

**THE LEVESON INQUIRY INTO THE CULTURE,
PRACTICES AND ETHICS OF THE PRESS**

WITNESS STATEMENT

Gordon Brown MP

1. Personal

In 1983 I was elected MP for Dunfermline East (now Kirkcaldy and Cowdenbeath). Before that, I obtained a doctorate, was as a lecturer (Edinburgh University, Caledonian University) and worked for a short time in TV as an editor. I was, successively, a Shadow Labour spokesman (Treasury, Trade and Industry, Shadow Chancellor) and then Chancellor of the Exchequer (1997 to 2007), and Prime Minister (2007 to 2010).

2. General comments

How to ensure the freedom of our media (which, at its most impressive, is the best in the world) to inform, scrutinise and expose while, at the same time, upholding the right to privacy of the citizen is the most difficult issue the Leveson Inquiry faces. Our first and foremost concern must, of course, be the protection not of the public figure who seeks the limelight but of the ordinary citizen, caught up in events he or she could not have anticipated. We think of the Dowler family with limited resources to seek redress (not that the courts can completely undo the harm done to them) when unfairly treated.

Securing the right balance between the freedoms of the media and the privacy of the citizen is now more challenging than in the past, not just because we have to respond to the unacceptable intrusions through telephone

tapping and computer hacking into civil liberties – but also because of a changed context. On one interpretation, the citizen's right to secure redress inexpensively through the courts is becoming more constrained, but perhaps more importantly, the citizen is now exposed to a far more pervasive, 24 hour 7 day a week, multi-platform media. The internet – the blogosphere and the tweetosphere – is now competing with TV and the newspaper industry for similar audiences while each are subject to different kinds of regulation (TV independently regulated, newspapers self-regulated, the internet unregulated), fuelling a race to the bottom in standards, with the good often undercut by the bad and the bad all too often undercut by the worst. If, for example, 'a story', which cannot be shown on TV or printed in a newspaper, can now easily be fed out through a website, then rumours and gossip can easily be presented as 'news' with little or no control over standards, either in accuracy or in decency or taste.

The unique selling point of the print media should be that it is a reliable source of objective and trusted information. But instead, some newspapers have responded to competition across this 24 hour multi-media world by going further down the road of conflating news and comment and this has been happening despite the PCC Editors' Code of Practice which requires that "The press, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact."

This fast-moving, 24 hour 7 day a week, multi-media world where news and opinion are conflated creates an environment which is, in my view, quite different from thirty years ago when I first became an MP or twenty or even ten years ago. I have looked not just at the oral

evidence placed before the inquiry and the iterative discussion Lord Leveson has had with witnesses, but also at some of the written documents, including what has happened recently in Ireland and is proposed for Australia; at the House of Lords report on defamation; at the proposals from the Media Trust, from editors/owners like Mr Rusbridger, Mr Dacre, and Mr Lebedev; and at papers from interested observers like Mr Hugh Tomlinson, Lord Lester, Mr Roy Greenslade, Mr Ed Richards of Ofcom, and Professor O'Neill.

The evidence suggests that there is an emerging consensus in one area, around a better procedure for individual redress for those unfairly dealt with by the print media. Such a procedure could include not just adjudication but arbitration. But the difficulty I foresee is that a credible long-term answer must at least attempt to find some coherence in its approach not just across the print media but across the internet. If we do not attempt this, then the print media might justifiably complain they are being treated more harshly than the increasingly powerful internet media and we might benefit from an examination of New Zealand (a system now to be applied to Australia) where, to avoid this race to the bottom across the internet, there are obligations placed on all media outlets who come above a 'minimum threshold' defined not just by 'readership' but by internet 'hits'.

3. Politicians and the media

The rights of the media:

I have always stood up for the right, indeed the duty, of the media, to speak truth to power. I have not only

championed the right of newspapers – and the media generally – to pursue investigations into wrongdoing wherever these may lead but have also taken the view that politicians who choose to be in the public eye should expect detailed scrutiny of their lives and have a duty to try to live lives that are beyond reproach. Uncomfortable as it has been, I have defended the print media's right to be partisan and, consistent with my defence of the media's right to speak truth to power and to investigate wrongdoing wherever it may lead; I have always been sceptical about the case for direct regulation. In particular, I have continued to express doubts about legislating for sanctions like prison sentences in situations where investigative journalists can establish 'a public interest' defence for their enquiries.

