

Annex 1

1. Letter of Appointment and Terms of Reference (Appendix 1)
2. Process Protocol (Appendix 2)



From the Director-General

19th November 2020

Lord Dyson
39 Essex Chambers
81 Chancery Lane
London
WC2A 1DD

By email: [REDACTED]

Dear Lord Dyson

This Letter of Appointment ("LoA") sets out the terms and conditions upon which you Lord Dyson have agreed to act as the Independent Investigator to carry out an independent investigation into the circumstances around the 1995 BBC Panorama Interview with Diana, Princess of Wales (the "Investigation"). This LoA will ensure that clear roles and responsibilities are in place to ensure the smooth running of your work and to ensure its independence and relates specifically to the sponsorship of the Investigation by the BBC.

The scope of the Investigation is set out in the Terms of Reference, which are included at Annex 1 to this LoA. The Terms of Reference have been set by you and approved by the BBC on the basis that these are the Terms of Reference which you consider appropriate.

A Introduction

1. The Investigation has been set up by the BBC Board to discharge the Terms of Reference. It is in the public interest for the Investigation to be conducted at all times in a way that is just and proportionate and in particular ensures:
 - a. The independence of yourself as Investigator in determining how to undertake your work in order to meet the Terms of Reference.
 - b. The thorough examination and consideration of the available evidence and the issues that you consider relevant to the Terms of Reference.

- c. The fair treatment of individuals connected with the subject matter of the Investigation and all other parties whose interests are affected by its work.
 - d. The Investigation reaches its conclusions with all due expedition in the light of the public interest in having an outcome known as soon as possible.
 - e. Having regard to the BBC's constitutional obligations to provide Value for Money, that the Investigation is conducted as efficiently and economically as possible.
2. None of the provisions in this LoA shall be read or applied in such a way as to derogate from or compromise these principles.
3. Your appropriate contact point at the BBC for all administrative matters, including funding of the investigation, will be [REDACTED] (the "Investigation Sponsor"). The role of the Investigation Sponsor is to ensure that you have the facilities and assistance you need to conduct the Investigation, and to brief the BBC on its logistical progress. The Investigation will be conducted according to the provisions of the agreed Process Protocol, which is included at Annex 2 to this LoA. The Investigation Sponsor will not be involved in advising the BBC in relation to its substantive response to the Investigation.
4. Your appropriate contact point at the BBC for all substantive matters in respect of the BBC's engagement with and response to you will be [REDACTED] (the "Investigation Respondent").
5. The Investigation Respondent will be responsible for advising the BBC in relation to how it responds to requests from you in respect of the substantive matters under investigation as set out in the Terms of Reference.
6. To assist both the BBC and yourself in ensuring licence payers' funds are spent appropriately and that appropriate financial controls are in place so as to enable you to fulfil the Terms of Reference in an efficient and expeditious manner, the Solicitors to the Investigation will agree with us on your behalf a budget for the Investigation.
7. Where you consider you will incur costs greater than those included in the agreed budget, the Solicitor to the Investigation on your behalf will give the Investigation Sponsor on behalf of the BBC 14 days' notice in advance of incurring any such additional expenditure so that an appropriate extension to the budget may be agreed.

8. The BBC will reimburse you in respect of all costs and expenses which you reasonably incur in conducting the Investigation. For the avoidance of doubt, this will include all the costs of Fieldfisher LLP ("Solicitors to the Investigation") incurred in accordance with the provisions set out above.
9. You may not incur any costs or expenses exceeding the budget agreed at any particular time without this being expressly agreed in writing in advance by the Investigation Sponsor. The Solicitors to the Investigation are responsible for monitoring expenditure against budget on your behalf.

