

## **BBC, PANORAMA & MARTIN BASHIR (Supplement 13 November 2020)**

Further to my complaint of 3 November, which I shall refer to as DH1, I would wish to supplement it in the light of subsequent events and further disclosures.

### **Summary.**

- The Director-General of the BBC now accepts that there should be *an independent and robust enquiry*.
- The position of the BBC has significantly altered. Initially they indicated that the matter had been sufficiently investigated in 1996.
- This shifted to saying that they would investigate if anything new was brought to their attention.
- Now the Director-General accepts that should be such an enquiry.
- There should be an independent enquiry, but it should not be regulated by the BBC themselves nor should the BBC set the terms of reference.
- The purpose of this document is to comment on the documents which the BBC eventually produced on 19 October 2020. Their disclosure is not complete and the documents have been significantly redacted. I can only comment on what I have seen and what is presently available.

### **Those advocating an independent enquiry.**

- It is reported in *The Times* of 11 November 2020 that Number 10 feels there should be an independent enquiry. (I have referred to a number of articles in the press. I am assuming that Ofcom have copies. I can provide them if requested.)
- This also appears to be the view of Lord Grade, a former chairman of the BBC. Lord Grade is quoted in the *Daily Mail* of 9 November as saying *My feeling is very, very strongly that there should be an urgent independent enquiry to get all the facts into the public domain about what happened in the same way as the BBC would be calling for an independent enquiry if they were looking at alleged misbehaviour by some government department or some business or other*. He also referred to *a very dark cloud hanging over the BBC*.
- Rosa Monckton, a close friend of Princess Diana and the wife of Dominic Lawson (see below) has spoken of Bashir's *jaw-dropping lies*. In her article in the *Daily Mail* of 9 November 2020 she writes *People ask why this matters 25 years on. It matters because this Panorama interview, dishonestly achieved, probably change the course of history*.
- Stuart Purvis, former editor in chief and chief executive of ITN, has stated that *the enquiry held by the BBC should have an independent element. There should be someone from an independent perspective*.

## Freedom of information response by the BBC

- I deal with this at DH1 pages 7–9
- For ease of reference, I attach the FOIA responses given by the BBC in 2007 together with the documents that were produced in October 2020.
- These answers, as pointed out in DH1 pages 11–12, were not true.
- One of the matters is how these answers came to be given. It is inherently unlikely, given the importance of the Panorama programme and the seniority of those involved and the fact that there had been a high-level enquiry in 1995–96, that someone in the FOIA office at the BBC gave these answers without proper enquiry.
- In July 2020 Andy Webb of Blink Films (the producers of the Channel 4 programme) renewed his 2007 FOIA request.
- The BBC initially relied on the journalistic exemption under Part 4, Schedule 1 FOIA 2000. This exemption had not been claimed in 2007, and it certainly is questionable whether it applied.
- Attached is the letter that the BBC sent to Andy Webb on 19 October 2020, which supplied 67 FOIA documents, while explaining the grounds of their earlier failure to supply the documents in response to his 2007 FOIA request. The BBC response came two days before the broadcast and, as he has pointed out in the *Sunday Times* of 8 November 2020, too late for the documents to be included in the film.
- The BBC's explanation for the incorrect answers given in 2007 was that they were based on *supposition rather than established fact*. They should, they said, *have taken steps to ascertain whether the relevant information had been supplied*. That, one might think, was after all the purpose of the FOIA.
- The enquiry should examine all the documentation relating to the FOIA requests and ensure that all the documentation relating to the programme is produced.
- I believe the normal Panorama procedure at the time was for personal assistants to maintain and preserve lever arch files for all documents relating to a particular programme. Have all these documents been produced?
- It will be seen that the BBC have declined to produce some of the documents on data protection grounds, pointing out that they could not get Bashir's permission due to his ill-health for them to be released. This seems unsatisfactory, given the passage of time and given, as appears from the BBC's statement at the end of the Channel 4 program, that it was stated - presumably on Bashir's instructions - that Bashir would not be making any comment in accordance with his practice over the last 25 years (DH1 page 13).