Freedom with responsibility:

Of course this right – and thus the public trust – enjoyed by the media, does not relieve them of a duty to exercise that freedom with responsibility: to preach truth to power and not, if you like, to preach their commercial or vested interests to power. Of course it also requires them not to justify as 'in the public interest' blatantly criminal activities or the pursuit of citizens for political or other reasons including undertaking what are sometimes called 'fishing expeditions'.

The duties of Politicians:

Politicians, whether in government or in opposition, have of course, a clear obligation to explain to the general public what they are trying to achieve for their country and part of that must include explaining themselves to the media. And this is, if I may say so, not an option but an

absolute necessity for governments when, as was the case during my time as Prime Minister, our country was engaged in an overseas war and in addressing a perilous global economic crisis. In my view the Prime Minister of the day has a duty to try to build a national consensus around what needs to be done – even if, as I found, in the event that proved impossible.

Of course the political views of any print media organisation –which should be free to express their opinions – would matter little if, in their everyday coverage, newspapers did not conflate comment and fact or purported fact. But given that opinion is invariably not distinguished from fact, the political balance of the print media is of significance. In the 1980s, and even in 1992, it was serious enough for ‘political balance’ when 70% of the daily newspapers (by circulation) were anti-Labour: in 2010 the figure was 87% - a larger figure than at any time since the War. Whatever one's political views, the failure to distinguish news from comment in circumstances where there is a large political imbalance cannot be good for the health of a democracy.

4. Protection of citizens

A survey of public attitudes by Ofcom finds that the general public are concerned about accuracy – about ensuring that news and factual reports are not misleading – but they are also very concerned about unwarranted infringements of privacy and about ensuring vulnerable people, not least children and those who are grieving or in shock, are protected. As the internet has grown there has been an erosion of the protections historically available to protect privacy and especially children.

The current Press Complaints Commission system of securing redress for the ordinary system claims to be free, simple and fast (offering “visible, tangible, pain-free means of a sanction” against errant newspapers). But my own personal experience is that that it is cumbersome, expensive, happy to place burdens on the complainant (i.e. revealing confidential information) that were not placed on the newspaper which is complained about; and inadequate (with little research and investigative resources or powers) to dealing with the complaints themselves. Editors are too large a part of its membership. Most ordinary citizens would conclude that the penalties were in no way commensurate with the offence and that it was not worth their while to make the complaint.

I believe we have much to learn in this area from the experience of TV; from the Advertising Standards Authority (which has wider powers of redress not all of which emanate from an agreement with Ofcom on commercial broadcast advertising); from what has been proposed for Ireland; from innovative websites like ‘ICorrect’; and from concerned individuals like Mr Hugh Tomlinson QC who has suggested an adjudication/arbitration body, modelled on the construction industry. It is generally agreed that any new process must involve real powers of investigation conducted within clear and transparent processes; and clear public accountability free from vested interests. Justice, as Lord Leveson, has rightly said should be prompt, simple to obtain, and inexpensive – and it should now include not only the right to fine but the duty to correct errors – forcing media organisations in extreme circumstances, as Mr Lebedev suggests, to take space in rival publications to apologise. I would qualify Mr

Rusbridger's well-considered proposal for a new "Press Standards and Mediation Commission" – what he calls a "one-stop shop disputes resolution service that is 'quick, responsive and cheap' – with Lord Leveson's caveat, that the basic right of the British citizen 'to have his or her day in court' must be upheld. This could mean giving an adjudication and arbitration body the powers of a court (which might be cumbersome and expensive) or awarding the Ombudsman/Complaints Commission the power to make only an interim or provisional determination which could then be subject to the courts.