B Responsibilities and Accountability

1. The Director General will make the appointment on behalf of the BBC Board. The Investigation Sponsor is accountable to the Director General for the funding and overall support given to you in your conduct of the investigation. The Investigation Sponsor's responsibilities include, on behalf of the BBC:
 - a. Arranging your appointment by the Director General;
 - b. Providing you with appropriate financial and other resources;
 - c. Making arrangements for the BBC to provide you with an indemnity in respect of all claims and all costs and expenses you reasonably incur in conducting and arising out of the Investigation;
 - d. Reporting to the Director General on the logistical progress of your work; and
 - e. Arranging for the Director General and Board to receive your Report(s).
2. You are responsible to the Investigation Sponsor on behalf of the BBC for conducting the Investigation. Your duties include:
 - a. Conducting the work necessary to discharge the Terms of Reference;
 - b. Ensuring high standards of probity and impartiality;
 - c. Conducting a process that is procedurally fair;
 - d. Collating and assessing the evidence you consider relevant to the Terms of Reference and presenting your findings and any recommendations to the Investigation Sponsor;

- e. In the event your appointment is terminated before the Investigation has concluded, you will arrange for all documents and other materials obtained or generated in the course of the Investigation (including work product) to be passed over to the Solicitors to the Investigation or their successor.
3. The Solicitors to the Investigation are appointed by and responsible to you for assisting and advising you in relation to the conduct of the Investigation. The Solicitors to the Investigation's duties include:
 - a. Providing you with legal advice on the fair conduct of the Investigation and any legal rights and obligations;
 - b. Correspondence on your behalf to seek documents and other information they require to fulfil the Terms of Reference;
 - c. Assisting you in providing reports on their logistical progress to the Investigation Sponsor;
 - d. Engaging with the BBC and others involved in the Investigation to assist them to understand what documents and information you require, any logistical difficulties involved and how they might best be obtained and resolved; and
 - e. Providing the support, advice and assistance you require in conducting the Representations Process (as set out in Paragraph G of the Process Protocol) and drafting your Report.
 - f. Preparing a Budget for your approval, presenting that Budget for the Investigation to the Investigating Sponsor for approval in a form that maintains the independence and confidentiality of the Investigation and providing updates on it so that costs are not incurred outside approved sums and providing timely updates on it so that costs are not incurred outside approved sums.
4. In the event you become incapacitated through ill health or you are unable to conclude the Investigation for any other reason before the Investigation has concluded, the Solicitors to the Investigation will arrange for all documents and other materials obtained or generated in the course of the Investigation (including work product) to be passed to your successor or upon request from the Investigation Sponsor, (and subject to appropriate arrangements to respect the confidentiality of the Investigation) to the BBC.

5. You and your agents will treat information provided to you in relation to the investigation as confidential except to the extent required for the purposes of carrying out the Investigation.

C Procurement

1. You are responsible for procuring the services you require to fulfil the Terms of Reference, for example transcription services and the Solicitors to the Investigation. In doing so, you must bear in mind the need for expedition in ensuring they can commence and conduct their work as swiftly as practicable, while also being able to demonstrate that value for money has been secured.
2. Through the Solicitors to the Investigation, you must ensure that any costs and expenses you incur falls within the budget agreed with the Investigation Sponsor. Where they consider that an increase in the budget is required to fulfil the Terms of Reference, they will write on your behalf seeking written authority from the Investigation Sponsor on behalf of the BBC before you incur any such expense. The BBC will not unreasonably refuse a request for any such increase.

D Data Protection

1. You will register as a data controller and comply with the requirements of the General Data Protection Regulation and the Data Protection Act 2018.

E Jurisdiction

1. This LoA will be governed by and construed in accordance with English law. Any disputes or claims arising shall be subject to the exclusive jurisdiction of the Courts of England and Wales to which you irrevocably submit.

F Fee

1. The BBC will pay you an hourly rate of [REDACTED] per hour subject to a cap of [REDACTED] per day.

Please confirm your acceptance of the terms and conditions of this LoA by signing and returning the enclosed duplicate.

Yours sincerely

[REDACTED]

Tim Davie

Director General

For and on behalf of the BBC

I confirm that I have read this letter and agree to its terms.

