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URGENT - *By fax & by post*

13 July 2005

Dear Sirs,

LETTER BEFORE CLAIM

Mr Andrew Wood – Campaign Against Arms Trade

Liberty is instructed by **Mr Andrew Wood** of 109 Hurst Street, Oxford, OX4 1HE. Mr Wood is currently unemployed, but was formerly an employee of **Campaign Against Arms Trade (“CAAT”)**, a campaigning coalition of groups within the UK working for the reduction and ultimate abolition of the international arms trade, together with progressive demilitarisation within arms-producing countries. CAAT is a peaceful organisation established by Quakers. It has no history of violence or disorder and does not advocate any such methods for getting its message across.

Liberty are currently advising Mr Wood on his position under English law, and in particular under the Human Rights Act 1998, in relation to the conduct of several Metropolitan Police officers in central London on Wednesday 27 April 2005 (explained in some detail below).

The conduct in question has already been brought to your attention in a letter of complaint sent by Ms Ann Feltham of CAAT on 28 April 2005 (copy attached), and in letters sent by me on 1 June 2005 and 15 June 2005 requesting specific information (copies attached). It was hoped that a suitable response to my letters would be received in advance of this letter before claim being sent. Unfortunately, despite repeated requests, I am still yet to receive any such reply and have little choice but to take these steps.

The Facts

On 27 April 2005 Reed Elsevier plc (“Reed”), the parent company of Spearhead Exhibitions Ltd, held its Annual General Meeting (“AGM”) at the Millennium Hotel in Grosvenor Square, London W1. Spearhead Exhibitions Ltd (“Spearhead”) organises the Ministry of Defence sponsored Defence Systems Equipment International arms fair, which is due to take place in London’s Docklands later this year.

In advance of the meeting, certain individuals associated with CAAT had bought a small number of single shares in Reed Elsevier plc so that they would be able to attend the AGM and ask questions about the activities of Spearhead. Mr Wood was at that time an employee of CAAT and had bought a single share for this purpose.

On the day of the meeting approximately 6 individuals representing CAAT arrived in Grosvenor Square for the AGM. A few other people also attended to object to Reed’s involvement in the arms trade. Two individuals (one a CAAT member and one not) stood and gave out leaflets to those entering the AGM and passing by, one at the entrance to the Millennium Hotel and another across the road. The other CAAT members, including Mr Wood, were holders of shares in Reed Elsevier plc and entered the hotel for the AGM. The meeting was sparsely attended, with no more than 100 people there. Mr Wood estimates that the shareholders only outnumbered the directors by about 3 to 1.

At the appropriate point in the meeting, Mr Wood asked a question about the activities of Spearhead. Mr Wood waited his turn, directed his question to the chair and asked it in an entirely measured and civil manner. The only disruption of any sort during the AGM was caused by two individuals not associated with CAAT and with whom Mr Wood had no contact whatsoever. They chanted some slogans at the Reed board until they were removed by security.

Prior to and during the meeting there was a significant police presence in Grosvenor Square. The only individuals who could be said to be ‘protesting’ outside the AGM in any way were the two people distributing leaflets (who had obtained prior agreement from the police to do so).

Mr Wood and another CAAT employee left the AGM immediately after it was closed, while most other shareholders remained in the building for a reception. As he stood in the entrance way of the hotel Mr Wood saw a police officer emerge from a police vehicle and begin photographing him with a wide angle lens camera. The officer was standing only a few metres away from Mr Wood at this time and clearly targeting him and his associate. The camera also appeared to have a small video camera attached to it, although Mr Wood could not tell if this was being used. Mr Wood felt intimidated by being photographed and tried to turn away from the photographer.

Mr Wood and his associate then left the vicinity of the hotel, crossing the square and heading out by a side street. In this side street a police vehicle drew up beside them. Around four officers exited the vehicle and stood around the two men. They asked them questions about their identity. While being questioned, Mr Wood believes that another police officer may have been present continuing to photograph them. This was an extremely intimidating experience for Mr Wood and he felt uncomfortable to the point of being frightened throughout. Nevertheless he chose not to give his identity, pointing out to the officers that he had done nothing wrong.

