

Leveson Inquiry: Witness Statement

Sir Christopher Meyer

In the short time available I have drafted much of what follows from memory. I have not been able to check everything against the archives. It is accurate to the best of my ability, but I cannot exclude the possibility of mistakes. The Statement has not been seen by a lawyer.

INTRODUCTION

I would like to begin by making three observations.

- 1 I find it an inexplicable omission from the membership of the Advisory Panel that there is a) no representative of the Press Complaints Commission (PCC) in the shape of a current or former Independent Commissioner, and b) no representative of the tabloid press. The advice available to Lord Justice Leveson will be the less complete for this omission.
- 2 There is a long history of animosity towards the PCC on the part of a member of the Advisory Panel, Sir David Bell. In 2007 the Media Standards Trust, of which he was Chairman, produced a report on the PCC so defective in its research and hostile in its conclusions that even the Guardian was moved to criticise it. The relevant papers are to be found in the PCC archives.
- 3 The PCC will be disclosing relevant material generated during my time as Chairman (2003 to 2009).

MY BACKGROUND

I was from 1966 until 2003 a member of Her Majesty's Diplomatic Service. I retired from the Service as Ambassador to the United States.

Soon after my retirement I was, with the agreement of the Cabinet Office, appointed Chairman of the PCC in March 2003. This was a job that I wanted to do. I had had in my career as a diplomat close dealings with the British and foreign media, both print and broadcast. Between 1984 and 1988 I was Foreign Office spokesman and Press Secretary to the Foreign Secretary, Geoffrey Howe. While on sabbatical at Harvard University in

1983/89 I wrote a paper based on my experience called "Hacks And Pin-Striped Appearances: *Selling Foreign Policy To The Press*". I can let the Inquiry have a copy if this would be of interest. From 1994 to 1996 I was Government spokesman and Press Secretary to the Prime Minister, John Major. I made some observations on this role in my book "DC Confidential", published in 2005. I submitted a paper in 2004 in response to the Phillips Report on government communications, which was in general critical of its conclusions.

Having suffered the slings and arrows of journalists over a total of six years as a press secretary, I was fascinated by the notion of chairing the PCC. My appetite was further whetted by a brush with the problem of regulation when I was working in Downing Street in 1994. I had inherited from my predecessor a draft White Paper on a privacy law. This had already been the subject of extensive, but so far fruitless, Whitehall discussion. In the end the draft was shelved. This was largely because the Prime Minister had no wish to antagonise proprietors and editors, who had set their face against a privacy tort. But, it had also proved impossible to reach an agreed definition, save at the broadest level of generality, on the boundary between the private and public spaces. There was as well a fear that such a law without the provision of legal aid, would become a rich man's charter. I believe those difficulties still to be relevant. (There is a further point, which was not in contention seventeen years ago. Whether privacy law is developed on the basis of the Human Rights Act or a new statute, it will always fall to the courts to interpret the law. This may be no more than a statement of the utterly obvious. But, it needs to be made at a time when there is criticism in parts of the newspaper industry of "unelected" judges making case law.)

Against this background, I responded positively to the headhunters' (Spencer Stuart) invitation to put my hat in the ring, and after interview by the members of the Press Standards Board of Finance (Pressbox), I was duly appointed Chairman.

I spent two terms as Chairman and retired in March 2009.

THE PCC: THE BASICS

The best account of the origins and history of the PCC until 2001 is to be found in Richard Shannon's book, *A Press Free And Responsible*. A good narrative of my 6 years at the PCC can be constructed from the Annual Reviews, together with the annual reports of Sir Brian Cubbon, the Charter Commissioner and Chairman of the Charter Compliance Panel. In the Annual Review for 2008 I drew conclusions from my tenure. All these papers are to be found at Halton House or on the Commission's website.

The PCC's current mission statement is a comprehensive description of its work, demonstrating the degree to which Commission has moved beyond a complaints service into various areas of proactive, preventative and educational work, a trend already well established in my time. I would draw Lord Justice Leveson's attention in particular to the PCC's extensive and growing work in the fields of anti-harassment and resolution of issues before publication. This is classic "pro-active" work of the kind repeatedly demanded of the PCC by its critics, requiring an institutional agility unlikely to be available to any statutory body. Unfortunately, the Commission is given less credit for this highly successful activity than it deserves, since by definition most of it cannot be publicised.