Signed: Rt Hon Lord Dyson ... [REDACTED]

Dated: 19. 11. 2020

Appendix 1-Terms of Reference

Appendix 2-Process Protocol



The Dyson Investigation

In November 1995, the BBC broadcast an episode of its investigative documentary series, Panorama, which included an interview with Diana, Princess of Wales.

On 18 November 2020 the Rt. Hon. Lord Dyson was appointed to lead an independent investigation into the circumstances around this interview. The investigation has started and will lead to the publication of a report.

The terms of reference for the independent investigation are as follows:

- What steps did the BBC and in particular Martin Bashir take with a view to obtaining the Panorama interview on 20 November 1995 with Diana, Princess of Wales? This will involve a consideration of all the relevant evidence including (i) the mocked up bank statements purporting to show payments to a former employee of Earl Spencer (ii) the purported payments to members of the Royal Households; and (iii) the other matters recently raised by Earl Spencer not limited to the matters published in the Daily Mail on 7 November 2020.
- Were those steps appropriate, having regard in particular to the BBC's editorial standards prevailing at the time?
- To what extent did the actions of the BBC and in particular Martin Bashir influence Diana, Princess of Wales's decision to give an interview?
- What knowledge did the BBC have in 1995 and 1996 of the relevant evidence referred to at paragraph 1 above?
- Having regard to what was known at the time of its investigation in 1995 and 1996, how effectively did the BBC investigate the circumstances leading to the interview?



Call for evidence

Lord Dyson wishes to hear from anyone with direct knowledge of the Panorama interview and the circumstances surrounding it.

If you were involved in these events and have any relevant information, please contact the investigation at dyson@fieldfisher.com



Independent Investigation – Process Protocol

A Introduction

1. Lord Dyson ('the Investigator') has been appointed by the BBC Board to carry out an independent investigation into the circumstances around the 1995 BBC Panorama Interview with Diana, Princess of Wales ('the Investigation').
2. The scope of the investigation is set out in the Terms of Reference, set out at Appendix 1 to this Process Protocol.

This Protocol has been agreed between the Investigator and the BBC. It sets out the procedures under which the investigation is to be carried out, bearing in mind that it is in the public interest for the Investigation to be conducted at all times in a way that ensures:

- (a) The independence of the Investigator in determining how to undertake the work in order to discharge the Terms of Reference.
- (b) The thorough examination and consideration of the available evidence and the issues that the Investigator considers relevant to the Terms of Reference.
- (c) The fair treatment of individuals connected with the subject matter of the Investigation and all other parties whose interests are affected by its work.
- (d) The Investigation reaches its conclusions with all due expedition in the light of the public interest in having an outcome known as soon as possible
- (e) Having regard to the BBC's constitutional obligations to provide Value for Money, that the Investigation is conducted as efficiently and economically as possible.

None of the provisions in this Process Protocol shall be read or applied in such a way as to derogate from or compromise these principles.

B Administrative matters

3. The appropriate contact point for the Investigator at the BBC for all administrative matters, including funding of the investigation, will be Glyn Isherwood ('the Investigation Sponsor'). The role of the Investigation Sponsor is to ensure that the Investigator has the facilities and assistance they need to conduct the Investigation, and to brief the BBC on its logistical progress. The Investigation Sponsor will not be involved in advising the BBC in relation to its substantive response to the Investigation.
4. The appropriate contact point for the Investigator at the BBC for all substantive matters in respect of the BBC's engagement with and response to the Investigator will be Sarah Jones (the "Investigation Respondent").
5. The Investigation Respondent will be responsible for advising the BBC in relation to how it responds to requests from the Investigator in respect of the substantive matters under investigation as set out in the Terms of Reference.
6. The Investigator has appointed Fieldfisher LLP to act as Solicitors to the Investigation. The Solicitors to the Investigation will be responsible for sending and receiving all correspondence on behalf of the Investigator (as well as assisting the Investigator with the investigation and advising them in relation to its conduct). Fieldfisher will accordingly set up a dedicated email inbox for communications relating to the investigation. The BBC or any other person wishing to correspond

with the Investigator in relation to the Investigation, should send that correspondence to this inbox which is Dyson@fieldfisher.com.