It is a myth that Government need ever be directly involved. It need not be involved either in the choice of an independent chair or of membership, which could be made through the Independent Public Appointments Commission which operates uncontroversially today. No serving editor should be on the body. When Lord Leveson refers to a "statutory backstop", I understand him to mean a framework to enable the work of an ombudsman and an independent regulator. Further I note that Mr Paul Dacre has however said that "While I abhor statutory controls, here's one area where Parliament can help the press. Some way must be found to compel all newspaper owners to fund and participate in self-regulation". We may learn from but not need to follow other models like the Irish PC, which is "recognised by statute but not set up by statute" or the new Australian body – an independent statutory body constituted through independent appointments procedures – whose constitutional role is defined as "enforced self-regulation".

I would suggest that more emphasis might be placed by the media on the journalistic community – as suggested by Mr John Lloyd – doing more itself to support the

distinction between comment and fact. If the industry were seen to value impartiality, objectivity, and factual reporting as much as the sensational scoop, then British Pulitzer-style awards for high standards of impartiality, objectivity and factual reporting would give more status to those who are determined to uphold factual reporting.

Our own experience:

I am asked questions about our family's own experience of the media. I believe that most members of the general public would want to insist that all children including, the children of public figures, have a right to be protected from the glare of publicity. My family experienced two very difficult and painful intrusions into our private lives: newspaper coverage in 2001 and 2002 that preceded the death of our infant daughter; and the unnecessary revelations in 2006 about the health of one of our sons when just four months old (where one newspaper took it upon itself to decide what was in the best interests of our child).

It is important that lessons are learnt and they can be learnt only on the basis of the facts – on a truthful account of what really happened. I therefore confirm that, despite what has been said to the Inquiry under oath, explicit permission was neither sought nor granted (nor would have been granted) for the publication of a story about my second son's medical condition; and I am sorry to say that even now The Sun newspaper have not been honest with the truth about how private, personal medical knowledge that could have been known only to a small group of medical professionals apart from our immediate family and which my son had a right to expect would remain confidential was obtained and authenticated.

After that unfortunate exposure of our child to unwanted publicity, we asked the Press Complaints Commission to help secure an understanding with the newspaper media that our children would be able to live ordinary lives at nursery school and then at primary school free from unnecessary publicity. This request is, of course, only credible if you adhere without fail to the rule they should not be photographed or covered in good times as well as bad. There have two unfortunate exceptions since 2007 but in general we are grateful to the media for the restraint they have shown and believe that it may be possible now to protect children by voluntary undertakings and agreements.

In the 13 years I was Chancellor or Prime Minister it is documented fact that my building society account was breached and its contents reported by a newspaper; a section of my tax returns appeared in the hands of a newspaper; my family's medical records were hacked into (unrelated, I stress, to any incident affecting my younger son); the National Police Computer was entered to check my name on police files; blagging was done of a legal firm associated with the purchase of my London flat; my phone was 'reverse-engineered' and I was impersonated to obtain information on four occasions about my mortgage. I have not yet discovered the source of all these intrusions into my private affairs and some of them may not have been at the instigation of the media. But in each of the instances where the media are known to have been involved I am satisfied that they were on 'fishing expeditions' with no evidence of any kind that would justify them as being in 'the public interest'; and, in at least in some cases in my view, in breach of the law.

Criminal law:

I am asked specifically about reform of the law concerning custodial penalties for those guilty of offences under section 55 of the Data Protection Act 1998. In September 2006, the Government consulted on whether to introduce them and the length of the proposed custodial penalties. I felt uncomfortable with a resort to prison sentences while understanding the feeling there should be proportionate sanctions if the law was being broken. In this context I agreed to meet media representatives to hear their views and after discussions between myself, Jack Straw, and the relevant Minister Michael Wills who had both been scrupulous in listening to all views, the Government brought forward a power in section 77 of the CJIA 2008 to make an order that did not impose a penalty, but simply enabled the maximum penalty for an offence under section 55 to be increased to up to twelve months' imprisonment on summary conviction and two years' imprisonment on indictment. This might or might not be triggered at a later date. And the Government also created a new defence for those who act for the special purposes (as defined in section 3 of the DPA), that is 'with a view to publishing journalistic, literary or artistic material, in the reasonable belief that the obtaining, disclosing or procuring was in the public interest'.