The website provides a comprehensive guide to the Commission's architecture. The Inquiry would do well also to look at the Code Committee's website, which contains among other things the latest edition of the Handbook.

#### THE PCC: MY EXPERIENCE

I brought five beliefs to the job: that a free press is fundamental to a healthy democracy; that, despite the cringing of politicians to the press, the Government had significant in-built advantages over the press through its control of the flow of official information to the public; that any state regulation of the press was in principle offensive; that, to paraphrase Churchill, self-regulation was the worst system of regulation until you compared it to all the others; and that, precisely because of these four precepts, there had to be a fifth - that self-regulation must work, and be seen to work.

When I became Chairman, it was just in time to be called to give evidence to a hearing of the Commons Select Committee on Culture, Media and Sport (CMS), at that time under the chairmanship of Gerald Kaufman. My experience before the Committee reinforced my belief that the PCC had to move quickly to make reforms. These were needed to reinforce

its independence, transparency, accountability and public profile - in a word, its credibility. In May 2003 I therefore announced a number of reforms, including:

1. Appointment of an additional Independent Commissioner so as to increase the lay majority.
2. Creation of an independent Charter Compliance Panel under the chairmanship of Sir Brian Cubbon to scrutinise all aspects of complaints handling and to publish an annual report (over which I had no editorial control).
3. Appointment of Sir Brian to a new post of independent Charter Commissioner, whose role would be to review the cases of dissatisfied complainants, make recommendations to the Commission and publish an annual report (over which, again, I had no editorial control).
4. Introduction of an annual audit of the Code of Practice with a view to making changes in light of proposals from the Commission, members of the public and the press itself. A number of changes were made during my tenure.
5. Publication of a Code of Practice Handbook, which would explain each of the clauses with a commentary on how their implementation had evolved over the years. The Handbook is now, I believe, in its second edition.

Alongside these changes I decided that it was essential for the PCC to raise its profile in the nation at large. We therefore created a programme of away-days, when, two or three times a year, Commissioners, the editor of the local paper, the Director and members of the PCC staff and I would hold workshops and a "Town Meeting" open to all corners in the cities and towns of the UK. We started in Manchester in 2003. I would also give interviews to the local media. Though attendance was variable, we judged the away-days to be well worthwhile and they continued throughout my chairmanship. We spread the gospel of self-regulation, with the strongest possible emphasis on the PCC's offering a free service for "ordinary people", and not just celebrities and politicians. We in turn heard the preoccupations of the ordinary citizen, which focused primarily on accuracy, protection from media scums and the effectiveness of the PCC's sanctions (broadly speaking complaints split 50/50 between the national and regional press). A recurring theme was the prominence or otherwise of corrections and apologies. This led us to mount a major campaign with the press significantly to raise their game on prominence, with the result that by the time I left office 85% of corrections and apologies appeared either on the same page as the offending article or further forward or in a designated column.

The away-days also reinforced me in the belief, first gained when I was a press secretary, that there was an enormous gulf between the preoccupations of the metropolitan elite in London and the country at large. As John Major's Press Secretary I had made it my practice to meet groups of editors of regional papers twice a year. I had been struck by how little interest they showed in most of the controversies convulsing Westminster - because, they said, their readers were not interested - and by the fact that much of national newspapers' reporting on politics was simply one part of the Westminster village talking to another.

This gulf applied in spades to perceptions of the PCC. While repeated polling by independent organisations (details with the PCC) shows high levels of satisfaction among those who have used the PCC in the country at large, the Commission has always faced unrelenting hostility "inside the Beltway", principally from politicians, media lawyers and some editors, and often in university media departments. By contrast, in the half-a-dozen times that I appeared on *Question Time* and *Any Questions* during my tenure, I never received a single question from the public on the press. It was a constant source of frustration that the most vociferous critics, often MPs, refused our permanent invitation to come to Halton House to see at first hand how the PCC worked. This was the case, for instance, with the 2007 report on the PCC by the Media Standards Trust, announced to great fanfare but without any prior contact with my staff or me. It is no surprise, therefore, that, as with the Trust's report, schoolboy howlers are repeatedly made. Many critics are not even aware that, of the seventeen members of the Commission, the Independent Commissioners comprise the majority and that there are only three national newspaper editors. It is for this reason that I am distressed by the absence from the Advisory Panel of anyone with direct experience of working in the PCC.

