Exhibit KC/3 - meeting, calls and correspondence with media proprietors, senior editorial and executive staff, May 2010 onwards

Meetings/ calls with media proprietors, senior editorial and executive staff, 2010**						
Date of meeting**	**Name of organisation and individual**	**Matters discussed**	**Who initiated (if known)?**	**Meeting note/ record****	**Type of Hospitality Received**	**Public domain?**
14/6/2010	The Times & the Daily Mail, Francis Elliott and Tim Shipman	Political	Their request	None taken	Lunch	On Cabinet return but no names released
17/6/2010	Channel 4 , Cathy Newman	Political	Invited by Cathy Newman	None taken	Lunch	On Cabinet return but no names released
24/6/2010	Society of Editors Parliamentary & Legal Committee	Conditional Fee Agreements, defamation, court broadcasting, Bribery Act, Repeals Bill	Invited by the SoE	Yes, attached. (Email 24/6/10)	Lunch	On Cabinet return
25/6/2010	BBC, Any Questions	General press	BBC (hospitality following Any Questions)	None taken	Supper	On Cabinet return
7/7/2010	The Times, Tom Newton Dunn	Political	The Times		Lunch	On Cabinet return but no names released
7/9/2010	The Guardian, Patrick Wintour and Andrew Rawnsley	Political	Guardian	None taken	Dinner	On Cabinet return but no names released

8/9/2010	The Herald & The Independent, Andrew Grice and Mike Settle	Political	Herald and the Independent	None taken	Lunch	On Cabinet return but no names released
14/9/2010	Daily Mail, Paul Dacre		Not recorded in diary	None taken	Dinner	On Cabinet return and name has been released on meetings with senior executives return
17/9/2010	The Times and Financial Times, Sam Coates and Alex Barker	Political	The Times	None taken	Lunch	On Cabinet return but no names released
3/10/2010	Guardian and Observer Drinks Reception	Political	Not recorded in diary	None taken	Conservative Party Conference	Not on Cabinet return as conference event but later released on meetings with senior executives return
4/10/2010	Financial Times, Lionel Barber and George Parker	Political	Not recorded in diary	None taken	Dinner (Conservative Party Conference)	Not on Cabinet return as Conference event but later released on meetings with

						senior executives return
5/10/2010	The Sun, Dominic Mohan and Tom Newton Dunn	Political	Not recorded in diary	None taken	Drinks (Conservative Party Conference)	Not on Cabinet return as Conference event but later released on meetings with senior executives return
13/10/2010	Daily Mail, Paul Dacre (phone call)	Policy – Freedom of Information and 30/20 Year Rule	Not recorded in diary.	Yes, attached. (Email 13/10/10)	n/a	On Cabinet return but no names released
19/10/2010	BBC, Sky News, ITN, Fran Unsworth, Simon Bucks, John Battle	Policy – Court broadcasting	Initiated by Sky and then others	Yes, attached. (email 22/10/10)	None	On Cabinet return but no names released
25/11/2010	The Times	Political	The Times	None taken	Lunch	On Cabinet return but no names released
6/12/2010	Daily Mail, Paul Dacre	Policy - Sentencing Green Paper, and Freedom of Information and 20/30 Rear Rule	MoJ initiated	Yes, attached – though only covers sentencing. (email from later FOI request, 6/7/11	None	On Cabinet return and name has been released on meetings with senior executives

				but content dated at 6/12/10)		return
7/12/2010	The Sun, Dominic Mohan (phonecall)	Policy - Sentencing Green Paper	MoJ initiated	None taken	None	On Cabinet return but no names released
9/12/2010	The Times, Rachel Sylvester	Policy - Sentencing Green Paper	The Times	None taken	None	On Cabinet return but no names released

**The information relating to meetings and conversations provided to the Inquiry reflect published returns, and result from a departmental search of the Secretary of State's diary and other records from May 2010. We have sought to identify all available records of relevant meetings and conversations between the Secretary of State and media proprietors and senior editorial and executive staff within the media, and related correspondence.

Meetings/ calls with media proprietors, senior editorial and executive staff, 2011/12**						
Date of meeting**	**Name of Organisation**	**Matters discussed**	**Who initiated?**	**Meeting note****	**Type of Hospitality Received**	**Public domain?**
11/1/2011	A&N Media, Lord Rothermere and Associated Newspapers Ltd, Kevin Beatty	Libel, Bribery Act, FoI, Revision of the E-Privacy Directive	Not recorded in diary	Yes, attached. (email from 18/1/11)	None	No – appears it was missed off Cabinet return through human error
13/01/2011	BBC, Nick Robinson	Political	His request	None taken	Lunch	On Cabinet return but no names released
18/01/2011	Independent on Sunday, Brian Brady	Political	Independent on Sunday	None taken	None	No
18/01/2011	Nottingham Evening Post, Joe Watts	Constituency	Nottingham Evening Post	None taken	None	No
25/01/ 2011	Daily Mail, Paul Dacre and Lord Black of Brentwood	Freedom of Information/ 20 year rule	Their request	Yes, attached. (Email from 26/1/11)	None	On Cabinet return and name has been released on meetings with senior executives return
27/01/2011	ITN, Keir Simmons and Sam Haq	Political	Their request	None taken	Lunch	On Cabinet return but no names released
28/01/2011	Observer, Toby Helm	Political	Their request	None taken	Lunch	On Cabinet return but no names released
08/02/2011	Daily Express, Richard Desmond (Daily Express Business Forum Lunch)	Business lunch with industry in general, not media.	Their request	None taken	Lunch	On Cabinet return but no names released

09/02/2011	Times Law Awards judging session, Frances Gibb	Political	Their request	None taken	None	No
03/03/2011	Sky News, Joey Jones		Their request	None taken	None	No
11/03/2011	BBC, Any Questions	General press	BBC (hospitality following Any Questions)	None taken	Dinner	On Cabinet return
16/03/2011	Times Law Awards	Political	Their request	None taken	Dinner	A public event, but not logged on Cabinet return through human error
28/3/11	Daily Mail, Paul Dacre, James Slack.	Defamation, Super-injunctions, Conditional Fee Agreements/ Jackson	Our request	Yes, attached (Email from 31/3/11 and the meeting is wrongly dated to the 31st. Actually 28th).		On Cabinet return and name has been released on meetings with senior executives return
06/04/2011	Financial Times, George Parker	Political	Their request	None taken	Lunch	On Cabinet return and name has been released on meetings with senior executives return
03/05/2011	The Times and Channel 4, Roland Watson and Gary Gibbon	Political	Their request	None taken	Dinner	On Cabinet return but no names released
03/05/2011	BBC, Sophie Hutchinson	N/a	Their request	None taken	None	No
04/05/2011	The Guardian, Simon Jenkins		His request	None taken	None	No
09/05/2011	The Guardian, Alan Rusbridger (editorial lunch	Policy	Their request	None taken	Lunch	On Cabinet return and name has

	speaking to editors so other senior journalists likely in attendance)					been released on meetings with senior executives return
19/05/2011	ITN	Political	Their request	None taken	Lunch	On Cabinet return but no names released
09/06/2011	The Independent and Evening Standard, Evgeny Lebedev,	Introductory meeting – focused on business and KC's experience on board of Independent	Their request		None	On Cabinet return and name has been released on meetings with senior executives return
08/09/2011	Telegraph Media Group, Benedict Brogan & The Guardian, Nick Watt,	Political	Their request	None taken	Lunch	On Cabinet return but no names released
12/09/2011	Daily Mail, James Slack & James Chapman	Political	Their request	None taken	Dinner	No
05/10/2011	The Times, Roland Watson, Sam Coates, Anuskha Astana and Michael Savage	Political	Their request	None taken	Lunch	Awaiting publication in next set of Cabinet returns
06/10/2011	The Independent (25th Birthday Dinner; attendees included Evgeny Lebedev, Simon Kelner, Andrew Marr, Janet Street-Porter)	Political	Their invitation	None taken	Dinner	Awaiting publication
13/10/2011	The Independent and Evening Standard, Evgeny Lebedev	Political	Their request	None taken	Dinner	Awaiting publication
14/11/2011	Society of Editors Conference	Policy	Their request	None taken	Lunch	Awaiting publication

