The Government's Response to the Culture, Media and Sport Select Committee on Press Standards, Privacy and Libel

Presented to Parliament by the
Secretary of State for Culture, Media and Sport
by Command of Her Majesty
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THE GOVERNMENT'S RESPONSE TO THE CULTURE, MEDIA AND SPORT SELECT COMMITTEE ON 'PRESS STANDARDS, PRIVACY AND LIBEL'

Introduction

1.1 We are grateful to the Committee for their carefully considered report and we continue to believe that the press benefits enormously from this sort of periodic scrutiny of their behaviour. It enables the press to understand properly that they do not act in a vacuum, and that their behaviour will be examined in great detail in a high profile setting.

1.2 The recommendations and commentary spanned many parts of Government, and a great many of the recommendations raise highly detailed and technical issues. We have given these careful consideration and our responses reflect that.

1.3 The paragraph numbers given at the end of each recommendation are those used by the Select Committee in their report.

Privacy and Breach of Confidence

2.1 We understand that the refusal by a court to grant an injunction does not necessarily mean the defendant can publish straightaway: if the claimant appeals the decision, then the Court of Appeal has to hold the ring, pending the outcome of that appeal. That said, it seems to us wrong that once an interim injunction has been either refused or granted in cases involving the Convention right to freedom of expression a final decision should be unduly delayed. Such delay may give an unfair advantage to the applicant for the injunction as newspapers often rely on the currency of their articles. We recommend that the Ministry of Justice should seek to develop a fast-track appeal system where interim injunctions are concerned, in order to minimise the impact of delay on the media and the costs of a case, while at the same time taking account of the entitlement of the individual claimant seeking the protection of the courts. (Paragraph 32)

2.2 The current system allows for the urgent consideration of appeals in all civil cases, including those where freedom of expression is concerned. As in all civil proceedings it is for the parties to request that an appeal be dealt with according to the expedited process. Where necessary applications can be turned around very quickly and if ordered a court can be convened even on the same day. The decision as to whether a case will be heard urgently depends on the facts of the case in question, allowing the flexibility to deal with circumstances which may vary widely.

2.3 The Government's view is that the court is best placed to assess the case before it, and to list it for hearing at an appropriate time, expedited as necessary, taking into account the specific circumstances of that case.

2.4 Without appropriate data on injunctions we are unable to come to definitive conclusions about the operation of section 12 of the Human Rights Act, nor do we believe that the Ministry of Justice can effectively assess its impact. We recommend that the Lord Chancellor, Lord Chief Justice and the courts should rectify the serious deficiency in gathering data on injunctions and should commission research on the operation of section 12 as soon as possible. (Paragraph 37)

2.5 We do not overlook the fact that, in *Cream Holdings v Bannerjee*, the House of Lords held that the effect of section 12(3) of the Human Rights Act was that, in general, no injunction should be granted in proceedings where Article 10 was engaged unless the claimant satisfied the court that he or she was more likely than not to succeed at trial. Although there is little statistical evidence available, we are nevertheless concerned at the anecdotal evidence we

have received on this matter. Section 12 of the Human Rights Act is fundamental in protecting the freedom of the press. It is essential that this is recognised by the Courts. (Paragraph 38)

2.6 Section 12 of the Human Rights Act 1998 reflects Parliament's desire to underline importance of freedom of expression and the protection afforded to it by the common law. However, section 12 does not change the balance between Article 8 (privacy) and Article 10 (freedom of expression), which remains a matter for the courts on a case by case basis. The Government continues to believe that a decision by a court, based on the individual facts of the case is the best way to resolve potential tensions between privacy and freedom of expression. Freedom of expression has traditionally held a special position in our common law and continues to do so today. The Government believes strongly in freedom of expression and in the benefits of a free press to a democratic society. Section 12 emphasises that the traditional importance with which freedom of expression is regarded in this country, means that the courts should have "particular regard" to it when considering granting an injunction which would impact on the respondent's right to freedom of expression, particularly in the respondent's absence.

2.7 The Government understands the argument in favour of collecting additional data on injunctions, but needs to consider this recommendation further, including taking into account the costs that would be involved in collecting this data.

2.8 It is entirely understandable, as news and gossip spread fast, that parties bringing privacy (and confidence) cases may wish to bind the press in its entirety, not just a single enquiring publication. On the face of it, however, this appears contrary to the intention behind section 12, if the press has not been given proper notice and opportunity to contest an injunction. We recommend, therefore, that the Lord Chancellor and Lord Chief Justice also closely review these practices. (Paragraph 39)

2.9 The Government understands the concerns which have been expressed by the Select Committee and others regarding the press being giving proper notice of an application for an injunction and a chance to contest it where they wish to do so in order to give the judge the benefit of argument from both sides. At stake are the important values of open justice, freedom of speech of the press and the privacy of individuals.

2.10 Senior officials at the Ministry of Justice have met with representatives of the press in order to ensure that the Government has a full appreciation of their concerns. There have also been a number of discussions between the Lord Chancellor, his officials and senior members of the judiciary.

2.11 As a result of those discussions and the Select Committee's recommendations, the Master of the Rolls has now set up a committee to examine these and other issues relating to the use of injunctions which bind the press, including super-injunctions, and in particular in relation to the issues of notice of applications and service of papers on those press organisations who are to be bound by such injunctions. As the concerns are largely procedural in nature, it is appropriate for the judiciary to take a lead role in this matter.

2.12 The committee, which the Master of the Rolls will chair, will contain both claimant and defendant representatives to ensure that a balance of views is obtained; as well as senior members of the judiciary including Lord Justice Moore-Bick, Deputy Head of Civil Justice, and Mr Justice Tugendhat. The committee is meeting with a view to producing evidence-based recommendations for any necessary changes to the Civil Procedure Rules and Practice Directions to ensure that these issues are addressed. It is hoped that the committee will report in May.

2.13 The Human Rights Act has only been in force for nine years and inevitably the number of judgments involving freedom of expression and privacy is limited. We agree with the Lord Chancellor that law relating to privacy will become clearer as more cases are decided by the courts. On balance we recognise that this may take some considerable time. We note, however, that the media industry itself is not united on the desirability, or otherwise, of privacy

legislation, or how it might be drafted. Given the infinitely different circumstances which can arise in different cases, and the obligations of the Human Rights Act, judges would inevitably still exercise wide discretion. We conclude, therefore, that for now matters relating to privacy should continue to be determined according to common law, and the flexibility that permits, rather than set down in statute. (Paragraph 67)

2.14 The Government welcomes and shares the Select Committee's view that there is no need to put the law of privacy on a statutory basis.