The gulf is even greater when the contrast is made between metropolitan critics and the views of foreign countries as diverse as France, Sri Lanka, Canada and Bosnia - to name but four - where the PCC is regarded as setting the gold standard for press regulation, to be emulated in as far as local conditions allow.

The number of people using the PCC in my time as Chairman broadly doubled to 4,698 complainants. The figure today is even higher. Lord Justice Leveson may care to reflect on the irony that, when the public service offered by the PCC has never been more used than

it is today, to the apparent satisfaction of most of its customers, its very existence is now under threat from metropolitan politicians.

### THE PCC: THE 2007 REPORT ON SUBTERFUGE AND NEWSGATHERING

The Code of Practice is the PCC's bible. Clause 10 covers subterfuge. When the phone hacking affair broke surface in 2006, it read that "the press must not seek to obtain or publish material acquired ... by intercepting private or mobile telephone calls, messages or emails" except where there is a public interest.

The subterfuge clause, like several others in the Code, enjoyed (and still enjoys) a public interest exception, which allows its suspension, if a matter being investigated by a journalist is deemed to be, or likely to be, of legitimate public interest. Defining the public interest is, of course, a matter of eternal debate. The Code illustrates the kind of cases, which might fall into this category, rather than trying to define comprehensively what constitutes the public interest. Though general principles can be adduced, and refined over time, it is not possible to establish a definition for all seasons that removes the need for a case-by-case approach.

A further complication is that the Code of Practice overlaps with the law: that is to say that offences under the Code can also be offences under the law. Where this happens, and a matter becomes *sub judice*, the PCC must always yield to the law. This is what happened in the 2006/7 phone hacking case, where the PCC made no investigation of its own until court proceedings had been brought to a conclusion. Furthermore, on matters of reputation and accuracy, a complainant will often have a choice between going to law and going to the PCC. Max Moseley chose the courts, while the McCanns used both the courts and the PCC. This leads to a wider point of very great importance. It is common to assert that the British press is disciplined by a system of self-regulation. This is only partly the truth. In reality a hybrid regulatory system controls the press and the media as a whole. The BBC, for example, is regulated by OfCom and the BBC's own Trust. The press is regulated through the PCC, the courts (controversially in some privacy cases) and a number of laws that constrain its freedom - the Data Protection Act and the Regulation of Investigatory Practices Act, to name but two. It was, of course, under the latter that Clive Goodman and Glenn Mulcaire were prosecuted and sent to gaol. I would myself argue that in this case (leave aside any defects in the police investigation) the hybrid British system of

press regulation worked exactly as it was designed to do. A crime was investigated, a successful prosecution mounted and an editor resigned. The question for the PCC was not why did it not spot this malfeasance and deal with it; but whether, after the police investigation, there was anything further for the PCC to do, other than to exhort journalists to obey the law (there was - see below). To argue otherwise is to seek to confer on the PCC powers of investigation tantamount to those of the police, viz. the authority to take sworn statements. This would, in my view, be utterly objectionable in principle, since these powers could be granted only by statute; and a line would have been crossed into state regulation of the press. It cannot be the role of a self-regulatory system to enforce the criminal law.