16/11/2011	Spectator Parliamentary Awards	Political	Their request	None taken	Dinner	Awaiting publication
01/12/2011	BBC, Question Time	General press	BBC (hospitality following Any Questions)	None taken	Buffet	Awaiting publication
23/2/2012	Times Law Awards judging session. Panel included James Harding, Frances Gibb	Courts broadcasting (the subject of the 2012 essay)	Their request	None taken	None	Awaiting publication
09/02/2012	Daily Telegraph , Robert Winnett & James Kirkup	Political	Their request	None taken	Coffee	Awaiting publication
28/3/2012	Times Law Awards	Political	Their request	None taken	Dinner	Awaiting publication

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Correspondence with media proprietors, senior editorial and executive staff, 2010-12**			
Date	From	To	Subject
12/5/2010	Bob Satchwell, Society of Editors	Justice Secretary	Invitation to lunch to discuss range of media issues
21/7/2010	Rebekah Brooks, News International Ltd	Justice Secretary	Letter welcoming JS to office, raising defamation and civil costs and seeking a meeting.
16/9/2010	Justice Secretary	Rebekah Brooks, News International Ltd	Broad response to letter of 21/7/2010, making meeting available (To the best of recollection and a record search, the offer was not taken up).
c. 26/9/2010 (undated and missing covering note, but emails suggest Departmental advice was sought on this date)	Paul Dacre, Daily Mail	Justice Secretary	Short article on Bribery Act and clauses suggesting introduction of a public interest defence
22/12/2010	Justice Secretary	Paul Dacre, Daily Mail	Response to letter of c. 26/9/2010 on Bribery Act
22/12/2010, 3 letters	Justice Secretary	John Battle, ITN Simon Bucks, Sky News Fran Unsworth, BBC	Response on court broadcasting following meeting of 19/10/10
30/12/2010	Paul Dacre, Daily Mail	David Hass, Special Adviser to the Justice Secretary	Letter on 20 year rule and Freedom of Information following JS phone call and meeting (the latter mainly on sentencing) earlier in the year.
17/1/2011	Simon Bucks, Sky News	Justice Secretary	Response on court broadcasting following letter of 22/12/10
18/1/2011	John Battle, ITN	Justice Secretary	Response on court broadcasting following letter of 22/12/10

19/1/2011	Fran Unsworth, BBC	Justice Secretary	Response on court broadcasting following letter of 22/12/10
19/1/2011	David Hass, Special Adviser to the Justice Secretary	Paul Dacre, Daily Mail	Response to letter of 30/12/10 (ahead of meeting on 25/1/11)
7/9/2011, 3 letters	Justice Secretary	John Battle, ITN Simon Bucks, Sky News Fran Unsworth, BBC	Letter on court broadcasting
6/2/2012	Helen Boaden, BBC John Hardie, ITN John Ryley, Sky News	Justice Secretary	Court broadcasting
23/2/2012	Justice Secretary	Helen Boaden, BBC John Hardie, ITN John Ryley, Sky News	Response to letter on court broadcasting of 6/2/2012

**The information relating to meetings and conversations provided to the Inquiry reflect published returns, and result from a departmental search of the Secretary of State's diary and other records from May 2010. We have sought to identify all available records of relevant meetings and conversations between the Secretary of State and media proprietors and senior editorial and executive staff within the media, and related correspondence.

Subject: 24/6/2010 - note of meeting with Society of Editors

From:
Sent: 24 June 2010 19:33
To:
Cc:
Subject: RE: Briefing for SoS Lunch with Society of Editors

Dear all

At the outset, SoS was clear that he could offer views but was not making any commitments. SoE made a pointed comment up front about promises made to them and not kept by HMG.

CFAs/civil costs

SoS said he was sympathetic on the need to reduce civil costs generally, and that he had not yet heard any compelling argument against adopting Jackson LJ's comprehensive proposals. He wanted to look at this quickly, and noted that getting such a package through Parliament (alongside changes to legal aid) would not likely be easy.

SoE pressed for the SI which fell before the Election to be retabled: the problem of CFAs in defamation claims was urgent and serious, especially for local and regional press. He did oppose CFAs originally, but did not plan to press ahead on CFAs in defamation alone. SoE put the case: firms won't say how many CFA cases they win, but on a calculation SoE reckon 90% of cases, and argue that capping at 10% makes sense on that basis. Firms pick their cases carefully - SoS noted that one would expect them to! They pushed hard for a 10% cap as an interim measure pending Jackson, and noted that this was how it had been presented previously. The fear, particularly for local papers, of the possibility of being challenged with a CFA behind the challenger was the real problem - a lady from Shropshire gave some texture to the problem with a story from their local council. SoS said he understood the problem - sorting costs more generally was important both to the press and to the NHS, for example, which was why the whole issue needed looking at in the round. SoE put that Article 10 cases were just *different* - I didn't quite follow why - and that was why action on defamation fees was more urgent than the rest. They noted that this was not only a problem for media parties, but also for NGOs and individuals. SoS said that was why he wanted to look at defamation law in the round as well. There was some discussion of what actually happens to the SI, since it passed the Lords.

Ann/Iram - procedurally, where *is* the SI? Does Government need to take a proactive decision on it, or will it biodegrade on the Order paper?

Defamation reform

SoS was clear: the Coalition Agreement was explicit on the need to reform defamation law. Lord Lester's PMB was useful as an early firing gun for debate, to give HMG time to consider arguments ahead of a draft Bill this session and - he hoped, but was careful to note that legislative time is tight - legislation in the second session. He knew already that he wanted to deal with libel tourism and freedom of speech (referencing scientific, academic and religious), and gagging writs. He noted that we are still in the early days of a new Government and policy takes time to develop.

Broadcasting in courts

In context of general opening up of courts, SoE were keen to know whether HMG would consider admitting television cameras to courts. SoS said he was against televising trials, but could see case for UKSC, and possibly for appeals. He would need to talk to the judiciary, but was happy to meet broadcasters also. SoE said both former and current DPP favoured televising courts. SoS said it might even be worth contemplating televising sentencing remarks/judgments.

SoS has agreed to a meeting with Sky and ITN (Simon Bucks/John Battle) on broadcasting in courts. But we should discuss with LCJ first (**K/D**), and get him some advice on logistics/cost etc (**Shaun/** .

Freedom/Great Repeals Bills

SoS said the legislation was being assembled, mindful of the very important balance between liberty and security and

the more authoritarian nature of the previous Government in respect of that debate. He hoped there would be scope to repeal some of the more unnecessary criminal offences, and that there would generally be less legislation (that being a stated intention of the Coalition).

Bribery Act

SoE raised the potential difficulties for journalism arising from the Bribery Act, particularly owing to the fact that a public interest defence had not been included on the face of the legislation, so media organisations would be left to persuade the CPS why a particular action served the public interest etc. SoS accepted that in general it was better to have a public interest enshrined in legislation - he was not aware of proposals for that at the time of the Bill passing through Parliament, and noted that he had been very supportive of it getting through, overdue as it was. He said, in general, that he needed to get fully up to speed with the Act, as Mr Djanogly had handled it in Oppositionm, and he was happy to look at the idea of a public interest defence but it would have to be a proper test, and not one drawn widely to protect greased fishing expeditions.

Best

Subject: 13/10/2010 - note of meeting with Paul Dacre on Freedom of Information and 30/ 20 Year Rule

-----Original Message-----
From:
Sent: 13 October 2010 20:11
To:
Cc:

Subject: Paul Dacre Phonecall re: FoI Package

Jane -

The SoS has spoken to Paul Dacre (PD). SoS outlined the package and said that it implemented PDs recommendations up to a point. PD said there was a big distinction between requesting papers under FoIA and viewing/searching the papers in the archive. He said that it is undesirable this way as it will give only a patchwork impression, and he regrets that his recommendations are being watered down in this way. He felt that the absolute exemption for Cabinet material under 20 years was a regressive move; he said that in the discussions leading up to his recommendations an absolute exemption for Cabinet material for 15 years was considered acceptable but 20 years was not. He disagreed that a phased release would be as expensive as £50-80million, and felt that the package was a small and unsatisfactory gesture which would result in a distorted picture. He wants to speak to Pilling and Cannadine [his review team] about the package and get back to SoS with their collective and considered view tomorrow before the Committee meeting [Matt W - please note potential call while you are on the road tomorrow].

Thanks,

APS/Diary to the Lord Chancellor & Secretary of State for Justice | Ministry of Justice | 102 Petty France | London | SW1H 9AJ

020 [redacted]@justice.gsi.gov.uk

Subject: 19/10/2010 - note of meeting with Sky News, BBC and ITN on broadcasting in courts

From:
Sent: 22 October 2010 17:06
To:
Cc:

Subject: Meeting with Sky, BBC, ITN re Broadcasting in courts.

