



# Culture, Media and Sport Committee

## Select Committee Press Release

Committee Office  
House of Commons, London, SW1A 0AA

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### **PRESS STANDARDS, PRIVACY AND LIBEL**

#### **Committee calls for overhaul of libel laws, press standards and PCC powers**

The Culture Media and Sport Committee today (24 February) releases its Report, *Press Standards, Privacy and Libel*. The Report makes a number of recommendations with regard to the reform of libel laws, press standards and regulation. The Committee's inquiry sought to address concerns amongst the media that the operation of libel laws and the impact of costs were stifling press freedom, as well as considering the balance between personal privacy and press freedom, considering cases such as that brought by Max Mosley against the *News of the World*, and the increasing use of injunctions and super-injunctions. It also examined press standards in the UK, considering two recent cases – Madeleine McCann's disappearance; and the suicides in and around Bridgend in 2008. The Committee also reopened oral evidence to take in revelations in the *Guardian* in July 2009 regarding phone hacking and blagging.

Committee Chairman John Whittingdale said:

*"A healthy democracy requires a free press. It is essential that newspapers should be able to report and comment on events, public figures and institutions, to be critical of them and to be a platform for dissenting views. At the same time, the press must be seen to uphold certain standards, to be mindful of the rights of those who are written about and, as far as possible, be accurate in what they report.*

*There is increasing evidence that in recent years investigative journalism is being deterred by the threat and cost of having to defend libel actions. This is a matter of serious concern to all those who believe that a free press is an essential component of a free society. This report's recommendations are therefore designed to reduce the cost of libel actions and to correct the balance which has tipped too far in favour of the plaintiff. At the same time, we want to see the self-regulatory system under which the press operates strengthened in order to increase its credibility and ensure that standards are maintained."*

#### **Privacy and breach of confidence**

The Committee does not consider that it would be right, at this time, to legislate on privacy. The Report recommends that the PCC should amend its Code to include a requirement that journalists notify the subject of their articles prior to publication, subject to a "public interest" test, and provide guidance for journalists and editors on pre-notifying in the Editors' Codebook, although it rules out making pre-notification mandatory. The Committee recommends that failure to pre-notify should be an aggravating factor in assessing damages. To balance this, it recommends the development of a fast track procedure for a final decision where an interim injunction banning publication of a story has been granted or refused by a court.

The Report expresses concern at the confusion over the level of protection provided to the reporting of Parliamentary proceedings by the Parliamentary Papers Act 1840, which was highlighted by events surrounding the imposition of a "super-injunction," obtained by Trafigura to prevent the publication of a report on alleged dumping of toxic waste in the Ivory Coast, and subsequent debate over reporting of Parliamentary Questions relating to that report. The Committee recommends that these important elements of freedom of speech should be put beyond doubt through the enactment of a modern statute. It also recommends that the Lord Chancellor and the Lord Chief Justice act on concerns regarding injunctions more generally in cases of both breach of privacy and confidence.

John Whittingdale said:

***“Since the passage of the Human Rights Act, there have been a growing number of cases brought on grounds of privacy. While some argue that Parliament should introduce specific legislation in this area, it will still be for the Courts to interpret the law and seek to find the right balance between freedom of expression and the right to privacy. Each case will be different and we do not believe the case has been made for a general privacy law.***

***However, we are deeply concerned at the confusion that has arisen over the right of the press to report what is said in Parliament. The free and fair reporting of proceedings in Parliament is a cornerstone of our democracy and the Government should quickly introduce a clear and comprehensive modern statute to put this freedom beyond doubt.”***

### **Libel and press freedom**

The Report considers the fairness of the ‘burden of proof’ being on the defendant and, in relation to individuals, concludes that in order to satisfy natural justice the defendant should still be required to provide the proof of his allegations. However with regard to corporations and defamation, it recommends that the Government should consider reversing the general burden of proof.

The Report also assesses the damage so called ‘libel tourism’ has caused to the UK’s reputation as a country which protects free speech and freedom of expression, especially in the United States of America, where a number of states have enacted legislation to protect their citizens from the enforcement of libel settlements made in foreign jurisdictions. It notes that neither the Lord Chancellor nor his officials have sought to discuss this matter with their US counterparts, and urges that such discussions should take place as soon as possible. It further suggests that in cases where the UK is not the primary domicile or place of business of the claimant or defendant, the claimant should face additional hurdles before being allowed to bring a case.

John Whittingdale said:

***“It should be a matter of profound concern that the UK is now regarded as the jurisdiction of choice for litigants to bring libel actions, even when there is no obvious connection with this country. It is a humiliation that US legislators have felt it necessary to take steps to protect freedom of speech from what are seen as unreasonable incursions by our courts and we believe the Government should address this as a matter of urgency.”***

### **Costs**

The Report notes that there are problems which urgently need to be addressed in order to enable defamation litigation costs to be controlled more effectively. The suggestion that the problem confronting defendants, including media defendants, who wish to control their costs can be solved by settling cases more promptly is in the Committee’s view, 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, the Report says. The evidence the Committee received points to the fact that the vast majority of cases brought under a Conditional Fee Agreement (CFA) are won. The Committee therefore sees no justification for lawyers to continue to demand 100% success fees which are chargeable to the losing party. Instead it recommends that the recovery of success fees from the losing party should be limited to no more than 10%, leaving the balance to be agreed between solicitor and client.