A similar conundrum arose over the fall-out from Operation Motorman, an investigation carried out by the police and the Information Commissioner's Office (ICO) in 2002/2003 into breaches of the Data Protection Act, including the use by journalists of inquiry agents to obtain private information by illegal means. At the end of 2003 some of the results of the inquiry were brought to our attention at the PCC by the then Information Commissioner, Richard Thomas, who pressed us to take steps to ensure that this practice was stamped out. We had to point out to Mr. Thomas that the use of inquiry agents - a widespread practice not confined to the press - was not itself illegal; and that it would be more useful to know which journalists had allegedly been using agents to acquire information illegally. Mr. Thomas was unable to give us this information, but said that there were likely to be prosecutions of journalists. In the event there was none. Nevertheless, in 2005, the PCC issued guidance to the press, agreed with the ICO, on compliance with the Data Protection Act. Mr. Thomas went on to publish two reports on the matter. But, at a hearing of the CMS Select Committee in 2007, to which both Mr. Thomas and I had been summoned on the same day, he again declined to reveal the identities of any journalists engaged in the illegal pursuit of private information. In the circumstances it was hard to see what more the PCC could or should have done. That said, though the issues raised under the Data Protection Act were separate from those raised by phone hacking (but the current controversy has been plagued by conflation of the two), the PCC's report in 2007 on subterfuge recommended to the newspaper industry the inclusion in journalists' contracts of a requirement to abide by the Data Protection Act. The PCC subsequently ran seminars with the ICO for journalists on compliance with the Data Protection Act.

We first became aware of the police investigation into phone hacking in August 2006 and issued a statement emphatically condemning any breach of clause 10 of the Code. On 16 November the then Editor of the News of the World, Andy Coulson, wrote to me to give assurances, that, the trial of Clive Goodman and Glenn Mulcaire notwithstanding, he and the journalists who worked under him were "fully committed" to the Code of Practice. I replied that I was glad to hear this; but, depending on the outcome of the trial, "there may be matters that we will need to discuss". By that I had in mind that, especially if there were a guilty verdict, there would be issues of editorial and management control, in which the PCC would have a direct interest in its role of upholding high journalistic standards. I also discussed the case with the then Chief Executive of News International, Les Hinton, who said that he was absolutely certain that Andy Coulson had been unaware of any illegal activities by Clive Goodman and Glenn Mulcaire.

In the event Goodman and Mulcaire were found guilty in January 2007 and sent to prison. Andy Coulson resigned as editor of the News of the World and was replaced by Colin Myler. The PCC issued a press release on 1 February, stating that "the public has a right to know that lessons have been learned from this episode, both at the newspaper and more generally." The statement went on to announce an investigation that would focus on what went wrong at the News of the World; on what steps would have to be taken to ensure no recurrence; and on what internal controls were in place across the entire newspaper industry to ensure compliance with the law in investigative reporting. The PCC would, the statement concluded, review its findings with a view to publishing a report. In short, far from fruitlessly trying to duplicate the police investigation, the Commission took the opportunity to learn lessons and to establish new and higher standards for the newspaper industry as a whole - its core mission.

The PCC's investigation involved writing to all editors of UK newspapers and magazines, copied to their managements. There was a large number of replies. This monumental task was completed by May 2007, when we published our report. It set out six recommendations. These included:

- 1 Contracts with inquiry agents/external contributors should contain an explicit requirement to abide by the Code of Practice.
- 2 A similar reference to the Data Protection Act should be included in contracts of employment.

- 3 There should be in all publications an effective and well understood "subterfuge protocol" for staff journalists, with an identified individual to give advice on whether the public interest was sufficiently engaged to justify subterfuge.
- 4 Though contractual compliance with the Code was widespread, it should become universal without delay in the contracts of staff journalists.
- 5 There should be regular internal training and briefing on developments in privacy cases and compliance with the law.
- 6 There should be rigorous audit controls for cash payments, where these were unavoidable.

These recommendations were widely welcomed in the industry, though there was some grumbling from the trade body, the Newspaper Publishers' Association, at our not having cleared them first with the Association. To have done that would, of course, have compromised the independence of the report, as well as significantly delaying its publication.

Unsurprisingly, in the light of recent history, our exchanges with Colin Myler disclosed no evidence to suggest that the Goodman/Mulcaire case was anything more than a single rogue operation. Yet, our report was able to set out in considerable detail what had gone wrong inside the News of the World - a salutary example to other newspapers of what to avoid - and what the new editor intended to do about it. The report was welcomed by the government, the CMS Committee and the Guardian. We were, however, criticised for not having interviewed Andy Coulson. With hindsight, it might have been presentationally better to have done so. But, since he was no longer editor, we had no authority over him and it was most unlikely that he would disclose anything that had not been already disclosed to the police. We, therefore, decided that it would be more useful to bring a fresh eye to bear in the shape of the new editor, Colin Myler.