Marc,

Thank you for your submission. Please find a short read out the meeting below:

Kind regards,

SoS meeting with Jonathan Djanogly, John Battle, Fran Unsworth, Simon Bucks, Sarah Albon (MoJ)

- Broadcasters (BC) are keen for the SoS to grant them further broadcasting rights in courts. They are specifically proposing filming sentencing and judgements in the Crown Courts. They do not propose any filming of witnesses, young people, or panning around the court room.

- SoS was quite open to the proposal. He said had they asked for further filming rights he would not have considered it, he doesn't want to copy the US system, or risk courts cases becoming circuses. JD agreed, he said he would be reluctant to film victims, or have people shouting out in the court rooms, but is fairly open minded about their proposal.

- There was some discussion of the consultation on broadcasting that took place in 2005. SoS was informed that the judiciary were not wholly opposed to some filming rights. BC pointed out that things have changed a lot of the last 5 years, more is being televised e.g. evidence from inquests, CCTV videos etc. SoS agreed and made comparisons with Parliament which he had supported televising.

- In general SoS agreed to look into the possibility, he doesn't see any immediate concerns but would not commit to agreeing before he had had chance to consult further. He wants to look into the possibility of refreshing the 2005 consultation (he questioned whether we would need another full consultation - which he is reluctant to do). He would also like to run this past key senior figures. SoS did point out that he thinks we would parliamentary legislation, and parliamentary time is scarce.

- I'd be really grateful if your team could pull together some further advice (with input from HMCS) on the feasibility of the broadcasters proposal and what the SoS would need to do in terms of consultation, legislation etc. Grateful if we could have this by **12pm on Friday 5 November.**

Subject: 6/12/10 - note of meeting with Paul Dacre on Sentencing Green Paper

From:
Sent:
To:
Cc:
Subject:

Hi both,

I have a brief file note of the meeting on 6 Dec with Paul Dacre, pasted below.

Best wishes

Ministry of Justice |
3rd Floor | 102 Petty France | London | SW1H 9AJ

justice.gsi.gov.uk

KC met PD on 6 Dec 2010 to discuss the GP

KC said current media emphasis on short sentences was quite wrong.
KC said PBR is the big deal and real emphasis.
Stated he would say the same to Paxman and Nick Robinson at BBC.
PD said he thought rehabilitation and lack thereof was the problem hitherto and the promise of the new approach.
Both agreed current figures on reoffending are poor.
PD asked if proposals were too much of a gamble - cutting prison nos and police nos at the same time - would this risk the current low crime rate (lowest since 1981)
KC said he was realistic and certainly not wide-eyed optimist. PBR would sharpen up practice and be key to getting nos down.
PD said part of prob was community sentences had a terrible rep. KC agreed entirely
PD said he would always argue that rehab was key and would expect to cover the story from that pov

On FOI KC confirmed that the Gov were content to go to 20 years and PD was pleased to receive that news.

Subject: 11/1/2011 - note of meeting with Lord Rothermere on bribery, CFAs and E-Privacy directive

From:
Sent: 18 January 2011 19:16
To:
Cc: Submissions, SPADS;

Subject: RE: (updated) RESTRICTED Submission: SoS meeting with Lord Rothermere, 11.01.2011

Belinda, Michelle, (with apols for delay) please see following note of SofS's meeting with Lord Rothermere for your records. thanks for work on briefing for this.

Note of SofS/Lord Rothermere meeting. Also in attendance: (Kevin Beatty (DMGT), Belinda Lewis, Michelle Dyson, , Kathryn Laing,

- Lord R passed on Paul Dacre's appreciation for ongoing work at MoJ on Libel Law, CFAs and on the 20-year rule.

- On the **Bribery Act**, Lord R mentioned that he was concerned about the Act's impact on journalists. The SofS stated that the forthcoming guidance to be issued by MoJ (and separate guidance for prosecutors), combined with the fact that prosecutions would only brought where it was in the public interest to do so should provide sufficient reassurance for journalists with any need for a special exemption for them. KB mentioned his worry that subsidiary companies' practices could lead to allegations against their owners and RM clarified the extent to which liability would extend from subsidiary companies. KB also questioned the Act's effect on journalists' expenses and RM confirmed that legitimate hospitality was not a target for the Act.

- On **Revision of E-Privacy Directive**, KB mentioned Associated Newspapers' concern to ensure that data taken from website traffic could still be used for targeted advertising and that they had made these points in response to the UK Government's call for evidence. BL stated that MoJ was working closely with BIS on this, and that provided data was properly anonymised there was no intention to penalise business unnecessarily. Lord R confirmed that his organisation would find anonymised data sufficient for their purposes and that they would continue to engage with the review. The SofS encouraged this engagement and stated that a detailed legislative proposal was expected from the European Commission in mid-2011.

MST- pls log.

Assistant Private Secretary to the Lord Chancellor and Secretary of State for Justice | Ministry of Justice | 102 Petty France | London | SW1H 9AJ

Subject: 25/1/2011 - note of meeting with Paul Dacre and Lord Black of Brentwood on Freedom of Information and 30/20 Year Rule

From:
Sent: 26 January 2011 12:22
To:
Cc:
Subject: Note of Paul Dacre & Lord Black meeting on FoI - Tuesday 25 January

The Secretary of State (SoS) met with Paul Dacre (PD) & Lord Black of Brentwood (LB) to discuss **the implementation of the Freedom of Information policy package** at 16:15 on **Tuesday 25 January**.

Also in attendance: Belinda Lewis (BL), , David Hass (DH) and . The Secretary of State passed on Lord McNally's apologies.

The meeting started with the SoS commenting that the MoJ was proceeding with implementation as previously discussed with Mr Dacre and asked what fresh ideas PD wanted to talk about. PD responded saying that he was very pleased with the progress to date and found DH's letter (of 19 January) very helpful and answered any remaining questions he was concerned about.

The SoS stated that the key issue about the implementation of the package is digital records and the need to ensure the policy around these is implemented as a matter or urgency so the necessary records can be preserved, and raised the issue of decisions coming out of unminuted meetings. BL confirmed that the preservation of digital records is a priority for The National Archives (TNA). PD agreed on the need for swift action and quoted a figure that DCMS's email traffic records for a year were equal to 20 years of paper records from the FCO. DH said that the issue is being taken very seriously and was backed by the DPM over the christmas period.

PD returned to the SoS's earlier comment about unminuted meetings and how it is the obligation of the civil service to ensure they are recorded, though he conceded that the notion of a 'sofa cabinet' is not a new one. The SoS agreed and said that he had noticed the variation between departments on how they store information and raised the difficulty in creating a uniform guidance on not only *how* to keep information, but *what* they should keep. The SoS asked if he was correct in thinking that TNA were responsible for creating this guidance? BL confirmed that he was correct and that TNA provide guidance to whitehall on best practice in records management and reviews. It was also noted that departments hold very different information of different degrees of sensitivity. In advance of the 30 year mark (and once the changes are implemented, the 20 year mark), departments can choose to use specialised reviewers to decide what needs to be kept - there is a tendency to stockpile rather than destroy up to the current 30 year mark .

LB commented that paper records take a longer period of time to accurately sift and that there should be more sifts in the process rather than just before they are released.

PD returned to the point of unminuted meetings and concluded by saying that the difficulty is more in what we record than what we keep and that it doesn't speak well of the system if unminuted meetings increase.

The SoS concluded by stating his agreement with the content of DH's letter and confirmed with PD & LB that they were also content and had no new issues to raise. PD stated his earlier concern about no senior minister being responsible for the implementation of the policy package across whitehall, but the SoS assured him that it is the MoJ's responsibility and that TNA has the necessary expertise. The SoS continued by saying that another issue would be in locating the additional funding to make these changes, but as the PM/DPM/HMT agree with the policy it will be found. PD confirmed he was reassured.

Happy to discuss any of these points in more detail.

Regards,

Subject: 28/3/2011 - note of meeting with Paul Dacre on Jackson reforms/ Conditional Fee Arrangements, defamation and superinjunctions

Importance: High

(NB Meeting wrongly dated in note as 31 March 2011)

From:
Sent: 31 March 2011 17:27
To:
Cc:

Subject: SoS meeting with Paul Dacre
Importance: High

Thanks for attending this meeting. Please find a brief read out below. I'm afraid I don't have a full copy list so grateful if you could pass this on to anyone I've missed.