2.15 Clearly pre-notification, in the form of giving opportunity to comment, is the norm across the industry. Nevertheless we were surprised to learn that the PCC does not provide any guidance on pre-notification. Giving subjects of articles the opportunity to comment is often crucial to fair and balanced reporting, and there needs to be explicit provision in the PCC Code itself. (Paragraph 91)

2.16 We recommend that the PCC should amend the Code to include a requirement that journalists should normally notify the subject of their articles prior to publication, subject to a "public interest" test, and should provide guidance for journalists and editors on pre-notifying in the Editors' Codebook. (Paragraph 92)

2.17 We have concluded that a legal or unconditional requirement to pre-notify would be ineffective, due to what we accept is the need for a "public interest" exception. Instead we believe that it would be appropriate to encourage editors and journalists to notify in advance the subject of a critical story or report by permitting courts to take account of any failure to notify when assessing damages in any subsequent proceedings for breach of Article 8. We therefore recommend that the Ministry of Justice should amend the Civil Procedure Rules to make failure to pre-notify an aggravating factor in assessing damages in a breach of Article 8. We further suggest that amendment to the Rules should stipulate that no entitlement to aggravated damages arises in cases where there is a public interest in the release of that private information. (Paragraph 93)

2.18 The Government agrees that it would be a positive and helpful step if pre-notification were included as a standard step in the process and disciplines that journalists and editors apply as they move towards publication. Like the Committee we recognise that such action is not always either possible or – for reasons of public interest – desirable. However, we believe that clarification on how to apply the principles of prior notification would be welcomed by many journalists.

2.19 The Government believes that the PCC should be given the opportunity to develop provisions in response to the Select Committee's other recommendations in this area before the need for any amendments in relation to the assessment of damages are considered. In any event, the Government considers that the changes proposed by the Select Committee are matters of substantive law and hence could not be achieved through amending the Civil Procedure Rules, but would require primary legislation.

2.20 The free and fair reporting of proceedings in Parliament is a cornerstone of a democracy. In the UK, publication of fair extracts of reports of proceedings in Parliament made without malice are protected by the Parliamentary Papers Act 1840. They cannot be fettered by a court order. However, the confusion over this issue has caused us the very gravest concern that this freedom is being undermined. We therefore repeat previous recommendations from the Committee on Parliamentary Privilege that the Ministry of Justice replace the Parliamentary Papers Act 1840 with a clear and comprehensible modern statute. (Paragraph 101)

2.21 We welcome the Speaker's determination to defend freedom of speech in Parliament, as well as the comments by the Lord Chief Justice on the Trafigura affair, and strongly urge that a way is found to limit the use of super-injunctions as far as is possible and to make clear that they are not intended to fetter the fundamental rights of the press to report the proceedings

of Parliament. Given the importance of these issues, we hope that a clear statement regarding the way forward is made before the end of this Parliament. (Paragraph 102)

2.22 The Government believes that freedom of speech in Parliament is fundamental and that accurate reporting of parliamentary proceedings is essential in a democratic society. As the Committee has stated, the Parliamentary Papers Act 1840 protects publications of extracts from or abstracts of parliamentary reports, papers, votes or proceedings, provided that such publication is bona fide and without malice. The Government will consider the possibility of putting the provisions of the Parliamentary Papers Act 1840 into a modern statutory form when a legislative opportunity arises.

2.23 The Government joins the Select Committee in welcoming the comments made by the Lord Chief Justice on the use of super-injunctions and takes seriously the concerns expressed by the Committee over the use of super-injunctions. However, as stated by the Lord Chief Justice in his statement, there are cases where injunctions imposing reporting restrictions, even those which prevent the reporting of the injunction itself, are appropriate: such as in some family, fraud or national security cases. For example, in a fraud case, reports of the mere existence of an injunction might alert the accused's associates, who may then dispose of their assets. The Government notes that never has an injunction been sought or granted with the intention of preventing press reporting of parliamentary proceedings.

2.24 The Master of the Rolls has now set up a committee to look at the issues relating to super-injunctions and other injunctions which bind the press, with a view to producing evidence-based recommendations for any necessary changes to the Civil Procedure Rules and Practice Directions (see above).

Libel and Press Freedom

3.1 We have received limited evidence on hearings on meaning and the extent to which they are used. We agree, however, that any measures to provide more certainty at an earlier stage, and which cut the enormous costs of libel cases in the UK, should be pursued more vigorously. We urge the Government, therefore, to look closely at this aspect of procedure in its present review of the costs and operation of UK libel laws. (Paragraph 129)

3.2 The Government shares the Committee's view that there is a need to ensure that procedures both before and during litigation provide as much certainty as possible at an early stage. The MOJ Libel Working Group has considered the issue of early resolution of meaning. It identified particular difficulties arise from the fact that currently the judge can only give a preliminary ruling on whether the words complained of are capable of bearing a defamatory meaning, while the question of whether the meaning is in fact defamatory is a matter for determination at trial stage by a jury (where a party requests jury trial).

3.3 The group agreed that detailed provisions should be developed to enable both questions to be determined at an early stage. A separate working group (the Libel CLAF group) set up in the context of Lord Justice Jackson's costs review produced preliminary proposals in this area, and these are currently being developed further by a group chaired by Sir Charles Gray (the Early Resolution Procedure Group).

3.4 The Government supports this work and will consider the proposals which emerge very carefully.

3.5 We recognise the difficulties with the whole burden of proof being placed on the defendant but believe, on balance, that in the interests of natural justice, defendants should be required to prove the truth of their allegations. We are concerned, however, to see cases where that burden becomes overly onerous. We make some recommendations in this Report regarding the defence of 'responsible journalism' and the burden of proof on companies suing for defamation, which may level the playing field and assist publication in the public interest. We also urge the

Government, however, to examine this aspect of the operation of the UK's libel laws carefully, including how the courts might better require claimants to make reasonable disclosures of evidence, without increasing costs even further through expensive appeals. (Paragraph 135)

3.6 The Government agrees with the Committee's conclusion that on balance defendants should be required to prove the truth of their allegations, and that the burden of proof in this area should not be changed. We do, however, recognise the need to ensure that procedures are fair to both parties and that unnecessary burdens are not placed on defendants, particularly in relation to the evidence which is provided by claimants.