Though there are significant improvements that can be made to the PCC, which I discuss below, my fundamental belief is that, when judging the effectiveness of the Commission, the phone hacking scandal is neither particularly useful nor relevant, unless you want to set up a system of state regulation, conferring on the PCC quasi-police powers of investigation with statutory sanctions to match. It cannot be emphasised enough that, though there is overlap with the subterfuge clause in the PCC's Code of Practice, what has been at issue here is criminal behaviour for investigation by the police and, if necessary,

for subsequent prosecution in the courts. As I have already argued, in the matter of Clive Goodman and Glenn Mulcaire, there was a proper division of powers between the courts, the police, the Information Commissioner and the PCC. That point remains valid, whether or not the police investigation was defective.

#### THE PCC: THE WAY AHEAD

The Goodman/Mulcaire case is in reality a distraction from what needs to be done at the PCC. It is essential to build on the 2003 reforms, with particular emphasis on the organisation's relationship with the newspaper industry itself. This goes to the heart of the PCC's credibility and public confidence in self-regulation. The out-going Chairman, Baroness Buscombe, has already introduced major changes to governance. I believe it to be the case that the current Independent Directors - a particularly distinguished group - are reviewing further changes to the way the PCC is constituted and operates. It is vital to await their conclusions before taking any decisions on the organisation's future.

If I were still Chairman, I would start with the following: the introduction of Independent Commissioners into the Code Committee and Pressbof, currently the monopoly preserve of the industry, with the Chairman of the PCC taking the chair of the Code Committee; an increase in the ratio of Independent Commissioners to editors on the Commission, at the same time reducing its numbers from 17 to 12; giving the final word on the choice of a new Chairman to the Board of Commissioners. There may well be other ways of strengthening independence, though I consider it an important principle to have national and regional editors represented on the Commission, since their perspective must be heard in decisions and adjudications. Changes along the above lines would not, in my view, be incompatible with the original insight behind self-regulation that the PCC must be able to take the industry with it, if the system is going to work. There can, however, be a conflict between this insight and the ability of the Commission to act, and to be seen to act, independently. The notion that the Commission is in the pockets of the industry is false and grotesquely unfair to all who work at Halton House. Yet, it has to be said that the balance between "taking the industry with it" and being constituted in a way that is demonstrably independent is not right and tilted too far towards the industry.

Critics of the PCC also take aim at its sanctions, claiming that they are a slap on the wrist. Given the often furious resistance from editors to being named and shamed in their own

publications, the power of the negative adjudication is underestimated by those outside the industry. Last year's CMS report came out in favour of levying fines. This is superficially attractive, but is, I believe, a snare and delusion. The PCC's unique selling point is that it is free and fast. The BBC Trust is, by contrast, ponderous and slow. If fines were introduced into the equation (and how could this happen, save by statute?), it is inevitable that the whole system would slow down. There would be endless argument about the tariff. Lawyers would be introduced into what is currently a lawyer-free zone. Newspapers would challenge fines in principle as an unacceptable abridgement of freedom of speech and are more than likely to win, in either the English courts or at Strasbourg.

Instead, I would move further still on the prominence of published adjudications, corrections and apologies. At present it is a matter of negotiation between the Commission and editors. I would favour giving the Commission the power to instruct editors on where to place these remedies.

Is it possible to give the PCC any form of statutory backing without compromising the principle that the state should not regulate the press? As of drafting the Northern and Shell newspapers have taken themselves out of the PCC system. No system of self-regulation can survive the willful refusal of a major player to take part. There may be a case for a back-stop law or regulation making membership of the PCC compulsory.

In short, self-regulation should be rebalanced, reformed and reinforced, such that it can be rechristened "independent" regulation (or PCC Plus), even though the newspaper industry should continue to pay for it. Abolition should not be an option - by the same logic the police should be disbanded because of the continuing prevalence of crime. It would be pure folly to throw away the experience and case law of two decades.

Christopher Meyer  
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