed what purported to be a thorough internal investigation. It is true that I have criticised this investigation in my Report. But the BBC did not even mention the fact that the investigation had taken place, still less what its outcome was. Even the ineffective investigation that was undertaken revealed that Mr Bashir had commissioned the fake Waller bank statements and that he had shown them to Earl Spencer some time before the Princess Diana interview was aired. It had concluded that Mr Bashir had committed a serious breach of the BBC's Guidelines on straight dealing. These facts alone made the story newsworthy.
300. For the reasons that I have given, I am satisfied that the BBC covered up in its press logs such facts as it had been able to establish about how Mr Bashir secured the interview. I am not persuaded by the attempts that have been made in this Investigation to justify the evasive responses that were given to the questions by the press. The BBC should have answered these questions at the very latest once it had completed its investigation in April 1996 (paragraph 209 above). And there was no good reason not to mention the issue at all on any news programme. By failing to do so, the BBC fell short of the high standards of integrity and transparency which are its hallmark.
301. The documents that I have read and the oral testimony that I have heard do not enable me to make a finding as to who was responsible for deciding that the story should not be covered by the BBC and for issuing the "official line" to editors to which I have referred. It must have been someone from senior management, but I can't say who it was. I do not believe that it was Mr Hewlett, not least because he was the editor of *Panorama* and his writ did not run beyond this programme.
302. I have carefully considered the serious allegations of cover up that Mr Mangold has made against Mr Hewlett. As I have said, Mr Mangold acknowledges that he does not have proof of them. Indeed, no evidence has been placed before the Investigation that Mr Hewlett instigated or was

party to the cover up. In these circumstances and since in any event Mr Hewlett has not been able to answer the allegations, I find that they have not been established.

**I. CONCLUSIONS ON PARAGRAPHS 4 AND 5 OF MY TERMS OF REFERENCE**

303. By April 1996, when it purported to carry out a full investigation into the steps taken by Mr Bashir with a view to obtaining the interview, the BBC knew that (i) Mr Bashir had commissioned the fake Waller bank statements; (ii) he had shown them to Earl Spencer some time before Princess Diana agreed to the interview; and (iii) Princess Diana had said that Mr Bashir had not shown her any documents or given her any information of which she was not previously aware. The BBC was also aware that Mr Bashir had given various (not always consistent) accounts of what he had done. I have set these out in some detail above.

304. I have interpreted paragraph 5 of my Terms of Reference as asking: “having regard to what was known *and ought reasonably to have been discovered* at the time of its investigation” in 1995 and 1996, how effectively did the BBC investigate the circumstances leading to the interview?” I have added the words that I have italicised because I consider them necessarily to be implied. It would be pointless to investigate the effectiveness of the investigations carried out in December 1995 and March/April 1996 on the basis of what the BBC knew, but to disregard the facts that it would probably have discovered if it had carried out an effective investigation.

305. For the reasons set out in detail above, the investigations were not effective. I have criticised Mr Gardam somewhat for too readily accepting the truth of what Mr Bashir told him, but not otherwise (paragraphs 179 to 182 above). I consider that Mr Suter and Lord Hall should not have accepted the uncorroborated assertions of Mr Bashir and should have attempted to obtain Earl Spencer’s version of the events (paragraph 200 above). But by far the most serious failures were on the part of Lord Hall and Mrs Sloman (paragraphs 259 to 284 above). In reaching my conclusions, I have been conscious of the danger of being influenced by hindsight. I have, therefore,

taken great care to judge the investigations on the basis of what was known and what in my view ought reasonably to have been discovered *at the time of those investigations*.

306. I have also concluded that, without justification, the BBC (i) covered up in its press logs such facts as it had been able to establish about how Mr Bashir secured the interview (paragraphs 201 to 208 and 300 above); and (ii) failed to mention the issue at all on any news programme (paragraphs 291 to 300 above) and thereby fell short of the high standards of integrity and transparency which are its hallmark.

## **J. ISSUES THAT I HAVE NOT ADDRESSED IN THIS REPORT**

307. In the course of this Investigation, a number of issues have been raised by various individuals which I have not dealt with solely because I do not consider that they are within the scope of my Terms of Reference. I mention them here because I would not wish it to be thought that I have failed to deal with them because I have overlooked them. I am acutely conscious of the fact that the individuals who have raised these issues consider them to be very important. I understand why.

308. The first issue is whether Mr Bashir acted improperly in relation to the *Terry Venables* affair. I have touched on this at paragraphs 17 to 20 above. Mr Fielding of *The Mail on Sunday* believes that there are close links between the *Venables* story and the Princess Diana interview; and that Mr Bashir used similar techniques of document fabrication and deceit (for example, the same company, Penfolds) in both. Even taking a broad interpretation of my Terms of Reference (as I do), I have no doubt that they do not permit me to investigate the propriety of what Mr Bashir did in relation to the *Terry Venables* affair. The key paragraph of my Terms of Reference is paragraph 1. This asks what steps Mr Bashir took with a view to obtaining the interview with Princess Diana. The remaining four paragraphs are drafted by reference only to that interview and to nothing else.