3.7 The Libel Working Group recognised the difficulties that currently arise around evidential issues, and considered whether changes could usefully be made to the Defamation Pre-Action Protocol, which prescribes the steps that should be taken and the information that should be made available by both parties prior to formal proceedings being issued. There was a wide divergence of views on the Working Group on the extent to which changes to strengthen the Protocol are needed, and what those should be.

3.8 The Government believes that there is a clear need for the Protocol to be carefully reviewed and strengthened where appropriate to ensure that it operates effectively and fairly. Responsibility for the civil pre-action protocols rests with the Civil Justice Council, which makes recommendations to the Lord Chancellor and to the Civil Procedure Rule Committee. The CJC are currently in the process of reviewing all the civil pre-action protocols, and a copy of the Working Group's report is being sent to the CJC so that its views can be taken into account.

3.9 The Bower case also highlights concerns which arise when judges exclude evidence which prevents a jury being presented with a rounded picture, or too narrow a view of the thrust of an article. This aspect of the operation of the libel laws also needs examination. (Paragraph 136)

3.10 The Government considers that the issues raised in the case of *Desmond v Bower* are a matter of judicial interpretation on which it would not be appropriate for it to comment.

3.11 Much of the recent publicity given to concerns of the medical and science community about the harmful effects of UK libel laws on their ability to comment has followed the court rulings to date in the Simon Singh case and media coverage of the cases of the British cardiologist Peter Wilmshurst and the Danish radiologist Henrik Thomson, who have faced action from overseas commercial interests. (Paragraph 141)

3.12 We look forward, clearly, to the outcome of the important Simon Singh case. Even from the limited evidence we have received, we believe that the fears of the medical and science community are well-founded, particularly in the internet age and with the growth of 'libel tourism'. We urge the Government, therefore, to take account of these concerns in a review of the country's libel laws, in particular the issue of fair comment in academic peer-reviewed publications. (Paragraph142)

3.13 The Government recognises the concerns that have been expressed in relation to the harmful effects of libel laws on the medical and science community. We believe that the work which we intend to take forward in relation to the Committee's recommendations generally and on issues highlighted by the Libel Working Group should help to address these concerns. We will however, continue to keep this area under consideration, particularly in the light of the forthcoming judgment of the Court of Appeal in the case of *BCA v Singh.*

3.14 We appreciate the difficulties, and costs, to date in running a *Reynolds* defence have meant that it has not often been used in cases which have actually reached court. Nevertheless, we endorse the development of a 'responsible journalism' defence by the courts. We particularly welcome the House of Lords judgment in *Jameel* which emphasises the need for flexibility and,

in our view, the realistic approach the courts must bring to consideration of the defence so that it appropriately protects the media's freedom of expression. However, we are concerned that the defence remains costly and therefore inaccessible to publishers with poor financial resources. We will be making a number of recommendations on costs which we intend should ensure access to this defence in appropriate cases. (Paragraph 161)

3.15 We are also concerned that, partly because of the lack of certainty of a *Reynolds* defence, many cases have to be settled before they come to court, and that as a result there are few opportunities for a body of case law based on Lord Hoffman's judgment in *Jameel* to be developed. Indeed, it may take decades and we are of the view that the problem is more urgent than that, especially given the challenges facing smaller regional newspaper groups. (Paragraph 162)

3.16 The desirability of affording greater protection to genuinely responsible journalism begs the question of whether the law should be amended to put the *Reynolds* defence, or an expanded version of it, on a statutory footing, perhaps through an amendment to the 1996 Defamation Act. However, there is a risk of unforeseen consequences. It could be maintained that *Reynolds/Jameel* applied more flexibly is sufficient and we are concerned that codifying the defence and the 'public interest' in law may in itself introduce rigidities or make for less accurate reporting. However it is our opinion that there is potential for a statutory responsible journalism defence to protect serious, investigative journalism and the important work undertaken by NGOs. We recommend that the Government launches a detailed consultation over potentially putting such a defence, currently available in common law, on a statutory footing. We welcome consultations already launched by the Ministry of Justice in the field of media law. Such a further exercise will provide an opportunity to gain more clarity and show the Government is serious about protecting responsible journalism and investigations by the media, authors and NGOs in the public interest. (Paragraph 163)

3.17 The Government considers that the issues raised by the Committee in this area are of fundamental importance in ensuring that responsible journalism is able to flourish and that there is no chilling effect on investigative journalism or the work of NGOs.

3.18 The Libel Working Group considered this area in some detail. There was a general view that simply codifying the *Reynolds* guidelines would not be of value, and the group considered whether a new statutory defence broadly in line with *Reynolds* but expressed much more clearly and simply would be helpful. It recommended that the Ministry of Justice undertake further work on this.

3.19 As indicated in the Government's announcement on 23 March, we will consider whether a statutory defence relating to the public interest and responsible journalism can be developed in a way which reconciles the competing interests in relation to reputation and the right to freedom of expression.

3.20 We hope that Government measures to reduce costs and to speed up libel litigation will help address the mismatch in resources between wealthy corporations and impecunious defendants, along with our recommendations to widen and strengthen the application of the responsible journalism defence. Given the reaffirmation by the House of Lords in Jameel of the rights of companies to sue in defamation, the law could only be changed by statute, if Parliament felt it desirable to address potential abuses of libel laws by big corporations. One possible way of addressing the issue might be to introduce a new category of tort entitled "corporate defamation" which would require a corporation to prove actual damage to its business before an action could be brought. Alternatively, corporations could be forced to rely on the existing tort of malicious falsehood where damage needs to be shown and malice or recklessness proved. We also consider that it would be fairer to reverse the general burden of proof in such cases. Given the seriousness of this issue, we recommend that the Government examines closely the law as it now stands, looking also at how it operates in Australia, and

consults widely on the possibility and desirability of introducing such changes in the UK through an amendment to the Defamation Act 1996. (Paragraph 178)

3.21 The Government recognises that concerns exist relating to corporations bringing libel actions. However, it considers that a private company of whatever size has a trading or business reputation which can be harmed by defamatory allegations, and it appears right that it should be able to pursue an action in these circumstances.

3.22 The Government therefore does not favour an absolute bar on such actions. However, the Committee's suggestions relating to ways in which the right might be qualified raise a wide range of issues, and we will give further consideration to these.