SoS meeting with Paul Dacre – 31 March 2011
Attended by: James Slack (Daily Mail) David Hass,

- PD had a particular concern about Jackson and in particular QOCS. He asked what would happen if the claimant was a rich celebrity. SoS explained that the means and behaviour are taken into account when deciding whether to apply QOCS. PD was keen to find out if QOCS would apply in defamation cases – SoS said he would find out very shortly!
- PD is supportive of the remaining Jackson proposals and asked for a speedy introduction.
- On Super Injunctions: SoS said his instinct was that he does not agree a relatively unknown footballer should have their relationship splashed in headlines. However, he took PD's point that those who use media to promote themselves should accept the consequences.
- Otherwise in the Defamation Bill PD likes the proposals – libel tourism in particular. He asked about timescales. SoS estimated introduction in the May 2012-2013 session. SoS is confident of getting this through Parliament.

Many thanks,

Assistant Private Secretary to the Lord Chancellor and Secretary of State for Justice | Ministry of Justice | 102 Petty France | London SW1H 9AJ

12/5/10 Letter from Society of Editors to Justice Secretary

SoS accepted on gnd 14/05.

Society of Editors
www.societyofeditors.org

From the Director

13 MAY 2010

12 May 2010

Rt Hon Kenneth Clarke QC
Secretary of State for Justice
Ministry of Justice
102 Petty France
London
SW1H 9AJ

Dear Mr Clarke

Congratulations on your appointment. These are interesting times for politics with a lot of lessons to be learned about the new style of government, including by the media.

There are many issues affecting the media that were left unresolved by the last Parliament and some urgently needed reforms that were lost in the wash-up when the election was called.

As a priority I hope that we can discuss these issues and policies in your domain that will affect the media.

To that end I would like to arrange an early meeting for you with our Parliamentary and Legal committee over an informal lunch in London. These meetings for about 20 people under the Chatham House rule have proved useful all round because they facilitate a frank exchange of views and the occasion is very much a working or at least talking lunch. Our members need to develop sensible working relationships.

I also hope also that you may consider attending and speaking at our annual conference that this year will take place in Glasgow on November 14, 15, 16. This is a major agenda setting event for all sectors of the media that is attended by editors and senior executives.

The society has more than 400 members in national, regional and local newspapers, magazines, broadcasting, digital media, media law and journalism education.

During the election you may have heard from editors in your constituency about a brief dossier we issued on media freedom. I am enclosing a further copy because it spotlights important issues that need to be addressed by the new Parliament. Many of these affect your local media more seriously and directly than bigger news organisations.

Among other issues, the pamphlet highlights the case for libel reform that has been recognised by all parties. Most urgent is the need to amend regulations on no-win-no-fee

cont .....

University Centre, Granta Place, Cambridge, CB2 1RU
Telephone 01223 304080 Fax 01223 304090 Email info@societyofeditors.org
www.societyofeditors.org

Society of Editors
www.societyofeditors.org

From the Director

cases that have a chilling effect on journalism in the public interest. Simple changes agreed with Jack Straw after long discusssions over many months were lost in the wash-up and need to be re-introduced as soon as possible.

We hope you will agree with our president Donald Martin, editor of Scotland's Sunday Post, when he says: "While the media may be imperfect, it must be free, warts and all, to investigate, expose and criticise on behalf of the public."

I look forward to hearing from your office about our two invitations.

Best regards.

Bob Satchwell
Executive Director

University Centre, Granta Place, Cambridge, CB2 1RU
Telephone 01223 304080 Fax 01223 304090 Email info@societyofeditors.org
www.societyofeditors.org

21/7/10 - Letter from Rebekah Brooks to Justice Secretary

284999

News International

Rt Hon Kenneth Clarke QC MP
Lord Chancellor and Secretary of State for Justice
Ministry of Justice
102 Petty France
London
SW1H 9AJ

26 JUL 2010

21 July 2010

Dear Lord Chancellor,

Many congratulations on your appointment as Lord Chancellor and Secretary of State for Justice. The Ministry of Justice has a crucial role to play in protecting press freedom and promoting freedom of expression and I would welcome the opportunity to meet with you as soon as possible to discuss how Government's policy on these issues is likely to evolve over the coming months.

The appetite for reform is now greater than it has ever been and I have followed with interest the debate on issues raised in Lord Lester's Private Members Bill, as well as your department's announcement that it intends to begin consulting shortly on its own defamation bill.

In addition to the points which have already been addressed by your ministerial colleagues in both Houses there is also the matter of civil litigation costs, particularly in the form of conditional fee agreements, and the chilling effect that these exert over freedom of expression. Their impact on the publishing cannot be overstated: they inhibit both creativity and output, and are in urgent need of reform, as Rupert Jackson highlighted in his recent review.

I look forward to discussing with you how News International can work with the new administration to strengthen the environment in which the press operate, and build on the close and productive working relationships which my team have had with your officials in the past. If you would be happy to meet my secretary will contact your office to find a convenient time.

Yours sincerely

Rebekah Brooks
CEO, News International

THE TIMES THE SUNDAY TIMES NEWS OF THE WORLD

16/9/10 - Reply from Justice Secretary to Rebekah Brooks

Ministry of JUSTICE

The Right Honourable Kenneth Clarke QC MP
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Rebekah Brooks
CEO News International Limited
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Our ref: MC284999

16 September 2010

Dear Ms Brooks,

Many thanks for your letter of 21 July and your congratulations on my appointment. I do of course look forward to continuing the good relationship between the Ministry of Justice and News International which has been built over the past few years.

Your letter highlights the issue of freedom of expression for the media. You will have seen our commitment to protect freedom of speech and reform the law of libel, as set out in both the Coalition Programme for Government and our departmental structural reform plan. As you know, my colleague Lord McNally, announced before summer recess that we will be publishing a draft Defamation Bill for pre-legislative scrutiny in the New Year. This will be informed by the helpful contribution made by Lord Lester in his Private Members Bill on defamation. I am grateful for the input that representatives of News International have already had into discussions with officials and I will ensure that you are kept informed of developments on this important issue.

On the issue of legal costs in defamation cases and Conditional Fee Agreements (CFAs) you may be aware that Parliamentary Under-Secretary Jonathan Djanogly recently announced to the House of Commons that we will be consulting in the autumn on implementing Lord Justice Jackson's proposed reforms to CFAs and associated in recommendations in all areas of civil litigation, including defamation. The written ministerial statements are available at http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm100726/wmstext/100726m0001.htm#1007264000040 . I believe these proposals should lead to significant costs savings, while still enabling those who need access to justice to obtain it. We are therefore taking these proposals forward as a matter of priority. I urge you to contribute constructively to that consultation process and make your views known

I would be happy to meet with you to discuss these issues. Please contact my diary secretary to arrange a suitable time.

KENNETH CLARKE

c 26/9/10 – note from Paul Dacre to Justice Secretary

Notes on the Bribery Act for the attention of
The Rt. Hon Kenneth Clarke
Secretary of State for Justice

The Bribery Act 2010 was rushed through, almost without debate in the last few days of the dying Labour Government.

It was intended to cover serious cases of bribery and corruption. Astonishingly there is no public interest defence in the Act for whistleblowers, informants or for investigative journalism.

We feel that there is urgent need for such a defence to be included as an amendment. Meanwhile a note of the need to consider the public interest should be included in the guidance to the operation of the Act.

The offence detailed under the Act applies to any individual or corporate entity, including the intelligence services and armed forces, where, in essence, a payment is made or financial inducement offered in return for the improper performance of a duty or function by the recipient.

The offence however is so widely drawn that the Act captures, therefore, payments made by journalists undertaking investigations into important public interest stories, such as the thalidomide tragedies, or into allegations made by whistleblowers and for example recent investigations such as the Guardian's look at the oil trader Trafigura,- whether or not any material is ever published as a result.

Although such matters are of the clearest possible public interest, there is no defence in the Act for either the individual journalist concerned or for the company which employs the journalist or publishes the findings.

The complete absence of any defence for the investigation and reporting of matters of public interest places journalists and media companies in a worse position than any other corporate entity.

It is impossible for the commercial arm of a media organisation to put in place procedures across the group to prevent payments which may be an offence under the Act, because to do so would fetter the article 10 rights of the journalists and editors and effectively either expose them and the company to prosecution or the Government to an accusation of curtailing investigative journalism in breach of Article 10 of the European Convention on Human Rights.