## Documents disclosed by the BBC

- Page 8 (of the 67 pages of documents produced on 19 October 2020) Tony Hall on 21 November 1995 refers to *the scoop of the decade*. This view seems to condition the approach of the BBC. On 20 November 1995 (page 16) Hall states that Bashir *won the interview through journalistic integrity*.
- Page 9 is the response which the BBC gave to the *Mail on Sunday* on 6 April 1996 in connection with an article published subsequently in the *Mail on Sunday* on 7 April 1996. By this time it had been known about the fake bank statements, as this had been reported almost immediately after the broadcast and seemingly was known to a number of senior people at Panorama including the Editor. This was also known to senior management at least by Christmas 1995 if not before. Press enquiries apparently were being made about the faked bank statements from, it would appear, March. There had been similar allegations against Bashir in relation to the Venables Panorama programme. Hall held an enquiry into the circumstances of the giving of the interview and the facts were, it seems, readily established about the fake bank statements and how they were made and how they were used. It seems reasonable to assume that the facts would have been investigated and determined at some time between the end of November 1995 and the beginning of April 1996. In any event the response to the *Mail on Sunday* contains statements which do not appear to be true. The BBC knew very soon after the broadcast about the fake bank statements and they obtained Bashir's admission as to how he had *mocked up* the bank statements and why, that he had shown them to Spencer and that this had led to his meeting with Princess Diana. It would be odd if the BBC did not establish the true position until after the *Mail on Sunday* article. It will need to be established what attempts were made to establish the truth from Bashir and who knew what and when.
- Page 9 shows that the BBC gave the *Mail on Sunday* the following statement:
- *the draft graphic reconstructions on which the story was based ... were set up in the early part of an investigation and were discarded, when some information could not be substantiated*. That was not correct, see the statement of Matt Wiessler and the admission that they were shown to Earl Spencer. and that they contained information created by Bashir who had used a fictitious company with a name strikingly similar to one used in names from his Terry Venables Panorama programme. The fake bank statements falsely purported to show that this company had allegedly made a payment of £6500 to Earl Spencer's former head of security with whom that company or the original Penfolds company had no link whatsoever.
- The statement to the *Mail on Sunday* also stated that *the draft graphic reconstructions 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.* This was not true, either. Bashir admitted to Hall, who had conducted the enquiry, showing the bank statements to Earl Spencer in connection with the Panorama programme. It was this that which led to his introduction to Princess Diana. One of the matters which the enquiry will have to establish is whether the true facts only became known after the Mail on Sunday article, notwithstanding everything that was unquestionably known prior to April 1996 and, if so, how this came about. If it had not been properly investigated, why was this so? Why were the erroneous statements not corrected till October 2020?

- Page 28 on 20 November 1995 there is Hall's account recording events of the period leading up to the Panorama interview with Princess Diana. This does not mention of the meeting with Spencer or the attempts to obtain the interview. There are amendments to that document but does not give the full story.
- Page 34 one has a detailed chronology seemingly prepared or approved by Hall sent to the Director-General John Birt.
- Page 38 one apparently has Birt correcting it in handwriting the chronology about the Princess agreeing to the interview. There is no mention of the meeting Bashir had with Spencer.
- Page 47 is the handwritten note on 22 April 1996 of John Birt to Hall *Obviously we need to be clear before BoG* (this appears to be a reference to the Board of Governors meeting on 25 April 1996) *about the matters we have been discussing*
- Pages 42–43 This is the undated Statement to Governors which appears to relate to April 1996 and appears to be the agreed narrative to be given to the Governors. By this time the Hall enquiry was seemingly complete and the *Mail on Sunday* article of 7 April 1996 had been published. One needs to see the unredacted document, how it came into existence and what use was made of it and who revised it.
- It is redacted in a crucial part, but it appears to place a certain amount of blame on Earl Spencer which clearly does not accord with the facts. Bashir is said to have *taken the information that he got from the highest level and made them into a graphic using the bank statement which Spencer had given him. He did it believing the information to be correct.*
- The suggestion is that Bashir *did it to put together a file of information he had gathered thus far in the investigation.* That is not correct as appears from DH1 page 7. The false bank statements were shown to Earl Spencer with the purpose of gaining access to Princess Diana. Furthermore, it would have known at this stage about the overnight creation of the documents and there being rushed to Heathrow airport.
- The use of a false name and the absence of any link between that company and the former head of security of Earl Spencer plus the circumstances of the creation of the fake bank statements contradict Bashir's explanation of

believing the information to be correct and having put it together as part of the file of information he had gathered that far in the investigation. The explanation about foolishly using a false name given to the Board of Management on 29 April 1996 as appears from page 64 is significantly different explanation and also false.

