

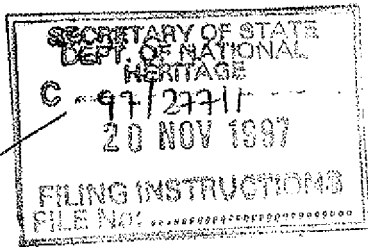
RESTRICTED - POLICY

From: [redacted]
Media Division

Tel: 211 6432

Date: 19 November 1997

cc [redacted]
[redacted]
[redacted]
[redacted]
[redacted]



[redacted]

PRESS AND PRIVACY: LETTER TO NO 10

As you know, my submission 3 November incorporated four changes to the draft minute from the Secretary of State to the Prime Minister. These had been suggested by James Purnell of No 10, but before the minute was despatched, Mr Purnell suggested two more changes: one to give a bit of detail of the ways in which the Code should be tightened, and one on the timing of the eventual letter to Lord Wakeham.

2. These suggestions are helpful, and I have incorporated the new changes with a double underline, and the original changes with a single underline. I also attach a fair copy without underlinings and italics.

Secretary of State

[redacted]
[redacted]

Content to write
now to No 10?
Some small drafting changes suggested.

[redacted]
20/11/97

Yes. 22/11

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MINUTE FOR SIGNATURE BY THE SECRETARY OF STATE

PRIME MINISTER

**PRESS REGULATION FOLLOWING THE DEATH OF DIANA,
PRINCESS OF WALES**

I wrote to you on 2 September to say that I would consult colleagues further on possible proposals for action in the light of my discussions with Lord Wakeham. In my press release of 25 September, welcoming Lord Wakeham's proposals for improved newspaper self-regulation, I said that I would discuss these issues further with him. I set out below my thoughts on press self-regulation and possible legislative changes. Subject to colleagues' views, I propose to air the former with Lord Wakeham, in parallel with our approach on other issues, including data protection.

Press self-regulation

Lord Wakeham's proposals (summary attached) are naturally very much concerned with preventing events similar to those which preceded the death of Diana, Princess of Wales, and with protecting her children. In particular, the scope of the Code has been widened: the definition of what is private has been extended to catch paparazzi in public places, and protect people in all places where they can legitimately expect to be in private; special protection for children has been extended from 16 to 21; and photo agencies would be caught. The sanctions have been increased only marginally: under his proposals, Lord Wakeham would agree with the editor where to place an adverse adjudication rather than, as now leaving the decision about what "due prominence" might mean to the editor. There are no proposals for improvements to procedures.

Although these proposals are a very welcome step in the right direction, they still have to be agreed by the trade bodies which fund the Commission. And I think they do not go far enough to ensure a proper balance between the freedom of the press and the rights of the individual. I propose to recommend to Lord Wakeham several improvements to procedures, Code and sanctions.

Procedures

At present the PCC is almost entirely complaints-driven and remedial. If it does attempt to warn editors thought likely to breach the Code, it does not publicise the

fact. Furthermore, it does not investigate prima facie abuses where there is no complaint or even take third party complaints. Finally, it takes about 8 months for a complaint to be resolved, by which time the impact of any finding of breach is much reduced.

I propose to recommend that the PCC should *institute a rapid pre-emptive procedure by which editors thought likely to breach the Code could be warned; and, if it already has such a procedure, that it should publicise the fact that it has powers to warn editors.*

At present, the Commission hardly ever becomes involved in the absence of a complaint, and I would suggest more use of investigations where there has been no complaint, or only a third-party complaint. Furthermore, the Commission takes many months to adjudicate on complaints, and I would recommend speedier resolution of complaints as part of Citizen's Charter-type setting of targets.

Scope of the Code

Even with John Wakeham's welcome proposals for changes to the Code provisions on privacy, harassment and intrusion into grief or shock, they are still too narrow. For example, publication of information from one party to a private relationship without consent of the other party - typically in "kiss and tell" stories - does not seem to be caught by the Code. Conversely, the public interest defence, though it will be tightened in relation to provisions on harassment and children, is too wide, as it allows editors to make a public interest defence over and above the listed defences of crime prevention, protecting public health and preventing the public being misled by some statement. I propose to recommend that *the Code should be further strengthened, giving more protection to privacy, and from harassment and intrusion into grief and shock.* At the same time, I would like to see *a more restricted definition of the public interest.*

Sanctions

This is perhaps the weakest part of the Code. In practice, the PCC's only sanction is censure, though in one isolated case the editor was publicly reprimanded by the proprietor. I will propose that *the PCC should recommend, in appropriate cases, disciplinary sanctions against an editor found in breach.* I also see value in the idea of the newspaper which has been found in breach contributing to a compensation fund or awarding compensation direct to the complainant.

Timing of the letter

I would like to write to John Wakeham soon. I realise that the press may say that proposals for further self-regulatory improvements are excessive and untimely.

coming so soon after Derry's statement at Second Reading of the Human Rights Bill that the judges were likely to develop the common law of privacy, and amid press apprehensions about the effects of the Data Protection Bill.

But this is not the way the public sees it. The vast majority of the 1,200 odd letters I have received since the death of Diana, Princess of Wales, remain critical of self-regulation and favour a privacy law. I think that we should keep up the pressure on self-regulation, and the right time for a further push is now. I do not think this would be unwelcome to John Wakeham who has told me that periodic sabre-rattling by the Government would help his position.

Legislative changes

Copyright

I have received a very large postbag since the death of Diana, Princess of Wales, mostly pressing the Government to introduce a privacy law. But some letters suggest changes to copyright law to decrease or remove the value of snatched photographs. I shall ask my officials to consider with Margaret Beckett's whether there might be a case for amending the law in this area. There are, of course, major implications for the rest of copyright law in any substantial changes, but it is nonetheless worth trawling through possible options.

Harassment

I am not clear whether the Protection from Harassment Act 1997 would have caught the sort of behaviour which contributed to the death of Diana, Princess of Wales, but I shall also ask my officials to consider, with Jack Straw's, whether any changes to the law are indicated here.

I am copying this to Cabinet colleagues, the Minister without Portfolio and Sir Robin Butler.

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