The potential sanctions are draconian: 10 year prison sentence (Section 11(1)(b)) with serious consequences for the corporation.

The required DPP consent to prosecutions (section 10) is not an adequate safeguard

A draft amendment to the act, which would provide for a public interest defence, is attached for consideration and consultation.

BRIBERY ACT 2010

PROPOSED AMENDMENT

13 (1) It is a defence for a person charged with a relevant bribery offence to prove that the person's conduct was

(a) necessary for

~~(a)~~ (i) the proper exercise of any function of an intelligence service, or

~~(b)~~ (ii) the proper exercise of any function of the armed forces when engaged on active service, or

(b) conduct undertaken for the purposes of the exercise of any journalistic function which, in the particular circumstances,

(i) was justified as being in the public interest or

(ii) was reasonably believed by the defendant to be so justified.

...

(5A) In determining, for the purposes of this section, whether the conduct of any person was justified or reasonably believed to be justified as being in the public interest the court must have particular regard to

(a) the importance of the Convention right to freedom of expression and

(b) any relevant code of conduct.

(6) In this section –

"active service" means .....

...

"Convention right" has the meaning assigned to it by the Human Rights Act 1998

"journalistic function" includes any investigative activity undertaken with a view to the publication of information.

- s 32(1) of the DPA exempts from certain provisions of the Act the processing of personal data where (among other things) "the processing is *undertaken with a view to the publication* by any person of any *journalistic*, literary or artistic material" and the publisher reasonably believes that publication would be in the public interest.

Commentary on draft amendment.

This amendment introduces a public interest defence for journalistic conduct which would otherwise amount to a bribery offence, other than bribery of a foreign official contrary to s 6 of the Act.

As it stands, s 13 affords defences of necessity for bribery conducted by the intelligence services or the armed forces on active services. Subsection (1)(b) adds a defence for conduct undertaken for the purposes of public interest journalism. The wording used is intended to ensure that the defence would be available not only in respect of an offence under s 1 (bribing a person) but also an offence under s 2 (being bribed). In a case where the public interest justifies the making of payment for information, it should also justify the receipt of payment. Sources must be protected from liability if information is to flow.

The wording of the amendments has been modelled on existing provisions in other relevant statutes, as outlined below.

Subsection (1)(b) is modelled in part on the existing public interest defence to the offences of obtaining, procuring or disclosing or selling personal data without the consent of the data controller. Such conduct is an offence under the *Data Protection Act* 1998 (DPA), s 55(1), (3) and (4). Offering such data for sale is an offence under s 55(5). But s 55(2) makes a number of defences available, one of which is that

> "Subsection (1) does not apply to a person who shows
>
> ....
>
> (d) that in the particular circumstances the obtaining, disclosing or procuring was justified as being in the public interest."

It will be noted that the defence provided by the draft amendment now proposed is both narrower and wider than the public interest defence in s 55(2) of the DPA.

It is narrower inasmuch as it is confined to conduct undertaken for the purposes of a journalistic function, whereas the s 55 defence is available to anybody. There are several reasons for this. Most obviously, if it were otherwise, bribery by public officials could be defended under this paragraph, even if it did not fall within the scope of s 13(1)(a) or (b), and the restrictions on the availability of

the defences afforded by those paragraphs would become otiose. For that reason, if no other, an unlimited public interest defence appears unworkable. More significantly, journalism deserves special protection, to ensure the free flow of information of public interest, in a democratic society.

The defence is wider than DPA s 55 inasmuch as it affords a defence for conduct which is reasonably believed to be justified in the public interest, even if the judgment of the court is that it was not in fact so justified. This is modelled on, and justified by the same considerations as led to the enactment of, related provisions concerning data protection:-

- DPA s 32 (the so-called 'media exemption' from the requirements of the 1st data protection principle)
- Paragraph 3 of the *Data Protection (Processing of Sensitive Personal Data) Order* 2000 (SI 2000 No 417).

Both these provisions protect a journalist from civil liability if they have a reasonable belief that what they do in respect of personal data is justified in the public interest. Section 55 is anomalous in failing to afford a defence in such circumstances, where the complaint is of a criminal nature.

Subsection (5A) is modelled on part of s 12(4) of the *Human Rights Act* 1998 (HRA). That subsection imposes restrictions and duties on courts considering the grant of any relief which might affect the exercise of the Convention right to freedom of expression. Among other things, the court "must have particular regard to the importance of the Convention right to freedom of expression and ... any relevant privacy code" (the latter being an undefined term). Section 12 applies to any relief, *other than in criminal proceedings* (see s 12(5)). The relevant codes are, at present, the Code of Conduct of the Press Complaints Commission and the Ofcom Broadcasting Code.

The new definitions in **Subsection (6)** reflect statutory terminology to be found in the *Data Protection Act* and the *Human Rights Act*.

- S 1 (1) of the HRA defines "Convention rights".
- S 12(4) of the HRA imposes special duties on the court "where the proceedings relate to ... *journalistic*, literary or artistic material (or to *conduct* connected with such material) ..."

22/12/10 - Reply from Justice Secretary to Paul Dacre

Ministry of JUSTICE

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Paul Dacre
The Daily Mail
Northcliffe House
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London
W8 5TT020

22 December 2010

Our ref: 294837

Dear Paul,

BRIBERY ACT

Thank you for your recent note about the Bribery Act. You proposed an amendment to the Act to protect journalists who make payments for stories where the investigation is justified in the public interest and suggested that the guidance on the Act should reflect the need to consider the public interest.

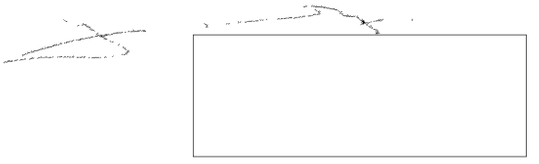
It is important to recognise that, while the Bribery Act will amend the law, bribery has long been a crime in the United Kingdom. Although there are statutes which confer legal protection for legitimate journalistic behaviour, this is not the case in the mainstream criminal law. In particular, there is no public interest defence in the existing Prevention of Corruption Acts. The Law Commission, on whose recommendations the Bribery Act was based, supported the view that a public interest defence was not appropriate, believing that it would positively encourage a climate of corruption (Reforming Bribery (Law Corn 313, paragraph 7.1) and (LCCP 185, paragraph 8.2)). We have no plans therefore to amend the Act.

We have been consulting on the form and content of draft guidance for commercial organisations about preventing bribery. The guidance is formulated around principles designed to be of general applicability across all sectors and types of business and intended to assist commercial organisations to understand the anti-bribery procedures they can put in place. The guidance cannot introduce exceptions to the offences which do not exist in the original legislation. We are currently considering all the responses received, including those from organisations representing the interests of the press. We intend to publish the outcome of the consultation and finalised guidance early in the New Year.

The Director of Public Prosecutions and the Director of the Serious Fraud Office also intend to provide guidance for prosecutors to assist them in taking decisions on individual cases under the Bribery Act. This is currently in preparation and should be

published in early 2011. The content of the guidance is a matter for the Directors concerned. It is the case, though, that the consideration of whether a prosecution is in the public interest already forms an essential part of the Code for Crown Prosecutors to be applied in any individual case.

Although I am not persuaded of the need for an amendment to the Act, I do recognise the important role played by the media in our society. It is not the intention of the Act to curtail legitimate and responsible journalism and I hope you will be reassured that the public interest will remain a key consideration in any individual case.



KENNETH CLARKE

22/12/10 - Letter from Justice Secretary to John Battle, ITN

Ministry of JUSTICE

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Mr John Battle
ITN Head of Compliance
ITN Headquarters
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London
WC1X 8XZ

Our ref: 293808

22 December 2010

Dear Mr Battle,

BROADCASTING IN COURTS

I met with you and representatives from the BBC and Sky News on 19 October to discuss a proposal to allow for the broadcasting of sentencing remarks made in the Crown Court. I was grateful for the insight provided at the meeting and I have now had an opportunity to reflect on the matter further.

Whilst I am interested in this proposal, as I believe it to be consistent with the Government's commitment to enable the public to better understand decisions that may affect or interest them and hold politicians and public bodies to account, there are a number of matters which will require further consideration before I can take a decision on whether to progress this proposal further. Amongst these is the need to seek views from the senior judiciary, and I intend to commence this at my next meeting with the Lord Chief Justice. I will also need to give further consideration as to how this proposal could be funded within the current climate of a general reduction in public spending capacity.