- Page 44. There are a number of statements which are not correct. Seemingly this document dates from April 1996 when the true facts must have been known.
- It is said that *the graphic had no part whatsoever in gaining the interview with the Princess of Wales. We also have her word for that.* I deal below with the question of whether or not there was a letter from the Princess. The fact was that the graphic was shown to Earl Spencer and it was this that gained the interview with the Princess of Wales
- On page 44 it was also stated that *We also have her word in writing for that.*
- It is not clear what use was actually made of the Statement to the Board of Governors. There is no mention of there being a letter or note from the Princess, but rather a somewhat ambiguous reference to *her word in writing.* That might have been a letter or note, but it could have been something else.
- One would have expected the existence of this *bombproof* letter to be flagged up. It would have been a key document in the enquiry into Bashir's behaviour. It would, however, have led to demands by the Board of Governors to produce the letter and that would have led enquiries as to the background to that letter – quite possibly with the potential consequences described by Dominic Lawson. If this statement was shown to the Board of Governors, they do not seem to have picked up on there being such a letter, if there was one.
- The letter does not get recorded in any chronology or record of events.
- At page 62 it is said to the Board of Management on 15 April 1996 that *the Princess of Wales had confirmed that the documents had played no part in her decision to give an interview.* Again, there is no mention of there being a letter. The confirmation could have been verbal and I repeat the points set out above as to why the existence of the letter was not flagged up.
- It is also stated on page 44 that *the information turned out to be false.* That is misleading. In fact, it was known to be false from the outset, see page 64. It is said on page 44 that *Bashir did this without thinking and that he was an honest and honourable man.* At this stage in the investigation in April 1996, it is difficult to see how anyone could have formed the view other than that Bashir was a calculating and, many would think, a dishonest individual. It should also be born in mind that the BBC were already investigating not dissimilar allegations in relation to the authenticity of documents used by Bashir in the earlier Panorama programme about Terry Venables, to which reference is made in some of the documents e.g. page 62. The impression one gets from the documents is that the BBC were determined to exonerate Bashir. The

extraordinary feature of the Hall investigation is that he does not appear to have attempted to interview Spencer or Wiessler.

- Page 46. It will be seen that blame is placed on Wiessler at a time when it must have been clear that it rested principally on the award-winning Martin Bashir.
- Among the matters which the enquiry may well want to look are the dates on which Wiessler says he produced these graphics, his description of how his flat was burgled in December 1995 which he says occurred when he was due to meet someone from the BBC who did not turn up and that this was the only burglary at his flat and his disks marked BASH 1 and BASH 2 were stolen and likewise his interaction with and payment by the *Mail on Sunday* leading up to their article of 7 April 1996
- Page 47 is John Birt writing to Tony Hall saying *they needed to discuss matters before BoG (see above)*.
- Pages 49–57 (which are heavily redacted) In the event it does not appear that the Board of Governors were told very much about the circumstances in which the interview was obtained. The account on page 57 does not mention Earl Spencer. There is a considerable amount of redacted material which may cast further light on the matter. Much of what one sees is about the awards which the programme and Bashir won. The background, as it appears from Richard Lindley's book *Panorama: 50 Years of Pride and Paranoia*, suggests that these events may have been influenced by the personal acrimony that existed between John Birt and the Chairman of the Board of Governors, Marmaduke Hussey. I attach the relevant extract.
- Pages 59–60 from minutes of the Board of Management on 4 December 1995 one has some heavily redacted report of events surrounding the interview There is apparently no mention of Earl Spencer. It is said that *there was no intermediary*. However, the approach Bashir took of showing the fake bank statements to Spencer to secure an introduction through him to the Princess would mean that Bashir had made Spencer an intermediary.
- Page 62. Again, this (Management Board minutes 14 April 1996) is heavily redacted and I can only comment on what the BBC has disclosed. I refer to what is said above about these circumstances in which the graphics were created and used. Likewise, I refer to what I have said elsewhere about what is said about the confirmation from the Princess of Wales. There is no mention of the approach to Earl Spencer. By that time Bashir had seemingly admitted that he had shown the fake documents to Earl Spencer and the investigation into the circumstances in which they had been created was complete by April 1996,
- Pages 63–64 A fuller but no more candid account is set out in the minutes of the BBC Management Board of 29 April 1996. It is there stated that Bashir had *foolishly put a false name on the graphic*. However, this is a misleading account insofar as on page 64 it is said that *Bashir had not revealed the information to*

anyone outside the close circle his informant (sic) Tony Hall was certain that there was no question of Bashir trying to mislead or do anything improper with the document and that it had played no part in the Princess' decision to give an interview to Panorama. Tony Hall had concluded that Bashir was an honest man deeply remorseful about an action which had been incautious. Given that by this time Bashir had admitted that he had shown the false bank statement to Spencer, it is difficult to see how was someone who had conducted the investigation into all the circumstances could conclude other than that Bashir was indeed trying to mislead and was using the documents improperly. Equally the fake documents clearly did play a crucial part in the Princess of Wales decision to give an interview to give an interview to Panorama, as they secured the introduction which Bashir otherwise would never have got.

- The fact that the Princess as at 5 November 1995 wanted to give the interview and to inform people about the position in which she found herself does not expunge the original deceit of Earl Spencer or excuse the lies that were apparently told to him and her to secure the interview and to pander to her fears. The BBC and their employee had no business creating a tissue of lies- described in the *Daily Mail* as *32 smears* - to achieve their ends. The obligation on the BBC was to approach her in an honest and straightforward manner and to give her a proper opportunity of giving an informed consent to the interview. This clearly was not done and it does appear to have had very unfortunate consequences. Equally if, as I have made clear, the approach had been made in a proper manner, there could be no objection to her giving the interview and the content of the interview.