3.23 Whatever the constitutional situation, or diplomatic niceties, we believe that it is more than an embarrassment to our system that legislators in the US should feel the need to take retaliatory steps to protect freedom of speech from what they view as unreasonable attack by judgments in UK courts. The Bills presented in Congress, allowing for triple damages, were reminiscent of the 1970 Racketeer Influenced and Corrupt Organisations Act, which was originally aimed at tackling organised crime. As such, they clearly demonstrated the depth of hostility to how UK courts are treating 'libel tourism'. It is very regrettable, therefore, that the Government has not sought to discuss the situation with their US counterparts in Washington, or influential states such as New York and California. We urge it to do so as soon as possible. (Paragraph 205)

3.24 The Government notes the Committee's views, and will open an informal bilateral dialogue with the US Department of Justice to explore our respective positions.

3.25 We welcome the Lord Chancellor's establishment of the Working Group on Libel and the inclusion of 'libel tourism' in its remit. We also agree with him that it is important to have an evidence base for decision-making. During the course of our inquiry we asked for information on the number of cases challenged on the grounds of jurisdiction and the success rate of such challenges. We have been provided with no such information and it was not clear who would be responsible for collecting it. Without reliable data it is difficult to see how the Government can monitor the implementation of Rule 6.36 of the Civil Procedure Rules. (Paragraph 207)

3.26 We recommend that the Ministry of Justice and the Courts Service should as a priority agree a basis for the collection of statistics relating to jurisdictional matters, including claims admitted and denied, successful and unsuccessful appeals made to High Court judges and cases handled by an individual judge. We further recommend that such information be collated for the period since the House of Lords judgment in the *Berezovsky* case in May 2000 and is published to inform debate and policy options in this area of growing concern. (Paragraph 208)

3.27 The Libel Working Group has recommended a range of steps which the Government intends to undertake to address difficulties arising in relation to libel tourism, and these are set out in its answer to the Committee's next recommendation.

3.28 Arrangements for the gathering of information to support detailed monitoring of the impact of these actions, and any other relevant changes to the law on libel, will be put in place on an ongoing basis in order to assess their effectiveness and the need for any further action. The Government believes that this represents a proportionate and practical response to the Committee's concerns, and that in these circumstances seeking to obtain the specific details proposed by the Committee on a retrospective basis back to 2000 would not be appropriate.

3.29 In cases where neither party is domiciled nor has a place of business in the UK, we believe the claimant should face additional hurdles before jurisdiction is accepted by our courts. On balance, we believe there is sufficient evidence to show that the reputation of the

UK is being damaged by overly flexible jurisdictional rules and their application by individual High Court judges, as exemplified by Mr Justice Eady in the Mardas and *New York Times* case. (Paragraph 214)

3.30 We recommend that the Ministry of Justice and the Civil Justice Council consider how the Civil Procedure Rules could be amended to introduce additional hurdles for claimants in cases where the UK is not the primary domicile or place of business of the claimant or defendant. We believe that the courts should be directed to rule that claimants should take their case to the most appropriate jurisdiction (ie the primary domicile or place of business of the claimant or defendant or where the most cases of libel are alleged to have been carried out). (Paragraphs 215)

3.31 The Government acknowledges the concerns that have been expressed that London has become the forum of choice for those who wish to sue for libel and that this is having a "chilling effect" on freedom of expression.

3.32 The Libel Working Group considered this issue in detail. To the extent that there was a view that there is a problem to be addressed, it considered that tightening and more rigorous application of the rules/practice relating to service out of the jurisdiction in defamation cases would be useful in order to head off inappropriate cases at the earliest possible stage, and that the critical issue is enabling courts at an early stage to identify cases which constitute an abuse and where no real and substantial tort has been committed within the jurisdiction.

3.33 We believe that the Working Group's proposals in this area will provide effective practical benefits to address problems relating to the issue of libel tourism, and intend to raise them with the Civil Procedure Rule Committee and encourage the Committee to consider them as soon as possible. We will monitor the effectiveness of any procedural changes agreed by the Civil Procedure Rule Committee and any other relevant changes to the law on libel, and consider the need for legislative change in the event that problems continue to be experienced. It is hoped that this approach meets the concerns articulated by the Committee on this important issue.

3.34 It is clear that a balance must be struck between allowing individuals to protect their reputations and ensuring that newspapers and other organisations are not forced to remove from the internet legitimate articles merely because the passage of time means that it would be difficult and costly to defend them. We welcome the Lord Chancellor's consultation and look forward to his conclusions. As a general consideration, we believe it would be perverse if any recommendations increased the uncertainty faced by publishers under the UK's already restrictive libel laws. (Paragraph 229)

3.35 In order to balance these competing concerns, we recommend that the Government should introduce a one year limitation period on actions brought in respect of publications on the internet. The limitation period should be capable of being extended if the claimant can satisfy the courts that he or she could not reasonably have been aware of the existence of the publication. After the expiry of the one year limitation period, and subject to any extension, the claimant could be debarred from recovering damages in respect of the publication. The claimant would, however, be entitled to obtain a court order to correct a defamatory statement. Correction of false statements is the primary reason for bringing a defamation claim. Our proposal would enable newspapers to be financially protected in some degree from claims against which the passage of time may make establishing a defence difficult. (Paragraph 230)

3.36 We have also received evidence that electronic archives should be protected by 'qualified privilege'. This issue is explored by the consultation, with a one year limitation period suggested, unless the publisher has not amended or flagged the online version in response to a complaint. We agree. This would take into account views expressed by the ECtHR in *Times Newspapers*

***v UK*, regarding the increasing importance of online archives for education and research in modern times.** (Paragraph 231)

3.37 The Government welcomes the Committee's views, and its recognition of the need to strike a balance between the interests of claimants in being able to protect their reputation and those of defendants in being protected from potentially open-ended liability.

3.38 In the light of the responses received to its consultation paper '*Defamation and the Internet: the Multiple Publication Rule*', and the views expressed by the Select Committee and the Libel Working Group, the Government considers that it is appropriate to introduce a single publication rule, whereby a defamation claim will have to be brought within one year from the date of the original publication, subject to a discretion to the court to extend this period as necessary. Further consideration will be given to the detailed provisions to govern the operation of the single publication rule.