In addition to the above I should mention that since our last meeting I have concluded that the current statutory position in respect of broadcasting in courts will mean that primary legislation will be required, if this proposal is to be realised. As Parliamentary time is unlikely to be available until the second session of Parliament, at the earliest, you will understand that this imposes some constraints on any potential timetable for delivery of your proposal. This however does afford me a greater opportunity to gather the additional information I need, before deciding on how to proceed.

I trust you find this update on progress since we last met useful, and I hope to be in a position write to you again in the New Year once I am clearer on what the next steps are likely to be.

I am writing in similar terms to Fran Unsworth, Head of BBC Newsgathering and Simon Bucks, Associate Editor, Sky News.

KENNETH CLARKE

22/12/10 – Letter from Justice Secretary to Simon Bucks

Ministry of JUSTICE

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Simon Bucks,
Associate Editor, Sky News
British Sky Broadcasting Ltd
Grant Way
Isleworth
TW7 5QD

Our ref: 293808

22 December 2010

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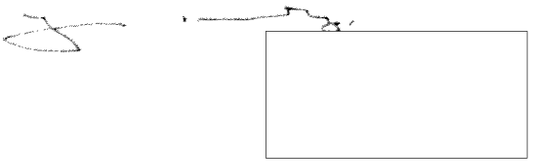

KENNETH CLARKE

22/12/10 - letter from Justice Secretary to Fran Unsworth

Ministry of JUSTICE

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Fran Unsworth,
Head of BBC News Gathering
BBC Television Centre
201 Wood Lane
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W12 7TS

Our ref: 293808

22 December 2010

Dear Mr Unsworth,

BROADCASTING IN COURTS

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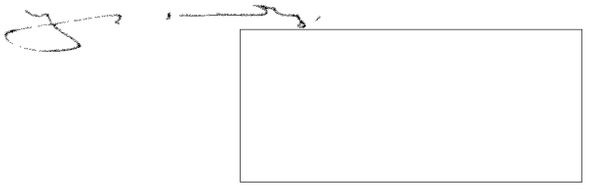

KENNETH CLARKE

30/12/10 - Letter from Paul Dacre to David Hass

ASSOCIATED NEWSPAPERS LTD.

Northcliffe House,
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Kensington,
London, W8 5TT

Telephone: 020-7938 6000

From: The Editor-in-Chief

30th December 2010

Private and Confidential
Mr David Hass
Special Adviser to the
Lord Chancellor and
Secretary of State for Justice
Ministry of Justice
102 Petty France
London SW1H 9AJ

Dear David,

It was good to meet you and thank you so much for giving me a copy of the summary of the responses to the Review of the 30 year Rule by Professor Sir David Cannadine, Sir Joe Pilling and myself. Let me say immediately, I greatly appreciate the opportunity to comment on them.

I set out below brief comments on each of the recommendations, in the order of the draft you sent me. Of these those relating to paragraphs 6 and 7, and 15 to 17, are the most important.

(1) Replacement of the 30 year rule with a 20 year rule

Although the Review Team argued for a 15 year rule, I accept that this is a generous compromise, especially taken alongside a number of the other critically important initiatives contained in the draft recommendations.

(2) No change to the current practice of prioritising and accelerating particular categories of official information

This is agreed.

(3) To retain the practice of departments seeking the approval of the Lord Chancellor, and his Advisory Council, for the retention of records.

We recommended that this practice continue for some highly sensitive official records and that documents could still be transferred to the National Archives, closed for a period beyond 20 years, only in exceptional circumstances. It would be useful just to clarify that there is no intention to widen the "net" of such sensitive documents which can be kept closed with the permission of the Lord Chancellor's Advisory Council and that the basis of the application to the LCAC will continue to be strictly limited

(4) Full retrospective application of the 20 year rule

This is agreed.

(5) To manage the transition to a 15 year rule by releasing one additional year of records at the time

A minor drafting point, but I think it should say "Accepted - for 20 years".

(6) Adequate additional funding for the transition to the new rule, including work on digital records.

Your note agreed with this in principle but said that funding was to be "found by Departments". In the report we expressed concern that there was a risk that implementation would be "uneven between years and departments" if funding was not centrally allocated and controlled (para 7.23). This was based on our observations of the wide disparity with which different Departments prioritise and deal with records handling issues. I would be anxious - particularly in the light of my comments relating to point (7) below - that unless implementation of the rule is carefully monitored, some Departments will fail to give this issue the priority it requires and fall behind with records management and transfer, resulting in an unsatisfactory patchwork of available information across Government. While I recognise that Departments do need to take responsibility themselves, it is important that this is monitored by a strong central authority to ensure it is happening with consistency across Government.

(7) To give responsibility for monitoring and reporting on progress to a single central authority

While accepting this recommendation, the draft suggests that authority in this area would be given to the National Archives reporting to Ministers and the relevant Committee. While the work of TNA is admirable, and they will inevitably have the main day to day role in ensuring the implementation of the new rule, it is vital that progress on this and all the other issues - particularly the challenge of digital - is carefully charted by a central Government Department and a single Minister. During the course of our Review, we considered whether the Cabinet Office might be appropriate for this task, and I would just ask you to consider that possibility. With the pressure of which we are all aware on Government Departments over the next few years, there is a danger that these issues will not be progressed satisfactorily without a strong imperative from central Government, working with TNA. This is particularly important in view of the digital challenges I highlight below.

(8) To apply amendments to the FoI Act to all information covered by the Act

This is agreed

(9) To revisit the Civil Service Code to see whether there should be an injunction relating to record keeping

I am delighted that the Government is accepting this recommendation, which is of great importance.

(10) Redaction of official documents to protect the identity of civil servants where possible

This is agreed.

(11) Enhanced protection of certain categories of information in parallel with the adoption of a 20 year rule

I am pleased that the Government is intending to give enhanced protection only for information relating to the Royal Family and not for other Cabinet information.

(12) To confirm Special Advisers' papers are within the FoI Act and the Public Records Act

This is an important point, and I warmly welcome its acceptance.

(13) Review of the Radcliffe system

A review is long overdue in view of the introduction of FoI, and I am pleased that the Cabinet Office will be taking this on. I would urge that, where possible, they take evidence from independent outside experts who have experience of this area, a great deal of which we uncovered during the course of our own review.

(14) Proactive release of records

This is agreed.

(15 - 17) Digital records

In view of the pace of change of digital technology, these recommendations are critical to the entire report, and I am very pleased that the Government has accepted them.

To clarify one point, the document talks about the "strategy for digital records", which I assume means the strategy for "the preservation" of digital records, particularly taking into account the very real problems of digital landfill which we highlighted in paragraphs 8.21 and 8.22 of the report.

We believe that it's important that electronic record capturing is an integral part of the IT infrastructure of Government and not a "bolt-on" activity.

Additionally, I return to paragraph (7) above and to my concern that there is a single central Government department responsible for this area. We heard a great deal of evidence that most digital records are unlikely to survive beyond 10 years unless they are reviewed, preserved and transferred to a stable storage environment. This means that information generated as recently as 2000 may already be deteriorating beyond the point of no return, with catastrophic consequences for our national records, and the work of historians and journalists. This area must be given very real and urgent attention by central Government, and underlines my concerns expressed above about a single body with authority and determination to tackle them.

I do hope these comments are helpful and, as I say, I'm very grateful to have been given the opportunity to comment. If you need any further clarification, please don't hesitate to contact me. I am away for a couple of weeks but can always be contacted through my secretary.

Have a very good New Year. It would be good to have lunch some time.

Kind regards

Paul Dacre

17/1/11 Letter from Simon Bucks, Sky, to Justice Secretary

The Right Honourable Kenneth Clarke QC MP
Lord Chancellor and Secretary of State for Justice
102 Petty France
London
SW1H 9AJ

January 17th 2011

Dear Mr Clarke,

BROADCASTING IN THE COURTS

Thank you very much for your letter of December 22nd. We are delighted that you are interested in the proposal to televise sentencing remarks in criminal cases. You do not mention judgments in civil cases, though this was part of our discussion when we met and I hope you would include them.

We appreciate the need for further consultation and to this end we would like to suggest that we could brief senior judiciary and others on the practicalities of implementing the proposal, and whatever safeguards would be necessary to satisfy them.