309. The second issue concerns suspicions that have been expressed by Ms Pettifer (formerly Legge-Bourke) that Mr Bashir was the source of hurtful remarks that she says Princess Diana made to her in December 1995 (i.e. after the date of the interview). I do not need to go into any detail because I am satisfied that Princess Diana's alleged remarks played no part in securing the interview for Mr Bashir. The question of whether Mr Bashir made the alleged untruthful and unwarranted comments to Princess Diana clearly falls outside the scope of my Terms of Reference.
310. The third is why Mr Bashir was re-engaged by the BBC in 2016. Although it might be argued that this question is in some way related to my Terms of Reference, I do not consider that it is sufficiently closely related to them to justify my examining and reaching any conclusions on it. The BBC's investigations were completed twenty years before Mr Bashir was re-engaged.
311. The fourth is whether there was a culture at the BBC of hostility towards whistleblowers. In the Report, I have considered the reaction of Mr Hewlett and others to being told in November and December 1995 about Mr Wiessler's concerns. That clearly falls within my Terms of Reference. But I do not consider that the same applies to an unspecific allegation of a general culture of hostility.
312. The fifth is a number of points made by Mr Donovan of the *Sunday Times* such as (i) why Earl Spencer issued injunction proceedings against Mr Waller in 1994 and the outcome of these proceedings and (ii) whether Mr Waller sold information to the press; if so, what he was paid and if not, why he thinks Earl Spencer was so convinced that he did. I can see why a journalist would be interested in these questions, but in my view they clearly fall outside the scope of my Terms of Reference.

## **K. SUMMARY OF PRINCIPAL CONCLUSIONS**

313. For the reasons I have given at paragraphs 21 to 142, my answers to questions 1 to 3 of my Terms of Reference are:

- (i) Mr Bashir commissioned the fake Waller bank statements and showed them to Earl Spencer;
- (ii) Mr Bashir produced and showed the Jephson/Aylard bank statements to Earl Spencer which contained information that had probably been fabricated by Mr Bashir;
- (iii) he acted as described in (i) and (ii) so as to deceive Earl Spencer and induce him to arrange for Mr Bashir to meet Princess Diana;
- (iv) by gaining access to Princess Diana in this way, he was able to persuade her to agree to give the interview; and
- (v) by behaving as described in (i) and (ii), Mr Bashir acted inappropriately and in serious breach of the 1993 edition of the Producers' Guidelines on straight dealing.

314. I have dealt with questions 4 and 5 of my Terms of Reference separately in relation to the investigation by Mr Gardam and Mr Suter in December 1995, by Mr Suter on 28 March 1996 and by Lord Hall and Mrs Sloman in April 1996.

315. In December 1995, Mr Gardam and Mr Suter (i) knew that Mr Bashir had commissioned the fake Waller bank statements from Mr Wiessler (but did not know why he had done so or that he had shown them to Earl Spencer); and (ii) believed, on the basis of the Diana note, that Mr Bashir had not shown Princess Diana the statements or given her any information of which she was not previously aware.

316. I do not criticise Mr Gardam and Mr Suter for not seeking to obtain Earl Spencer's version of events, but I consider that they too readily accepted that Mr Bashir was telling the truth about the fake documents (paragraphs 180 to 182).

317. At the time of the interview of Mr Bashir on 28 March 1996, the BBC had the additional knowledge that Mr Bashir had shown the fake Waller statements to Earl Spencer and that he had previously lied about this. The

interim investigation (paragraphs 194 to 200) was ineffective for the reasons I set out at paragraph 200.

318. By the time of their meeting with Mr Bashir on 17 April 1996, Lord Hall and Mrs Sloman also knew that the press were asking searching questions about whether Earl Spencer had been questioned by the BBC; whether Mr Bashir intended to show the fake statements to Earl Spencer; and, if so, whether he was hoping to convince Earl Spencer that he was the right person to interview Princess Diana (paragraph 264).

319. For the reasons set out at paragraphs 264 to 284, the investigation conducted by Lord Hall and Mrs Sloman was flawed and woefully ineffective. I highlight two particular flaws. First, it was a serious error not to ask Earl Spencer for his version of the facts and find out what he had to say about the fake statements and what influence they had on him (paragraphs 266 to 276). If they had been able to test Mr Bashir's account by asking him to comment on Earl Spencer's detailed account, it is very unlikely that they would have believed him and concluded that he was an "honest and an honourable man".

320. Secondly, they did not scrutinise Mr Bashir's account with caution and the necessary degree of scepticism. They knew that he had lied three times on the centrally important question of whether he had shown the fake statements to Earl Spencer. And the fact that Mr Bashir had been unable to provide them with any credible explanation of why he had commissioned the statements should have caused them to have serious doubts as to whether he was being open and honest with them.

321. Without the benefit of hearing from Earl Spencer and without a credible explanation from Mr Bashir for what he had done and in the face of his serious and unexplained lies, Lord Hall could not reasonably have concluded that Mr Bashir was an honest and honourable man who had told the truth and he should not have done so.

322. I have also examined the question of whether the BBC covered up the investigations into how Mr Bashir secured the interview and the propriety of the methods that he employed. This is sufficiently closely related to

question 5 of my Terms of Reference that I have felt it right to examine it (paragraphs 201 to 208 and 288 to 300). The answers given by the BBC to specific questions by the press were evasive (paragraph 208). And by failing to mention on any news programme the fact that it had investigated what Mr Bashir had done and the outcome of the investigations, the BBC fell short of the high standards of integrity and transparency which are its hallmark (paragraph 300).

The Right Honourable Lord Dyson