3.39 The evidence we have heard leaves us in no doubt that there are problems which urgently need to be addressed in order to enable defamation litigation costs to be controlled more effectively. We find the suggestion that the problem confronting defendants, including the media, who wish to control their costs can be solved by settling cases more promptly to be an extraordinary one. If a defendant is in the right, he should not be forced into a settlement which entails him sacrificing justice on the grounds of cost. (Paragraph 262)

3.40 We are aware that machinery exists for defendants to protect their position as to costs by making a payment into court. It does not appear to us that this machinery effectively protects a defendant, who genuinely attempts to settle a claim at an early stage, against a determined and deep-pocketed litigant. This is another issue which needs to be addressed by the Ministry of Justice. (Paragraph 263)

3.41 The Government has been concerned for some time about the impact of high costs in defamation proceedings on the publication decisions of the media and others and has already taken a number of steps aimed at controlling these costs. In particular on 1 October 2009 the Ministry of Justice implemented a package of measures to reduce costs associated with after the event (ATE) insurance premiums and a 12 month mandatory costs budgeting pilot. In announcing these measures, Ministers indicated that these were only the first steps and that the Government would continue to consider what further measures may be necessary to control costs in this area.

3.42 In January this year we published the consultation paper, '*Controlling Costs in Defamation Proceedings: Reducing Conditional Fee Agreement Success Fees*.' This paper sought views on reducing the success fees in defamation related proceedings to 10%. On 3 March the Government announced its decision to implement the proposal. The Conditional Fee Agreements (Amendment) Order 2010 – a Statutory Order which is subject to affirmative procedure – to achieve this change was laid before Parliament on 3 March. The matter has recently been debated in Parliament.

3.43 The Government is actively assessing the implications of Lord Justice Jackson's report, *Review of Civil Litigation Costs: Final Report*. It will inevitably take some time to assess the full and widespread impact of Sir Rupert's recommendations. We will also give careful consideration to the Committee's report and recommendations in considering any proposals for longer term reform. However, in the meantime, the Government is urgently seeking to reduce the maximum CFA success fee in defamation related proceedings to 10% as an interim measure so that the specific concerns around high costs in these cases can be addressed as quickly as possible

3.44 Mandatory universal costs capping, if implemented in isolation, is too crude an instrument to introduce greater discipline while preserving flexibility and access to justice. We therefore welcome the costs budgeting pilot which has the potential to impose greater discipline on those incurring costs. Without such discipline, no cost control methods are likely to succeed. We also welcome Lord Justice Jackson's proposal that there should be a more interventionist

approach to controlling costs by the courts. Nevertheless, we recommend that costs capping should remain as a remedy to be used in those cases where parties cannot agree a way to make costs budgeting work. (Paragraph 274)

3.45 The Government supports Lord Justice Jackson's proposals for a more interventionist approach to controlling costs by the courts. However, before deciding whether to continue the costs budgeting arrangements currently being piloted for defamation proceedings we will need to consider the outcomes of the pilot which we have committed to review after 6 months. Rules setting out the procedure and criteria for costs capping orders to be made were included in the Civil Procedure Rules with effect from 6 April 2009. These rules will continue to apply in defamation proceedings as in all other civil proceedings. However, as indicated in the response to the consultation paper '*Controlling Costs in Defamation Proceedings*'[1] we are continuing to monitor its operation and in particular whether the exceptionality test in that rule is working as intended.

3.46 The offer of amends procedure was intended to provide a simple and effective way of acknowledging a mistake, and putting it right at minimal cost to both parties by means of an apology, payment of moderate compensation and suitable costs. Whatever the rights and wrongs of the individual case, headline figures for costs such as those incurred by the Guardian in the Tesco case simply undermine Parliament's purpose in introducing the offer of amends procedure. (Paragraph 279)

3.47 As noted above, the Government has been concerned for some time about the impact of high costs in defamation proceedings and is determined to take action to control those costs. The reviews undertaken by this Committee and Lord Justice Jackson have been enormously helpful in examining the evidence and insightful recommendations for reform in the area of defamation. The Government is now assessing the impact of these recommendations and will make an announcement on the way forward in due course.

3.48 Within the context of more active case management by the courts, we can see merit in the proposal that there should be some limitation on the maximum hourly rates that can be recovered from the losing party in defamation proceedings. This should have a significant impact on costs across the board. While we note the difficulties identified by the Advisory Committee on Civil Costs, we agree with the Ministry of Justice that it should reconsider this issue now that Lord Justice Jackson's final report has been published. (Paragraph 285)

3.49 We indicated in the response to the consultation paper 'Controlling Costs in Defamation Proceedings'1 that this issue could be reconsidered in the light of recommendations arising from Lord Justice Jackson's review of the costs of civil litigation and are content to agree the Committee's recommendation.

3.50 Although some have suggested that CFAs should be means-tested, in practice, given the high costs involved, this would be likely to result in access to justice being limited to the extremely poor and the super rich. The complexities involved also do not lend themselves to a simple or proportionate solution. We therefore do not support the introduction of means-testing for CFAs. (Paragraph 292)

3.51 The Government agrees with the Committee's view that means testing for CFAs is inappropriate.

3.52 We welcome steps taken so far to limit recoverability of After The Event insurance premiums in publication proceedings. However, we agree with Lord Justice Jackson that ATE premiums should become wholly irrecoverable. The fact that it is possible for insurance

[1] CP4/09 Published on 24 September 2009 and available at http://www.justice.gov.uk/consultations/controlling-costs-in-defamation-proceedings.htm

companies to offer ATE insurance at no cost to the policy holder, whether they win or lose their case, is extraordinary and discredits the principle on which ATE insurance is based. We recommend that the Ministry of Justice should implement his recommendations in this respect. (Paragraph 306)

3.53 Whilst we can see strong arguments for abolishing the recoverability of ATE insurance as recommended by the Committee and Lord Justice Jackson, as part of a package of CFA reform, such a recommendation has potentially far reaching implications across a wide area of civil litigation, including for access to justice. The Government believes it is important to complete a full analysis of the impact of such reform before making a decision.

3.54 All the evidence we have heard leads us to conclude that costs in CFA cases are too high. We also believe that CFA cases are rarely lost, thereby undermining the reasons for the introduction of the present scheme. However it is vital to the maintenance of press standards that access to justice for those who have been defamed is preserved. We do not agree with the Ministry of Justice that the maximum level of success fees should be capped at 10%, nor do we believe that success fees should become wholly irrecoverable from the losing party. However we would support the recoverability of such fees from the losing party being limited to 10% of costs leaving the balance to be agreed between solicitor and client. This would address the key issue and seems to us to provide a reasonable balance, protecting access to justice, adequately compensating solicitors for the risks taken, giving claimants and their lawyers, in particular, a strong incentive to control costs and ensuring that costs to a losing party are proportionate. (Paragraph 307)

3.55 The Government agrees with the Committee's conclusion that the CFA costs in this area are too high. It is noted that the Committee does not agree with the Ministry of Justice's proposal to reduce the success fee that can be charged in defamation cases to 10%. However, it is an interim measure that can be implemented quickly to address immediately the concerns around high costs, while we consider the recommendations of the Committee and Lord Justice Jackson in detail for the longer term reform of CFAs in this area.