On 2 September 2009, the Information Commissioner, in giving evidence to the Culture, Media and Sport Select Committee inquiry 'Press Standards, Privacy and Libel', called on Government to introduce custodial sentences for section 55 offences. However, the Government had not completed its consultation exercise on a proposal to make an order under section 77 of the CJIA (which would amend section 60 of the DPA to introduce custodial sentences) when the General Election was held. I note that the current Government will review its position on section 55

custodial sentences only after the Leveson Inquiry reports. In their response to the 9th Report of the Justice Select Committee they state: “We do not believe that now is the correct time to introduce custodial sentences for section 55 offences. However, we will continue to keep this issue under review. Once the Leveson Inquiry has reported we will be in a better position to consider the wider implications of any change to the penalties available to the courts in this area.”

5. The commercial interests of the media

I have re-examined all the instances while I was Prime Minister where decisions on media commercial interests had to be made: the ruling on BSkyB's purchase of ITV shares (2007-8); the Ofcom decision on the onward sale of sporting rights (2008-9); and the Communications Review and James Murdoch's proposals for the BBC, Ofcom and the regulatory system to be radically altered (2009-10). I am happy to explain to the Inquiry what transpired in each of these instances and I am confident that in all the decisions taken the public interest was never subjugated to commercial interests and no quarter was given to vested interests running counter to the public interest.

6. Relations with Mr Rupert Murdoch

My dealings with Mr Murdoch were always civil and I cannot recall any angry conversations with him. Mr Murdoch is wrong to assert under oath that I rang him in late September 2009, or around then, at the time The Sun announced its support for the Conservative Party. I am able to provide evidence to the Inquiry that demonstrates beyond all doubt that his claim – that when The Sun switched support I called to complain and threaten him – has no foundation in fact. From the

telephone records of the evening of 29th September 2009 and the days that followed (records that are held not just by me personally but by Downing Street) it is clear that I made no telephone call to Mr Murdoch, sent no e-mail, no text, and no letter. Indeed, I had taken the decision that there was no point in responding to the offer of a call made to me at the time by their Chief Executive.

I never thought it right to ask for the Murdoch papers' support and similarly I did not register any complaint orally or in writing when each of them decided to support the Conservatives. So there was no 'declaration' of war and no such telephone call threatening one.

A list of the phone calls with Mr Rupert Murdoch is contained in GB3, from which it can be seen that there was, in fact, only one telephone call with Mr Murdoch in the course of the whole year running up to May 2010. That was specifically about Afghanistan and was on 10th November 2009. The call was followed up with a letter (sent to him by e-mail) on the same day on the same subject, Afghanistan. As is customary, this call was listened to by members of my private office, whose statements confirming the content of the call are available for the enquiry. I attach as GB1 the letter to Mr Murdoch that followed the call and the follow-up letter on Afghanistan that was sent in December 2009. The Inquiry has already received copies of the third and final letter on Afghanistan sent to Mr Murdoch in April 2010 (KRM33). These were the only letters ever sent between me and Mr Murdoch in my time in office. It will be noted that these documents are all about one issue, the conduct of the war in Afghanistan. Anyone who reads this correspondence will see that the tone of the exchanges was serious, but always civil and courteous.

During 2008/9, Lord Carter of Barnes prepared a series of proposals for the reform of the communications industry but questions of future media policy – and indeed questions about appropriate media behaviour – were thrust to the forefront when Mr James Murdoch gave his controversial MacTaggart Lecture in August 2009. It was clear from the speech that the largest company in British media was not only challenging our nation's long-standing commitment to the importance of public service broadcasting (with a claim that profit was the only guarantee of journalistic independence) but was also calling for a major and quite specific overhaul of the BBC (its licence fee, its use of the internet, its commercial activities, and its broadcasting of major sporting occasions) as well for a neutering of Ofcom and other changes in media law. The Murdoch speech coincided with discussion of legislation arising from Lord Carter's Review of Communications, and during the last few months of 2009, I asked the DCMS Secretary of State, Ben Bradshaw to reply to Mr Murdoch's claims. At this time I also planned a speech on the future of the media and related issues. I wanted to summarise the new pressures of the 24 hour all-media age and the challenge that lay ahead not just for the press, but all media platforms, and how we might uphold standards and protect the privacy of the citizen. Because of other competing pressures this speech was never given. In the years to come there will be new pressures arising for the media from, for example, the growing dominance of the internet and from the difficulties of collecting a TV license fee I am happy, if asked, to develop further my thoughts about how we can do more to promote the diversity and quality of our media and how, in particular, the highest standards can be encouraged.