### **The letter from Princess Diana**

- I refer to DH1 page 9 and what is said in this document about how the issue was dealt with at various board meetings and how it was never spelt out in terms that such a letter existed
- I would draw your attention to the article in the *Daily Mail* of 9 November 1995 by Dominic Lawson, the former editor of the *Sunday Telegraph*, where he refers to that letter as the BBC's *get out of jail card*. He suggests that *Hall was protecting his boss the BBC Director-General John, now Lord, Birt who the BBC's chairman, Marmaduke Hussey, tried unsuccessfully to get fired*. Lawson comments that *had Hussey and the rest of the board been properly informed about what lies and chicanery had been involved in getting Diana to do the interview with Bashir, Birt would most definitely have been fired*.
- In this regard it should be noted that in this article Lawson says that the princess volunteered to his wife Rosa Monckton that *she regretted giving the Panorama interview* and she, Rosa Monckton, has written to the same effect..

- Lawson summarise Bashir's conduct as *poisoning the Princess' mind with concocted tales of nefarious plots*, referring to one such allegation as a *disgusting assertion*.
- Lawson also notes that the BBC film on the 10th anniversary of the Panorama interview *gives not the slightest indication about what was already known about the forged bank statements the presenter had used to lure in his prey*.
- The enquiry will need to look at the issue of the letter. There seem to be a number of issues which arise:
  - (1) Was there in fact such a letter?
  - (2) If so, who asked the Princess to provide it, given that it is the BBC's case that she was not shown the documents which she is said to be confirming did not influence her?
  - (3) Who received the letter and to whom was it shown and when?
  - (4) Why was it not filed with the other documents and why was it not copied?
  - (5) Why are there no documents which say in terms (as to which see above) that the BBC had a letter from Princess Diana which states that she was not influenced by the (fake) documents. This would have then been apparent to the Board of Management and the facts would have been clearly established and investigated as appropriate. Given the documents that were produced and the enquiry which took place into what was a serious act of wrongdoing, one would have expected to see some form of chronology or recital of events saying that such a letter had been received, when and by whom.
  - (6) What exactly did this letter say and were there are things in the letter (if it existed) which people at the BBC did not wish the Board of Management to see?
  - (7) If the letter did exist, what is the evidence that it was indeed written by the Princess or was it itself a forgery?
  - (8) Alternatively, does the evidence show that there was in fact no such letter, given that it was not produced in the 1995–96 enquiry and given the response to the 2007 FOIA enquiry denying the existence of any such correspondence and the fact that it has seemingly disappeared. Lindley's book published in 2002 had written about the alleged letter sent by the Princess. Presumably this was the correspondence Andy Webb was seeking in his 2007 FOIA request. The BBC categorically denied there was any such correspondence, just as they denied there were any notes about the making of the programme or the enquiry into the programme. It was not said that there had been correspondence but it had been lost.

### **Form of enquiry.**

- The BBC now accept the need for an independent enquiry. I would ask that this enquiry is organised and supervised by Ofcom, even if it is paid for by the BBC.



- I would also suggest that, should they so wish it, Earl Spencer and Matt Wiessler should at the expense of the BBC be permitted to have Counsel at the enquiry and to question the witnesses
- With the Pollard/Savile enquiry, the enquiry was, it would appear, organised by the BBC's external lawyers.
- The difference from the Savile enquiry is that it concerned the BBC's interaction with the wrongdoer and such issues as to whether the BBC should have picked up on Savile's wrongdoing at an earlier stage and generally how they handled their dealings with Savile. There was no question of any BBC involvement in the acts of wrongdoing by Savile.
- Here the position appears very different in that it would seem that the wrongdoing begins and ends with the BBC itself. Among the main issues will be who at very high levels of the BBC knew what and when, the extent of the knowledge of two former Director-Generals, whether the truth was concealed from the Board of Governors and whether persons at high level have knowingly made statements that are not true.
- There appears to have been a striking failure of corporate governance at the BBC.
- The enquiry should retain a firm of lawyers completely unconnected with the BBC, leaving the BBC's external lawyers to advise the BBC rather than the enquiry. The boundaries for matters such as the extent of legal privilege and matters such as setting the terms of reference of the enquiry. and deciding on witnesses would be clearer for an independent firm rather than any firm of external lawyers who act for the BBC, particularly as, given the fact that these events stretch over many years, there would be a danger of conflicts of interest arising unless entirely independent lawyers are used.

13 November 2020