3.56 This is by no means the first time that attempts have been made to control the costs of civil litigation. The Government must ensure that this time measures are effective. Equally, it will be important that the impact of such measures in practice is systematically monitored so that any necessary adjustments can be made. (Paragraph 308)

3.57 Previous attempts to control the success fees have proved unfruitful. For example during 2007 the Department published a consultation paper, *Conditional Fee Agreements in Defamation Proceedings: Success Fees and After the Event Insurance*, on a scheme of fixed recoverable staged success fees and ATE insurance premiums. However, there was no consensus on the details of the scheme and it could not be implemented. One of the key difficulties in this area is the reluctance of solicitors and others involved in defamation proceedings to make available objective and verifiable evidence on which the effect of new measures can be monitored. However, we will work with stakeholders on how best to assess the impact of the measures that are now implemented.

3.59 Lawyers must also play their part. Just as the press must be accountable for what it writes, lawyers must be accountable for the way in which cases are run, and that includes costs. The current costs system, especially the operation of CFAs, offers little incentive for either lawyers or their clients to control costs, rather the contrary. It also leads to claims being settled where they lack merit. We hope that the combined effect of our recommendations, the Ministry of Justice consultations and the conclusions of Lord Justice Jackson, will provide the impetus for a fairer and more balanced approach to costs in publication proceedings. (Paragraph 309)

3.60 The Government is committed to resolving the problem of high costs in defamation proceedings. It is grateful to the Committee and to Lord Justice Jackson for their thorough review of the issues

and their resulting recommendations for reform. These recommendations are not wholly in concert and it is therefore even more important to analyse their impact before making any final decisions. We look forward to working with the judiciary and members of the legal profession to monitor the effect of measures introduced in due course.

Press Standards

4.1 Misleading headlines can cause harm and are poor journalism, but we recognise the difficulty the courts must face in drawing distinctions between messages conveyed in headlines and in articles and weighing their relative impact. We feel the PCC, for its part, could more do to address the problem of headlines than offer brief guidance in its Editors' Codebook. We recommend that the PCC Code itself should be amended to include a clause making clear that headlines must accurately reflect the content of the articles they accompany. (Paragraph 332)

4.2 It tends to be the nature of headlines that they are often more sensational than the articles underneath them. While the desire to catch the attention of readers is of course both understandable and reasonable, it is wrong if a headline is unfair or inaccurate. And sometimes, the headline is the only thing that is seen or sticks in the mind. It is important for readers not to take isolated lines out of context, but responsible use of headlines has a role to play in ensuring that that does not happen. We believe that guidance on this point would be helpful to many.

4.3 We have sympathy with the views of PAPYRUS but consider that a complete ban on the reporting of the method of suicide would have a negative impact on the freedom of the press. For reasons which we detail below, we do not believe that the guidance contained in the PCC Code on suicide reporting should be altered, but rather that the PCC needs to enforce compliance with the Code as it stands. (Paragraph 380)

4.4 Like the Committee, the Government recognises the good work the PCC has done around this issue. But, we do believe that some elements of the press would benefit from more forceful interventions from the PCC both on this issue and more generally.

4.5 We recommend that the PCC should not wait for people who find themselves suddenly thrust into the media glare in traumatic circumstances to come to it, but should take more steps to ensure that such people are aware of its services. This could perhaps most easily be achieved through dedicated and compulsory training of coroners and police family liaison officers about ways in which the PCC can help and through providing them with standard leaflets which can be offered to those with whom they come into contact. (Paragraph 392)

4.6 The Government is aware that the PCC has been carrying out much good work in raising awareness of its existence and role across the country and in different communities. We know that the PCC regards this as an important aspect of its work and therefore have every confidence that the PCC will continue to work on raising its profile and ensuring that access to its services increases, and we would certainly encourage the PCC to do so.

4.7 The coverage of suicide in the media is one of the most sensitive areas that falls into the PCC's remit. We note the good work the PCC did in Bridgend from May 2008, although we believe the PCC should have acted sooner and more proactively. (Paragraph 395)

4.8 The PCC Code provides suitable guidance on suicide reporting, but in our view the PCC should be tougher in ensuring that journalists abide by it. The experience of Bridgend shows the damage that can be caused if irresponsible reporting is allowed to continue unchecked; the PCC needs to monitor the conduct of the journalists and the standard of coverage in such cases. (Paragraph 396)

4.9 In common with the Committee we note the PCC's work in this area. We also note that in assessing the issues around reporting in Bridgend, we now all have the benefit of hindsight in identifying the problem areas. It is important to recognise that this would not have been such an

easy process at the time. Nonetheless, there are certainly lessons for the PCC and the industry to learn, and we share the Committee's view that the PCC should keep a close eye on standards of reporting in this area.

4.10 The Editor's Codebook refers to complaints about newspaper websites, making clear that editors are responsible for "any user-generated material that they have decided to leave online, having been made aware of it, or received a complaint." We believe this does not go far enough, with respect to moderating comment on stories about personal tragedies, in particular. The Codebook should be amended to include a specific responsibility to moderate websites and take down offensive comments, without the need for a prior complaint. We also believe the PCC should be proactive in monitoring adherence, which could easily be done by periodic sampling of newspaper websites, to maintain standards. (Paragraph 398)

4.11 Of course newspapers need to monitor user-generated content on their websites, just as they monitor the content over which they have editorial control, not least because they leave themselves open to a libel action if they do not. However, there is a need to exercise some caution in saying that newspapers should remove "offensive" comments as there can be a legitimate freedom of expression argument for making and allowing a comment that might be offensive to some people. However, we would like to see the PCC taking steps to satisfy itself that newspapers have proper arrangements in place for ensuring that the tenets of the Code are followed, even on internet user-generated content.

4.12 We recommend that Section 1 of the Regulation of Investigatory Powers Act is amended to cover all hacking of phone messages. (Paragraph 466)

4.13 Two prosecutions were successfully brought under RIPA, for unlawful interception. The police have highlighted the difficulties that they experienced in bringing further prosecutions. The police have a range of powers available to deal with data theft. However, we are studying the findings of the Committee carefully and will not hesitate to change legislation if needed.