7. To facilitate the investigator in conducting the investigation, particularly in relation to requesting and obtaining relevant documents and information, the BBC will set up a dedicated email inbox for communications relating to the investigation. The Investigator will send all communication relating to the investigation to this inbox, as this will ensure that they are logged and actioned efficiently.

C Documents, other information and meetings

Documents: requests and production

8. The Investigator will send all requests for the production of relevant documents held by the BBC (to include documents and communications held both in hard copy and in electronic and digital form) to the email address referred to in paragraph B7 above.
9. Provided that the documents requested for production are within the BBC's power, custody or control, they will be provided to the Investigator either in hard copy or electronic form (via a secure IT route) as soon as possible. No such documents will be withheld from the Investigator save for any documents which may tend to identify confidential journalistic sources and which cannot be sufficiently redacted. For the avoidance of doubt, the BBC shall provide the Investigator with copies of documents only and not originals. Inspection of the original documents will be facilitated on reasonable notice to the BBC.
10. Where documents are not within the BBC's possession, custody or control the Investigator will (through his Solicitors) contact the relevant person to request the document direct.

General information requests and general explanations

11. Where the Investigator requires any other information and/or explanations from the BBC as to how it carries out its editorial functions and such a request falls within the scope of the Terms of Reference, the Investigator will send a request for this information to the email address referred to in paragraph B7 above.
12. The BBC will respond as soon as possible to any such request.
13. Where the Investigator requires any other information and/or explanations from any other person as to how it carries out its activities and such a request falls within the scope of the Terms of Reference, the Investigator will send (through his solicitors) a request to the person concerned.

Meetings with individuals

14. Where the Investigator wishes to meet with any individual currently or formerly employed by the BBC, or a current or former contractor with the BBC, s/he will notify the BBC of the individuals s/he wishes to meet (using the email address referred to in paragraph B7 above, attaching a letter for the BBC to pass on to that individual).
15. The BBC will endeavour to secure the attendance at a meeting of any identified individuals who are its current or former employees or contractors save that for the avoidance of doubt, the BBC has no powers to instruct attendance of its former employees and must be mindful of its duty of care as an employer.

16. Attendance by an individual at a meeting with the Investigator is voluntary in that the Investigator has no power to compel their attendance.
17. Any meetings with individuals other than those mentioned in paragraphs 14 and 15 above will be arranged by the Solicitors to the Investigation.
18. Meetings will, to the extent possible, be arranged at a mutually convenient time for the Investigator and the individual concerned.
19. At least 5 days prior to meeting any individual, the Investigator will give them a written outline of the topics which s/he wishes to cover in the meeting and a list of the principal documents which s/he wishes to make reference to during the meeting. Topic and document lists for current and former employees and contractors of the BBC should be sent to the email address referred to in paragraph B7 above. The BBC will pass them on as quickly as possible to the individuals concerned. The Investigator will send topic and documents lists for other to the individuals concerned direct.
20. The Investigator will take steps to ensure that meetings are recorded and that a transcript of each meeting is produced. The Investigator will endeavour to agree the contents of each transcript with the individual concerned.
21. The Investigator will ask questions during such meetings.. The Investigator may be assisted by the Solicitors to the Investigation, but the Solicitors will not ask questions. The Individual may be accompanied at the meeting by a single friend, colleague or legal representative. The role of any such friend, colleague or representative will be to assist and support the individual, not to answer questions or make legal submissions.

D Advice, support and legal representation

22. The Investigator has no power to determine the civil or criminal rights of any person and it is not necessary for those affected by its work to engage a legal representative. They may, however, do so if they wish although any legal representative's role will be to advise the individual concerned, not themselves to participate in the Investigation process.
23. The BBC will ensure that current staff are aware of the assistance and support available to them through the BBC's Employee Assistance Programme.