In terms of cost, we do not see there would there need to be any burden on the public purse. The broadcasters would pool their resources to reduce the costs to us and to ensure that only one camera would be present in the courtroom.

In view of your outline timetable, perhaps we should have some preliminary discussions with the court service (without prejudice) about the best ways of introducing cameras into courtrooms on an ad hoc basis, to ensure there is no disruption to the proceedings. If you think this would be useful perhaps you could ask one of your staff to get in touch so we can get the ball rolling

Yours sincerely,

SIMON BUCKS
ASSOCIATE EDITOR, SKY NEWS
simon.bucks@bskyb.com

18/1/11 - letter from John Battle to Justice Secretary

297137

20 JAN 2011

Your ref: 293808

18 January 2011

The Right Honourable
Kenneth Clarke QC MP
Lord Chancellor and
Secretary of State for Justice
102 Petty France
London
SW1H 9AJ

Dear Lord Chancellor,

Broadcasting Court Proceedings

Thank you for your letter of 22 December 2010 regarding broadcasting in the courts.

We are pleased to hear that the issue of filming sentencing remarks made in the Crown Court is being actively considered.

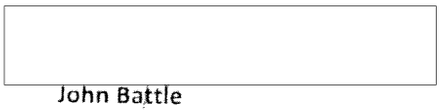
We note that you are consulting with the Lord Chief Justice – who has always been broadly supportive of cameras in court and was instrumental in allowing the 2005 Pilot Study filming in the Court of Appeal. We note also that primary legislation is likely to be required if this proposal is to be realised and this is likely to be in the second session of Parliament at the earliest. As well as allowing filming of sentencing in the Crown Court, we hope permission would also extend to judgements in the civil courts.

The courts in England and Wales are now far behind most other jurisdictions around the world on cameras in court, an important open justice issue. It is fair to say that (apart from courts in this jurisdiction) when ITN covers a court story around the world there is normally some filming allowed of the court proceedings – often at the start of proceedings and at sentencing. For example, last week ITV broadcast footage showing the start of the Max Mosley's court proceedings in the European Court of Human Rights. In recent weeks ITN news services have shown footage from court proceedings in courts in Indonesia, Germany, Italy, and the International Criminal Court. I attach a recent article I wrote on this issue, published in the Times.

We do not anticipate there will be costs from the public purse to put this issue into practice. (There were no costs from the public purse when the Pilot Study took place in the Court of Appeal - the broadcasters funded the filming).

We note the review in the New Year and look forward to hearing what the next steps are likely to be. If there is anything the broadcasters can do to move this issue forward, we are more than happy to provide assistance.

Yours sincerely,



John Battle
Head of Compliance
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Why no cameras in court means a failure of open justice

John Battle
Last updated December 18 2010, 1:00AM

The Lord Chief Justice has issued guidance this week on using live text-based communications, such as Twitter, to report from the courts.

This follows last week's ruling by district judge Howard Riddle to allow reporters to tweet from court in the bail hearing for Julian Assange, the founder of WikiLeaks.

The guidance accepts in principle that reporters and the public may tweet and use unobtrusive, "hand-held, virtually silent" modern equipment to report proceedings as they unfold.

An application will need to be made to the judge and the guidance reminds reporters of the need to comply with the Contempt of Court Act 1981. The guidance is an interim measure and there will be a wider consultation on the issue.

This judicial guidance will be welcomed by reporters. However, in the debate on open justice in the courts the real issue that needs to be addressed is that of cameras in court.

The courts of England and Wales have fallen significantly behind the rest of the world on this important issue. ITN regularly shows footage in television news reports of court proceedings from across the globe. On television news almost the only criminal courts the public do not get to see are their own courts.

The ban on cameras goes back to the Criminal Justice Act 1925. The only image allowed is a court sketch, made from memory outside court. So in the reporting of the bail hearing of Assange, the only image allowed of the court proceedings was a hand-made sketch.

Imagine applying this outdated approach in any other public forum. Imagine reports of Parliament or any press conference being limited to artists' sketches.

Contrast our approach to how the rest of the world works - where bringing cameras into court is not a new or dangerous idea.

On Monday Channel 4 News showed a court in Indonesia sentencing six men

concerning terrorism allegations relating to attacks on Western hotels and embassies in Indonesia.

Last week viewers of television news and online saw footage of a judge in South Africa sentencing the taxi driver for the murder of Anni Dewani on her honeymoon. In recent weeks viewers have watched a German court where charges of piracy are being tried, an Italian court reporting on the appeal of Amanda Knox and the International Criminal Court in the case of the Congolese Vice President Jean-Pierre Bemba.

There is compelling evidence that backs the case for allowing filming in the courts. The starting point was the 1989 Bar Council report by Jonathan Caplan, QC, which recommended cameras in court.

Add to this the experience of filming Parliament and public inquiries such as the Chilcott inquiry and the filming of the Supreme Court, the significant use of camera and information technology in court, the increased disclosure of footage to the media by the Crown Prosecution Service in criminal trials and the experience of the pilot study in the Court of Appeal in November 2005.

All these steps have taken place without problems. Filming has not impeded the process. Quite the contrary. A visual opportunity for the public to see what is going on adds integrity to the process and opens the process to scrutiny.

A realistic reform would be to allow cameras to film parts of criminal proceedings under controlled conditions and subject to the discretion of the judge. Why not start by allowing the filming of the sentencing at the end of the trial and the start of the trial so the public can see what is happening?

The issue of tweeting from court is important, but the most important open justice issue is cameras in court.

Allowing filming in the criminal courts is the next step in the evolution of open justice. It is time now to address why we are so far behind the rest of the world on this important issue of open justice. Allowing cameras into criminal courts in England and Wales may seem a significant step, but the truth is if it happened, we would only be bringing us up to where courts around the world already are.

The author is head of compliance at ITN and was involved in the Court Filming Pilot Study in the Court of Appeal in 2005.

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19/1/11 letter from Fran Unsworth, BBC to Justice Secretary

British Broadcasting Corporation Television Centre Wood Lane London W12 7TS

A7497

BBC News

Head of Newsgathering
bbcnews.com

The Right Honourable Kenneth Clark QC MP
Lord Chancellor and Secretary of State for Justice
102 Petty France
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SW1 9AJ

19 January 2011

Dear Mr Clark

Thank you for your letter of December 22nd. We are grateful for your positive response to our request regarding the televising of courts

We note your interest in the proposal to televise sentencing remarks in criminal cases. Although in your letter you do not mention judgements in civil cases, if you recall, we discussed this when we met you and we hope you will also consider including them.

Regarding the issue of cost, we believe that this should be a matter for the broadcasters themselves who would operate as a pool to enable just one camera to be present in court.

We fully appreciate the need for further consultation on this with senior members of the judiciary. My colleagues from Sky and ITN and I would be very happy to brief interested parties on the practicalities of the proposal and possibly provide some reassurance over how it might be implemented.

We look forward to hearing further from you on these matters.

Yours sincerely

Francesca Unsworth
BBC Head of Newsgathering

19/1/11 - letter from David Hass to Paul Dacre

Ministry of JUSTICE

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The Editor-in-Chief
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19 January 2011

Dear Paul,

It was a pleasure to meet you before Christmas and I hope you had a relaxing break. Many thanks for your letter of 30 December in which you provided further comments in relation to the recommendations contained within your Review of the 30 year Rule.

You will have seen the Government's announcement on 7 January, on a range of FOI policy measures, including that setting out intention to move to a 20-year rule. The changes to the Royal exemption, which were included in the changes to FOI Act in the Constitutional Reform and Governance Act, will be commenced on Wednesday 19 January. I have included below some more detail on our current proposals for taking forward the move to a 20-year rule, which you may find of interest in advance of your meeting with the Justice Secretary on 25 January.

As you know, the transition from a 30 to a 20-year rule will require considerable planning and preparation. In order to ensure that we allow sufficient time to get the process right, we are planning to commence the changes in January 2013. As you have rightly pointed out, the review and transfer of such a large volume of material will consume considerable resources. While the transfer of records will not be centrally funded, we want to make sure that departments and other public record bodies are properly prepared and equipped to take on this work, and are able to deliver it within the agreed timeframe. We are also determined to streamline the process as far as possible, both within departments and the archive sector so that it is delivered in the most cost effective way possible. To this end, officials from The National Archives (TNA) and the Ministry of Justice will work closely with departments over the coming months to refine processes and prepare detailed plans for the ten year transitional period. Those plans will be brought before Ministers before we move to the next stage of implementation. I would be happy to share them with you once they are available.