7 .Particular questions

Mr Paul Dacre:

A note of my meetings with Mr Paul Dacre and other newspaper editors and proprietors are given in GB3. These were not regular events. I was however, personally grateful to Mr Dacre who helped Sarah and me at the time our first child, our daughter Jennifer, was ill and dying. After some unfair reporting of her illness, he and Mr Piers Morgan, then Editor of the Daily Mirror, were instrumental in securing press restraint on reporting related to her death and her funeral. It is well known that Mr Dacre held very different views on policy and politics from me; it should also be noted that I never asked him to support Labour or expected it but, for completeness, I should add that I did warn him and Lord Rothermere of the inappropriate relationship that was building up on commercial matters between News International and the Party they supported – the Conservative Party.

Other Proprietors and Editors:

My meetings with other newspaper proprietors or editors are all documented in GB3.

To answers other specific points:

I did not meet Irwin Stelzer while I was Prime Minister.

I did not debate or discuss my decisions about election timing at any point with Mr Rupert Murdoch. Specifically, in October 2007 the interview I did with Mr Andrew Marr on that matter was recorded the day before its transmission and some time before I met Mr Murdoch.

'Behind The Black Door' by Sarah Brown records the holding of a private party for a 40th Birthday organised by my wife Sarah at Chequers on Friday 13th June 2008. I was not present, nor was I invited, nor was I involved in its organisation. I did not meet the guests. I was in London.

I never consulted any newspaper editors on my Budget judgements. My decision in the 2007 Budget to standardise tax at 20p, while extending the tax credit for children and low paid workers, was intended to simplify the tax system and make it fairer. In line with my general approach, I did not ask for the support of The Sun for these measures. I do not even know what the view of The Sun or Rupert Murdoch was on it at the time. I never discussed it with them.

The Prime Minister's Official Spokesman:

As has already been intimated to the Inquiry, the Order in Council that allowed the Head of Communications at No 10 to issue orders to civil servants was revoked on my first day as Prime Minister. I chose Mr Mike Ellam a senior Treasury civil servant to be Head of Communications and, when he moved back to a policy role in the Treasury, he was succeeded by Mr Simon Lewis who had previous experience as Head of Press and Media at Buckingham Palace.

I did not believe that, despite the publication of the daily exchanges, the current Lobby system worked or was in the public interest and I wanted to open up the regular media Lobby briefings to a wider audience. But, after consultations, no consensus could be reached about the nature of the reform.

Mr Damian McBride was a civil servant who had risen swiftly up the ranks as within Customs and Excise and then the Treasury after joining the Civil Service as a fast track recruit in 1996. In 2005 my Special Adviser left to become an MP and there was a vacancy in that job for several months. Mr McBride moved to become a Special Adviser in HMT in May 2005, transferring to No 10 Downing Street with the same status in June 2007. It should be noted that he was not Head of Communications or Head of Press at No 10, but a political adviser. He resigned in 2009 because private but wholly inappropriate e-mails had been sent to a friend from his computer.

Mr Andy Coulson:

The statement that was made by Mr Coulson when he resigned as NOW Editor in 2007 was that he took responsibility for the mistakes of someone who had broken the law while working under his supervision. His statement was that he was doing the honourable thing over an unlawful practice of which he had known nothing. I believed this explanation at the time, and it was in that context that I, like others, phoned him as he demitted office.

Mr Tom Watson MP and News International:

I can recall telling Mr Watson that the Government had been under pressure from News International to sack him. I remember telling him on a telephone call that Sarah my wife had received a text from Rebekah Brooks questioning his continuation as a Minister.