Third Party Assistance

24. The Investigator may contact third parties directly for assistance in relation to the investigation. The BBC will, to the extent that it is able to do so, facilitate such assistance if requested to do so by the Investigator.

E Escalation

25. The BBC is committed to providing the Investigator with assistance to facilitate their conduct of the investigation. However, if the Investigator considers that the BBC is not providing them with the cooperation or information that they reasonably require to fulfil their responsibilities, they may escalate the matter to the Director General.

F Legal Privilege and Data Protection

Privilege

26. It may be necessary for the BBC to provide the Investigator with information contained in contemporaneous records and documents from the period 1995 and 1996 that is subject to its legal

privilege. The BBC will not withhold contemporaneous documents or records from 1995 or 1996 from the Investigator on the grounds of legal privilege but, for the avoidance of doubt, the provision of such material to the Investigator is solely for the purposes of this Investigation, and does not constitute a more general waiver of privilege for any other purpose and/or in respect of any other documents.

27. The Investigator may refer to privileged documents in their Report, but the Investigation Sponsor will decide, after consulting the Investigator, whether to redact any material attracting its privilege contained in their report before the Representations Process (see below) begins and prior to the Investigator's Report being published. If the BBC considers that redaction is necessary, it will explain the reasons for this when the Report is published.

Data Protection

28. The Investigator will be responsible for collecting and exercising professional judgment over the processing of any documents which contain personal data during the course of the Investigation. They will accordingly register as a Data Controller with the Information Commissioner's Office.
29. Where the BBC provides documents in its possession, custody or control to the Investigator in accordance with paragraph 9 above, the BBC and the Investigator will be joint data controllers in respect of the personal data that they contain. Both the BBC and the Investigator will comply with their obligations in this respect under the General Data Protection Regulation and the Data Protection Act 2018. For the avoidance of doubt, the BBC considers that processing personal data by passing it to the Investigator is necessary for the performance of an employment contract and the legitimate interests pursued by the BBC in establishing the Investigation in the public interest.

G Representations Process

30. Where the Investigator is minded to criticise individuals, groups of individuals whose members are identifiable or organisations (including the BBC) in their Report, the Investigator will conduct a Representations Process.
31. This will involve the Investigator writing to such individuals, groups and organisations setting out the proposed criticism and providing them with a reasonable opportunity to make written representations in response.
32. The Investigator will consider any such Representations before concluding the Investigation and finalising their Report.
33. The BBC will assist the Investigator in ensuring that proposed criticisms are distributed in a timely fashion to any current or former employees and the Investigator will send any correspondence seeking such representations to the email inbox referred to in paragraph B7 above in password protected format. The Investigator will separately provide the password to the individual concerned or their legal representative if the individual requests this.
34. Where the Investigator is minded to criticise any other individuals, organisations or groups, they will write to those persons direct.
35. All proposed criticisms that the Investigator is minded to make, and Representations made in response, shall remain confidential as between the Investigator and the person to whom they are addressed. The recipient of any proposed criticisms may, however, share them with their legal representative. If the recipient of any proposed criticisms wishes to share these with any other person, they must first obtain the express written consent of the Investigator.

H Governance and reporting

36. The Investigator will provide monthly updates to the Investigation Sponsor on the logistical progress of the Investigation, but not in relation to matters of substance.
37. The Investigator will raise directly with the Investigation Sponsor any matter which they consider to be so urgent or important that it needs to be disclosed to him / her.

I Report

38. At the conclusion of the Investigation, the Investigator will provide their Report to the Investigation Sponsor.
39. The Investigation Sponsor will secure all necessary internal approvals to prepare for publication.
40. The BBC will arrange for the Investigator's Report to be published within a reasonable period. Insofar as it considers that any redactions need to be applied to the text prior to publication for legal reasons, it will first consult the Investigator. If it applies any such redactions, it will publish an explanation for these at the same time as publishing the Report

J Interim Report

41. Where the investigator considers it appropriate or necessary to issue an interim report, that Report will be subject to all aspects of this Protocol.