4. 14 In 2006 the Metropolitan Police made a considered choice, based on available resources, not to investigate either the holding contract between Greg Miskiw and Glenn Mulcaire, or the "for Neville" email. We have been told that choice was endorsed by the CPS. Nevertheless it is our view that the decision was a wrong one. The email was a strong indication both of additional lawbreaking and of the possible involvement of others. These matters merited thorough police investigation, and the first steps to be taken seem to us to have been obvious. The Metropolitan Police's reasons for not doing so seem to us to be inadequate. (Paragraph 467)

4.15 While any criminal investigation is wholly a matter for the responsible police force, this appears to have been a complex and technically difficult investigation presenting a number of challenges to the police and prosecutors.

4.16 The Metropolitan Police have explained that the investigation and subsequent prosecution of Clive Goodman & Glen Mulcaire was undertaken in collaboration with the Crown Prosecution Service with the benefit of advice from leading Queen's Counsel. The final indictment was the subject of careful deliberation and the matters thereon were selected so as to represent the full range of criminality committed and to attract the maximum penalty, if proven. This dictated the investigative strategy, the parameters set and selection of victims.

4.17 In the opinion of the police, with the benefit of hindsight, it is possible that more could have been done to explore other avenues of inquiry, but at the time and given its technical nature; the available evidence; and in order to make best use of Police resources and public money, the investigation was focused to meet the joint prosecution strategy. All material was reviewed by the Police, the Crown Prosecution Service and Counsel as part of their legal obligations.

4.18 The original investigation was an operational matter in which Ministers had no role and it would not be appropriate to seek to substitute any judgement informed by hindsight for that of the police and prosecutors at the time.

4.19 We have been surprised by the confusion and obfuscation in the Information Commissioner's Office about the format of the information it holds, and to whom that information has been released. Given our interest in the ledgers, and the visit of our Chairman to the offices of the Information Commissioner to inspect them, we would have expected to be told that the information was available in an electronic format. As such, it could easily have been redacted to give more information about suspect activities than appeared in 2006 in *What price privacy now?* (Paragraphs 484)

4.20 The Information Commissioner's Office (ICO) regulates and administers the Data Protection Act 1998 (DPºA) and Freedom of Information Act 2000 independently of Government.

4.21 In line with its legal obligations and duties, the ICO has a range of powers to deal with breaches of and non-compliance with the DPA and plays a vital role in upholding individuals' rights under the Act.

4.22 The question of whether there should be custodial sentences for breaches of section 55 of the Data Protection Act is not a new one. We recommended in our 2007 report *Self-regulation of the press* that custodial sentences be used as a deterrent and were disappointed at the Government's rejection of our recommendation. However, we welcome the current Ministry of Justice consultation on the introduction of sentences and hope that a subsequent change in the law is imminent. (Paragraph 490)

4.23 The consultation on the introduction of custodial sentences for offences under section 55 of the Data Protection Act 1998 has now closed. The Government is considering the responses to the consultation and will make an announcement in due course.

4.24 We recognise the value of the work of the Office of the Information Commissioner in investigating the activities of Steven Whittamore and his associates. The Office can take much of the credit for the fact that such illegal blagging, described to us in 2007 as being widespread across the newspaper industry, is now rare. However we are disappointed that the then Information Commissioner did not feel he had the resources to identify and inform all those who were or could have been the victim of illegal blags, and that he did not at the time make the case that he should be given such resources. (Paragraph 491)

4.25 The ICO's data protection work is funded by the annual notification fees paid by data controllers. The Government commenced regulations in October 2009 to introduce a new tiered notification fee structure to increase the funding available for the ICO's data protection activities.

4.26 Discretion over how and where to exercise its powers rests with the ICO. However, the ICO has stated that individuals concerned that they might have been affected by the alleged offences can approach the Office for advice on this issue.

4.27 We are encouraged by the assurances that we have received that such practices are now regarded as wholly unacceptable and will not be tolerated. We have seen no evidence to suggest that activities of this kind are still taking place and trust that this is indeed the case. However, we call on the Information Commissioner, the PCC and the industry to remain vigilant and to take swift and firm action should any evidence emerge of such practices recurring. (Paragraph 494)

4.28 We are pleased to note that the Committee has found no evidence that telephone hacking by the press is continuing. We do of course fully endorse the Committee's calls for vigilance in respect of this disgraceful practice.

Self-regulation of the Press

5.1 We acknowledge that the PCC itself has attempted to address the issue of ensuring that it is seen to be independent, increasing the number of lay members of the PCC to 10 as against seven industry members. However, we believe that more needs to be done to enhance the credibility of the PCC to the outside world. We recommend that the membership of the PCC should be rebalanced to give the lay members a two thirds majority, making it absolutely clear that the PCC is not overly influenced by the press. We further recommend that there should be lay members on the Code Committee, and that one of those lay members should be Chairman of that Committee. In addition to editors of newspapers and magazines, practising journalists should be invited to serve on the PCC's Committees. (Paragraph 542)

5.2 We agree with the Committee that an increase in the number of lay members would enhance the PCC's credibility. For self-regulation to work it must have the confidence of the public. Whilst it remains valuable for the PCC to continue to have access to the knowledge and expertise of those with hands-on experience of working in the industry, increasing the proportion of lay members on the Commission is not incompatible with this and would serve to increase public confidence.

5.3 The Government recognises that this is a system of self-regulation, but to have lay members on the Code Committee would send a very important signal to the public that wider views are being fed in to the press on what is - and, more importantly, what is not - acceptable.

5.4 Given their practical day-to-day experience and expertise, the involvement of practising journalists would undoubtedly add an additional and valuable dimension to the PCC's proceedings, and we would therefore want to encourage the Commission to give serious consideration to the Committee's recommendation.

5.5 If the appointment and subsequent activities of the press members of the PCC are not transparent, then its activities will be little understood by the public. As a matter of best practice, information on all appointments to the PCC, as well as any rotation or dismissal of members, should be made available via the PCC's website as soon they occur and contained within the PCC's Annual Report. (Paragraph 543)

5.6 The PCC already seems to comply with this recommendation.

5.7 The failure of the PCC to prevent or at least limit the irresponsible reporting that surrounded the McCann and Bridgend cases has undermined the credibility of press self-regulation. In future the Commission must be more proactive. If there are grounds to believe that serial breaches of the Code are occurring or are likely to occur, the PCC must not wait for a complaint before taking action. That action may involve making contact with those involved, issuing a public warning or initiating an inquiry. We recommend that such action should be mandatory once three or more members of the Commission have indicated to the Chairman that they believe it would be in the public interest. (Paragraph 552)

5.8 We agree with the Committee that proactivity by the PCC should be a key component of its work in preventing breaches. It is for the PCC to consider how exactly it conducts itself, but it would seem odd not to launch an inquiry if three or more Commissioners believed it necessary.