Ms Sharon Shoesmith:

Issues surrounding Sharon Shoemith were not dealt with by me, but by the Children's and Schools Secretary, Ed Balls.

8. The 30 year rule

In my speech on liberty in October 2007, I emphasised the importance our Government attached to a modern British interpretation of liberty – in particular to free speech, free assembly and a free media. Among proposals for strengthening the promotion of liberty through our constitution, I announced a review of the rule which restricted the publication of Cabinet and related minutes for thirty years. The background to this was my feeling – expressed in the speech and in this written evidence – that our rights and freedoms are protected by public scrutiny as much as they are by the decisions of Parliament and independent judges. So it follows that to advance the liberty of the individual we should have the freest possible flow of information between government and people. I felt there was more we could do to change the culture and the workings of government to make it more open – whilst of course continuing to maintain safeguards in areas like national security. After all, public information does not belong to government, it belongs to the public on whose behalf government is conducted, and I said that wherever possible that should be the guiding principle behind the implementation of the Freedom of Information Act. This led to my asking Sir Tim Berners Lee to open up government data on an unprecedented scale including opening up non-personal material from health, crime and transport files and from organisations as varied as the Ordnance Survey and the Meteorological Office.

I felt that we had it in our power to ensure the public were better informed not just about current issues but about

past decisions, not least because biographies, diaries and requests agreed under the Freedom of Information Act were already eroding the 30 year rule which barred Cabinet papers from public scrutiny. I was grateful to Paul Dacre, Editor-in-Chief of Associated Newspapers and a member of the Press Complaints Commission, Sir Joe Pilling, former Permanent Secretary of the Northern Ireland Office, and the eminent historian Professor Sir David Cannadine – for agreeing to review this rule. Taken together the group of three – a media leader, a retired civil servant and a historian – were well placed to understand the need for access to the papers in the public interest, including for historical research, and balance this against traditional arguments about the need to protect national security. I felt Mr Dacre was well equipped to act as Chairman, as he could balance what I saw as the general case for opening up information with addressing the known sensitivities about the release of public papers. He knew the Conservative Government members of the 80s and 90s and was well placed to assess their views and deal with the objections of those whose papers were the most likely to be revealed earlier under a 15 or 20 year rule. He was also well placed to deal with the particular concerns of the Monarchy. Mr Dacre was not consulted about nor involved in any other matters of public policy.

9. The case for a Judicial Inquiry

When the Culture, Media and Sport Select Committee reported in February 2010, I commissioned, through my private office, advice from the Cabinet Secretary on the case for a judicial inquiry. Sir Jeremy Heywood, the new Cabinet Secretary, has written to me about the scope of that advice: “Lord O’ Donnell has made clear in evidence to the Leveson Inquiry that his advice was given on the

basis of the evidence available at the time and also the advice he received from the Treasury Solicitor. It was also the case that given the extensive investigation conducted by the Select Committee, it was assumed that the Committee's report gave a reasonably comprehensive picture of the relevant evidence. Consequently no wider investigation or consultation within Government was undertaken before the advice was prepared”.

So his review did not include consideration of material information held within other departments which – had it been considered – would have made the case for an inquiry more compelling. It did not consider or take account of the then Home Secretary’s concerns (which he has expressed to the Leveson Inquiry) nor any other information held within Government including information sent by the Met and information held by other agencies. The Cabinet Secretary’s detailed advice has been published, from which it can be seen that he recommended against an inquiry. After new evidence emerged I wrote to the Cabinet Secretary in the summer of 2010 repeating the case I had made for an inquiry but my suggestion was, of course, rejected until the Leveson Inquiry was constituted in 2011.

I believe that the facts stated in this witness statement are true.

**Gordon Brown
30th May 2012**

G. Brown
First Statement
"GB1"
30 May 2012

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CULTURE, PRACTICES AND
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WITNESS STATEMENT OF
GORDON BROWN

ReedSmith
The Broadgate Tower
20 Primrose Street
London
EC2A 2RS
Ref: SPMS/ 766969.00004

Tel: 020 3116 3000
Fax: 020 3116 3999