

PHONE HACKING – HOW THE CRIMINAL CHARGES AFFECT THE CIVIL CLAIMS



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It was announced earlier this week that eight people are to face criminal charges relating to phone hacking. One of the questions this poses is the extent to which such criminal proceedings may affect existing and future civil proceedings brought by victims of phone hacking. According to the Crown Prosecution Service, there may be up to six hundred victims so this may be of some importance.

There is, of course, nothing in principle to prevent civil proceedings being commenced or continuing against those alleged to have carried out or been involved in the hacking. However, the courts and more especially the parties involved in those civil proceedings will need to be astute to ensure that they do nothing which could be said to risk prejudicing the criminal trials – a failure in this regard risks being held in contempt under the Contempt of Court Act 1981. Clearly, any publicity about the civil proceedings would have to be very carefully managed.

For civil claimants, the criminal proceedings may well be of considerable interest. Information is likely to come to light which will help them in their civil claim by revealing the extent of the phone hacking activities and the identities of those involved. This will allow claims to be better targeted and should save time and costs. Further, if any of the defendants was to plead guilty (as Glenn Mulcaire did back in 2007) or be found guilty, then under s.11 Civil Evidence Act 1968 the fact of that conviction would be admissible in the civil proceedings for the purpose of proving that he committed the offence – effectively reversing the burden of proof in the civil proceedings in relation to the facts giving rise to the conviction.

If you would like to speak to someone about this news release, please contact:

Nicholas Caddick QC: NCaddick@hogarthchambers.com or

Briget Harrison, Chambers' Director: BHarrison@hogarthchambers.com

or call Hogarth Chambers on **+44 (0)207 404 0404**

www.hogarthchambers.com

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