Mr Wood then walked away calmly with his associate. They were followed by the police officers all the way into Bond Street underground station, where the two men descended to get a train.

Mr Wood has since learned that 6 other members of CAAT were also photographed repeatedly by the police after they left the Reed AGM.

The Law

Article 8 of the European Convention on Human Rights (the “Convention”) guarantees the right to respect for one’s private and family life, home and correspondence and reads as follows:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 10 of the Convention guarantees the right to freedom of expression and reads as follows:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11 of the Convention protects the right to freedom of assembly and reads as follows:

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State

The European Court of Human Rights has held, in cases such as *Christians against Racism and Fascism v United Kingdom* 21 DR 148 (1980) and more recently *Steel v United Kingdom*

(1998) 28 EHRR 603, that the rights guaranteed by Articles 10 and 11 include the right to engage in peaceful protest.

Section 6 of the Human Rights Act 1998 (“HRA”) states that it is unlawful for a public authority to act in a way which is incompatible with a Convention right. Section 7 HRA gives a victim of a public authority’s breach of a Convention right a cause of action against that authority.

The Complaint

The subject of our client’s complaint is the unnecessary and intimidating photographing of him by Metropolitan Police officers as he left the Reed AGM on 27 April 2005. This photographing by a public authority interfered with Mr Wood’s rights under Articles 8, 10 & 11 of the Convention.

Article 8

Mr Wood believes that taking his photograph, and also keeping a copy of that photograph, without his consent constitutes an interference with his right to respect for his privacy, guaranteed by Article 8. Even if this is not accepted, it is maintained that if any action was taken to identify Mr Wood from his photograph, or if the photograph was taken in light of a prior identification of Mr Wood by the Metropolitan Police or other public authority, then this amounts to an interference with Mr Wood’s Article 8 rights (see the European Commission of Human Rights Report on Application No. 15225/89 – *Friedl v Austria*).

As the Metropolitan Police have failed to respond to my letter of enquiry dated 1 June 2005 it is not clear what was done with the photographic images taken of my client. We have assumed that the photographs were taken with the intention of identifying Mr Wood. It is not clear what ‘benefit’ could otherwise possibly be gained from taking photographs of an individual leaving a meeting.

Article 8(2) allows for public authorities to interfere with the right to respect for an individual’s private life where that interference is “in accordance with the law”, for one of a set of legitimate aims and “necessary in a democratic society”.

Article 8(2) does not assist the Metropolitan Police in this instance. While there do appear to be ‘Standard Operating Procedures’ relating to the use of ‘overt filming and photography’, these do not appear to be publicly available. I would remind you that being “in accordance with the law” includes the requirements of accessibility and foreseeability.

Furthermore, it is doubtful whether the photographing of Mr Wood was undertaken for any of the legitimate aims set out in Article 8(2) (above). While it may be claimed that the photography was intended to assist in preventing crime and disorder or protecting the rights and freedoms of others, it is unclear how taking pictures of a man walking away from a meeting which he was perfectly entitled to attend, and at which he had done nothing more than exercise his rights as a shareholder, could possibly assist in achieving either of these aims. Even if Mr Wood was being photographed due to his association with CAAT (which would imply prior identification), it should be recalled that CAAT is a peaceful organisation with Quaker origins which is not associated with crime or disorder.

Even if the interference is considered to be both in accordance with the law and to have been carried out for a legitimate purpose, it cannot be seen as “necessary in a democratic society”. It was not necessary for the police to take photographs of Mr Wood for the following reasons:

- a) He was *leaving* a meeting at which little disruption had taken place, and none which had anything to do with him.
- b) At the meeting Mr Wood had done nothing more than exercise his rights as a shareholder to ask a single question. He did this at the appropriate time and in the appropriate way.
- c) Mr Wood is of good character and has no history of violence or disorder.
- d) CAAT are a peaceful organisation who are not associated with, and do not advocate, violence or disorder.
- e) The number of ‘protesters’ present at the AGM was very low and there was no indication that there was likely to be any trouble, particularly after the meeting had concluded.
- f) Close-up photographing of an individual cannot in any way assist in assessing a situation such as a protest, even if there was one that needed policing.