John Whittingdale said:

***“There is a growing clamour of voices calling for reform of our libel laws in order to reduce the cost of mounting and defending libel actions. Until this is addressed it will continue to have a stifling effect on press freedom and the Government should now act swiftly to do so.”***

### **Press standards**

With regard to the McCanns, the Report concludes that competitive and commercial factors led to an inexcusable lowering of press standards in the gathering and publishing of ‘news’ about the case. While the lack of official information clearly made reporting more difficult, the Committee does not accept that it provided an excuse or justification for inaccurate, defamatory reporting. The Report concludes that in this case self-regulation signally failed.

The Committee reopened oral evidence to consider the allegations contained in the *Guardian* in July 2009 that the *News of the World's* parent company had paid over £1m in damages and costs to settle three civil actions relating to phone hacking. The Report concludes that it is likely that the number of victims of illegal phone hacking will never be known, not least because of the silence of Clive Goodman and Glenn Mulcaire and the 'collective amnesia' at the newspaper group. The Report notes however, that it is certainly more than the 'handful,' cited by both the newspaper and the police.

The Committee saw no evidence that the then *News of the World* Editor, Andy Coulson, knew, but considers he was right to resign. The Report concludes, however, that the newspaper group did not carry out a full and rigorous inquiry, as it assured the Committee and the Press Complaints Commission it had. The circumstances of pay-offs made to Messrs Goodman and Mulcaire, as well as the civil settlements with Gordon Taylor and others, also invite the conclusion that silence was effectively bought, it says.

John Whittingdale said:

*"We were very concerned at evidence which has emerged suggesting that the phone hacking which took place at the News of the World around five years ago was not just limited to one rogue reporter. This contradicts the assurances we were previously given and has led us to conclude that it is inconceivable that no-one else at the News of the World knew.*

*While we are encouraged by assurances that such practices are now regarded as wholly unacceptable, this episode has done substantial damage to the newspaper industry as a whole. We were also concerned at the reluctance of witnesses from News International to provide the detailed information that we sought and the collective amnesia that afflicted them in relation to these matters."*

#### **Self-regulation of the press**

The Report recommends that the PCC should be renamed the Press Complaints and Standards Commission, reflecting its role as a regulator, not just a complaints handling service, and that it should appoint a deputy director for standards. The regulator should have the power to fine its members where it believes that the departure from the Code of Practice is serious enough to warrant a financial penalty, including, in the most serious of cases, suspending the printing of the offending publication for one issue. The Committee concludes that there must be some incentive for newspapers to subscribe to the self-regulatory system. It recommends that the Government should 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.

John Whittingdale said:

*"We remain of the view that self-regulation of the press is greatly preferable to statutory regulation. However, the PCC as it currently operates is widely viewed as lacking credibility and authority. To counter this, we believe that it must be seen to take a far more active role in ensuring that standards are upheld and that it should have the power to impose financial penalties on newspapers that breach the PCC Code."*

#### **FURTHER INFORMATION:**

**The Committee will hold an embargoed press briefing on Tuesday 23 February at 11.30 am in Committee Room 6 of the House of Commons. Embargoed copies of the Report will be available in Room 6 from 10.30 am. Inquiries should be directed to media officer, Laura Humble, on 020 7219 2003/ 07917 488 489.**

**Press standards, privacy and libel , Second Report of Session 2009–10, HC 362-I & II (oral and written evidence).**

#### **Culture, Media and Sport Committee Membership is as follows:**

Mr John Whittingdale (Chairman) (Con) ( <i>Maldon and East Chelmsford</i> )	Alan Keen (Lab) ( <i>Feltham and Heston</i> )
Mr Peter Ainsworth MP (Con) ( <i>East Surrey</i> )	Rosemary McKenna (Lab) ( <i>Cumbernauld, Kilsyth &amp; Kirkintilloch East</i> )
Janet Anderson (Lab) ( <i>Rossendale and Darwen</i> )	Adam Price (PC) ( <i>Carmarthen East and Dinefwr</i> )
Philip Davies (Con) ( <i>Shipley</i> )	Mr Adrian Sanders (Lib Dem) ( <i>Torbay</i> )
Paul Farrelly (Lab) ( <i>Newcastle-under-Lyme</i> )	Mr Tom Watson (Lab) ( <i>West Bromwich East</i> )
Mr Mike Hall (Lab) ( <i>Weaver Vale</i> )	

The following were also members of the committee during the inquiry:

Mr Nigel Evans (Conservative, Ribble Valley)	Helen Southworth (Labour, Warrington South)
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