5.9 We have concluded that there must be some incentive for newspapers to subscribe to the self-regulatory system. Without such an incentive for publications to join and remain in the PCC, the system is too precarious. We recommend that the Government consider whether proposals to reduce the cost burden in defamation cases should only be made available to those publications which provide the public with an alternative route of redress through their membership of the PCC. (Paragraph 558)

5.10 We will give careful consideration to this recommendation alongside the Committee's other recommendations for reform of the costs regime for defamation proceedings set out at Chapter 5 of the Committee's report.

5.11 We welcome Peter Hill's decision to include adherence to the PCC Code in the contract of journalists who work at the *Daily Express*. We are disappointed that our previous recommendation on this matter was not acted on across the industry. We therefore recommend that the PCC should mandate the inclusion of a clause requiring respect for the Code in staff contracts of journalists of all subscribing publications. (Paragraph 560)

5.12 The Government sees the positive case for including a clause requiring respect for the Code in the contracts issued to all journalists. We would therefore want to encourage the PCC to work with subscribing publications on how best to ensure that journalists as well as editors abide by the Code.

5.13 Controversy over the PCC's complaints activity arises in part from the manner in which the PCC presents its complaints statistics in its annual and biannual reports, and we recommend that the PCC should conduct a review of this matter with a view to ensuring maximum clarity. (Paragraph 568)

5.14 In particular, contacts from members of the public which are not followed up with the appropriate documentation should not be considered as true complaints. Including them in headline complaints totals (quoted frequently by both the PCC and its critics) is unhelpful to the public and we recommend that a different formula be found for presenting them in the statistical sections of PCC publications. (Paragraph 569)

5.15 We agree with the Committee that clarity is obviously something to be sought in the presentation of any statistical evidence. We know the PCC is keen to demonstrate the extent of its operations and its effectiveness, and we feel sure the Commission will want to consider carefully how it can best improve the data it issues in respect of its activities.

5.16 The printing of corrections and apologies should be consistent and needs to reflect the prominence of the first reference to the original article. Corrections and apologies should be printed on either an earlier, or the same, page as that first reference, although they need not be the same size. Newspapers should notify the PCC in advance of the proposed location and size of a correction or apology; if the PCC indicates that the requirement for 'due prominence' has not been fulfilled and the paper takes no remedial action, then this non-compliance should be noted as part of the published text of the correction or apology. We recommend that this should be written into clause one of the PCC Code. (Paragraph 573)

5.17 We agree with the Committee that the positioning and prominence of corrections and apologies plays an important part in establishing confidence in self-regulation. This is a simple way in which the industry could show that it has a clear understanding of the public's expectations. Interventions like this do much to bolster the reputation of self-regulation. We agree that having the requirement written into the Code would add clarity and demonstrate the industry's commitment to regulate itself properly

5.18 In order to command public confidence that its rulings are taken seriously by the press, we believe that, in cases where a serious breach of the Code has occurred, the PCC should have the ability to impose a financial penalty. The industry may see giving the PCC the power to fine as an attack on the self-regulatory system. The reverse is true. We believe that this power would enhance the PCC's credibility and public support. We do not accept the argument that this would require statutory backing, if the industry is sincere about effective self-regulation it can establish the necessary regime independently. In the most serious of cases, the PCC should have the ultimate power to order the suspension of printing of the offending publication for one issue. This would not only represent a major financial penalty, but would be a very visible demonstration of the severity of the transgression. (Paragraph 575)

5.19 We agree with the Committee that the imposition of fines or suspension would not require legislation, but it could present a number of practical challenges.

5.20 However, the PCC will appreciate that the absence of any severe penalties for breaching the Code is a constant source of criticism of the self-regulatory regime, and the Committee's recommendation goes to the heart of these concerns. We would therefore want to encourage the PCC and the industry to consider urgently how a system that answers these criticisms might be introduced. A system that demonstrably penalised publications for severe breaches of the Code would not only deter breaches from occurring, but would also send a powerful signal that would boost public confidence in the self-regulatory regime.

5.21 It is vital that both the press and the public understand that the PCC is more than a complaints handling body, and that it has responsibility for upholding press standards generally. To this end, we recommend that the PCC should be renamed the Press Complaints and Standards Commission. Further, in order to equip it more fully to discharge this remit, we recommend that the PCC should appoint a deputy director for standards. It may be desirable for the person appointed to have direct experience of the newspaper industry; we recommend that this should be permitted. (Paragraph 576)

5.22 We agree that as the PCC does much more than just respond to complaints, it should give serious consideration to a name that reflects more clearly its remit, aims and activities.

Conclusion

6.1 As the Committee itself has noted, this was a complex and wide-ranging inquiry which resulted in an array of complex and wide-ranging recommendations. At the heart of them is the Committee's recognition that freedom of the press is one of the cornerstones of our democracy. We appreciate that the Committee has sought to keep this fundamentally important point at the centre of their inquiry, and agree with them that this is a consideration we should all keep in mind.

6.2 However, the press must also recognise that the freedom it enjoys must be balanced with a number of responsibilities. Those responsibilities are set out in the Code of Practice, overseen by the Press Complains Commission. The press have to understand that we – and the public – expect them to abide by not just the word of that Code of Practice, but also its spirit. That is the best possible thing they can do to preserve their freedom and to protect against calls for restrictions. We hope that they will take their responsibilities as seriously as they do their rights.

6.3 It will be clear to all that the Committee's report poses extremely serious questions for News International. To have a journalist flouting not just industry standards but the law of the land rocks the balance of regulation that has served us well in this country. It is also a matter of concern that the Committee felt that witnesses from News International were reluctant to provide the detailed information they expected. This is disappointing, and we urge News International and all other press organisations to cooperate fully with any future inquiries, as these play an important role in providing the scrutiny that the balance of regulation requires.

6.4 We know that the Press Complaints Commission is already looking at the recommendations directed at its role. The Commission - and the wider industry – must consider these carefully and recognise that the need to instil public confidence remains key.

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