Articles 10 & 11

In addition, the photographing of Mr Wood constituted an interference with his right to peaceful protest, as guaranteed by Articles 10 & 11 of the Convention. The intimidation and discomfort experienced by Mr Wood could have been enough to dissuade him from engaging in legitimate political protest, such as that involved in asking a question at the Reed AGM.

The case of *Steel v UK* (1998) 28 EHRR 603 established that threatening to arrest non-violent political protestors can have a “chilling effect” on their exercise of Article 10 and 11 rights (*Steel v UK* (1998) 28 EHRR 603). It is maintained that the use of intimidatory photography by the police can have the same effect. Not only does it constitute an invasion of privacy (see above), it can also give rise in the individual subjected to the photography to a feeling that he or she is being targeted by the police and that he/she would be targeted again if he/she were to

participate in further peaceful protest. Individuals will also be dissuaded from participating in legitimate, peaceful protest if they feel that the police are establishing a 'file' on them.

Mr Woods experienced all of these feelings during the incident in question. He also felt that on this occasion the photography was being used deliberately to intimidate him and his associate as they left the AGM.

While both Article 10 and Article 11 of the Convention are qualified rights and allow for interference by public authorities where justified, the circumstances of this case do not come within the 10(2) and 11(2) exceptions, for the reasons set out above in relation to Article 8. It should be noted that if the photographs were taken without any intention of identifying the subject of them, it is even less likely that any justification could be put forward.

Action to be taken by the Metropolitan Police

On behalf of Mr Wood, I would ask that the Metropolitan Police acknowledge that the use of photography against him was unlawful in that it involved a disproportionate interference with his rights under Articles 8, 10 and 11 of the European Convention on Human Rights.

In addition it is asked that the Metropolitan Police take steps to prevent the intimidatory use of photography against legitimate peaceful protesters.

Further information sought

In my letter dated 1 June 2005 I requested answers to a series of questions relating to the incident in Grosvenor Square on 27 April 2005. None of those questions have been answered, despite my best efforts to chase up my letter with the Commissioner's office. My only response has been a letter received on 11 July 2005 from the department that deals with Freedom of Information Act requests telling me that my request for information would *now* be considered!

I therefore ask again for answers to the following questions:

1. Why did the Metropolitan Police officer take photographs of Mr Wood and his associate as he left the AGM?
2. Why did an officer take further photographs while they were in the side street?
3. Why did Metropolitan Police also take photographs of 6 other members of CAAT as they left the AGM and crossed Grosvenor Square?

4. Were the photographs taken used to establish the identities of those photographed, or matched against previously recorded identification?
5. Have the photographs taken on 27 April been retained by the Metropolitan Police Service?
6. If they have been retained, for what purpose are they being stored?

I would also repeat my request for disclosure of the relevant 'Standard Operating Procedures' relating to the use of 'Overt Filming/Photography'.

Finally, I request disclosure of all information held by the police which relates to Mr Woods and the events surrounding the Reed AGM.

Timing and Contact details

Please send a reply to this letter before claim to Liberty at the above address, quoting our reference.

Unfortunately, due to impending judicial review time limits it must be requested that you provide a response to this letter before claim within 7 days (i.e. by *Wednesday 20 July 2005*).

This need for a prompt response is principally due to the failure to respond to my letter dated 1 June 2005.

If a letter is not received within this time conceding that your actions were unlawful, Liberty will issue judicial review proceedings in the High Court under s7(1)(a) of the Human Rights Act 1998.

Yours sincerely,

Alex Gask
Solicitor
Liberty