I note that you have expressed concerns about the way in which the plans will be developed and delivered. I hope that you will be reassured by our intention for those plans to be brought before Ministers before we proceed further. In addition, the Lord Chancellor will assume overall responsibility for ensuring effective implementation of the changes. TNA will be responsible for the practicalities of planning, monitoring and reporting on progress. I note that you are particularly concerned about the ability of TNA to deliver the outcome we all desire. However, I believe that they are best placed to take

this role. Not only are they the only department to have a good overview of existing current records management practices across the whole of Government, they also possess unparalleled expertise in this area. Additionally, as a government department that reports directly to the Lord Chancellor, they possess a degree of independence that will be invaluable in monitoring and reporting on progress across government. As a measure of additional oversight, it is also anticipated that TNA will report annually to Ministers on progress.

A number of other issues you have raised relate to the practicalities of the transfer of records. As indicated above, at the planning stage we will review processes to ensure that they are streamlined as far as possible, but we will also ensure that they remain robust. The Lord Chancellor's Advisory Council will continue to provide expert independent scrutiny of both proposals to retain records due for transfer and proposals to apply exemptions to records being transferred as closed. In both cases the Advisory Council will continue to require a convincing case from the department before recommending approval and I do not expect this to change as the transfer deadline is reduced from 30 to 20 years. A further safeguard is also provided by the continuing requirement for retention of records due for transfer to be approved by the Lord Chancellor.

You have highlighted the importance of a robust strategy for digital records in your letter. I would like to reassure you that we recognise the challenges and risks around this issue, and work is underway to address this.

TNA continues to prioritise the preservation of government's digital record in order to ensure the survival of the official record. It already works extensively and directly with government departments to secure the effective management of their digital information **prior** to transfer to TNA.

In addition, the Digital Continuity Project has now established a number of services that departments can use to improve their digital records management including:

- Guidance on digital information and records management over time and through change
- Training (offered to all central government departments and key agencies to reiterate the importance of managing digital information over time and the key strategies for doing so effectively)
- In partnership with Buying Solutions, a Framework of commercial tools and services that any organisation across the public sector can use to manage its digital continuity (including data migration and archiving solutions to move digital records into secure storage environments)
- DROID file format identification software (so that organisations can identify what file formats they hold, undertake risk assessments, ensure they have the technology they need to access them and if appropriate migrate into alternative formats)
- Risk Assessment process and self-assessment tool

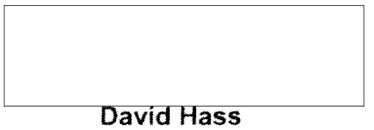
TNA provides services to help departments differentiate what needs to be kept so that selection and transfer of digital records is undertaken in a timely and effective manner

In addition, TNA is also liaising with Cabinet Office to ensure that government's overarching IT strategy will include the need to deliver digital records in a usable and accessible form. TNA will be playing a key role in ensuring that standards for the management and retention of digital information are set and complied with as part of this strategy.

Finally, I am pleased to be able to update you on progress regarding the Civil Service Code and the Radcliffe Rules. An updated *Civil Service Code* taking account of the civil service provisions in the Constitutional Reform and Governance Act was published on 11 November 2010 http://www.civilservice.gov.uk/Assets/Civil-Service-Code-November-2010_tcm6-2443.doc . Additional text taking account of your Review's recommendation was included to make clear that officials must keep accurate official records. A review of the Radcliffe system is also underway and is taking account of recent experience.

I very much look forward to continuing our discussions next Tuesday 25th January.

With warmest regards



David Hass
Special Adviser to the Lord Chancellor and Secretary of State for Justice

7/9/11 – letter from Justice Secretary to John Battle

Ministry of JUSTICE

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John Battle
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WC1X 8XZ

September 2011

Dear Mr Battle,

BROADCASTING IN COURTS

As I am sure you are aware, I have announced that I intend to legislate, as soon as parliamentary time allows, to remove the ban on cameras in courts and to allow judgments to be broadcast for the first time. I propose to begin in the Court of Appeal, and to work closely with the judiciary to consider extending to the Crown Court later. You are already aware that I will not consider allowing any filming of the trial process, or to allow any change which would worsen the court experience for victims and witnesses.

I have said that I will consult further before legislating, and I am keen to engage with broadcasters as we develop the detailed proposal.

My officials will be in contact with you shortly to arrange an early discussion. Therefore it would be helpful if you could provide details of the nominated contact in your organisation to the lead policy official, @justice.gsi.gov.uk).

KENNETH CLARKE

7/9/11 – Letter from Justice Secretary to Simon Bucks

Ministry of JUSTICE

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Simon Bucks
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Grant Way
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Middlesex
TW7 5QD

07 September 2011

Dear Mr Bucks,

BROADCASTING IN COURTS

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KENNETH CLARKE

7/9/11 – Letter from Justice Secretary to Fran Unsworth

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September 2011

Dear Ms Unsworth,

BROADCASTING IN COURTS

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KENNETH CLARKE

6/2/12 - letter from BBC, ITN, Sky to Justice Secretary

320685

BBC ITN sky NEWS HD

Mr Ken Clarke MP
Ministry of Justice
102 Petty France
London
SW1H 9AJ

6th February 2012

Last September the Government announced its intention to change the law to allow the limited televising of courtrooms, in order to improve public understanding of the justice system.

As representatives of the country's main broadcasters, we welcomed this proposal and the Government's commitment to bring greater transparency to our courts. We hope that timely progress can now be made to ensure that the Bill lifting the prohibition on cameras in court is included in the Queen's Speech in May.

The administration of justice is a key part of a democracy. It shapes and defines a civilised society. The ability to witness justice in action, in the public gallery, is a fundamental freedom. Television will make the public gallery open to all.

If legislation is announced to lift the ban within the next few months, it will still be some time before we see the first case on TV. There will have to be detailed discussions about what can be shown, and in which courts. A great deal of work needs to be done by the judiciary and court officials, civil servants and the media working together to ensure that the change succeeds in its chief aim of opening up courtrooms to make the judicial process more understandable and accessible.

Each of our organisations fully accepts that there must be limitations on what can be broadcast and we agree that the presiding judge should have complete control of what is shown from the courtroom. We recognise that concerns have been raised about the impact television coverage will have, particularly in controversial cases. However, we believe that the outcome can only be positive. The experience over the last two years of live streaming from the Supreme Court has shown that the presence of cameras has not affected the course of justice in any way in this court. Instead it enhances public understanding and allows everyone to see justice being done.

Everyone who believes in transparency should support this proposed change in the law. This is a long-overdue reform. For too long the UK has lagged behind much of the rest of the world on open justice. The time has come for us to catch up.

We hope that you share our view of this important issue, and that you will welcome the introduction of a Government Bill to change the law. Colleagues from each of our organisations will be in touch with you to explain our position in more detail, but in the meantime please do not hesitate to contact any of us personally if you have any questions or would like to arrange a meeting.

Helen Boaden
Director, BBC News

John Hardie
CEO, ITN

John Ryley
Head of Sky News

CAMERAS IN COURT

Your Questions Answered

All the UK news broadcasters, including the BBC, ITN and Sky have been working together for several years to reach agreement on allowing courts to be televised. The debate is often confused by misunderstandings and misapprehensions. Here, we have set out to answer the most frequently asked questions.

Why do the broadcasters think cameras should be allowed into courts?
It's a question of open justice. Although anyone can sit in the public gallery of most courtrooms, very few people do so because they are busy during the day or don't live close enough to the court. We believe that by opening up courtrooms to the wider public, we will promote greater understanding of how the law works leading to increased public engagement with our justice system, which in turn will strengthen public confidence in it. England and Wales currently lag behind countries such as New Zealand, Australia, Canada, Germany, South Africa and the United States in allowing some form of proceedings to be broadcast. .

What is stopping courts being televised at the moment?
A law made in 1925, before public television started. However, under a special exemption proceedings in the Supreme Court have been livestreamed for more than two years, bringing transparency and accessibility to the highest court in the land. In Scotland cameras are allowed into some courts, but under such tight restrictions that it rarely happens.

What's wrong with the Scottish model?
The reason the system hasn't worked in Scotland is because it requires consent from everyone involved in the trial, which is often difficult to get. While we believe the presiding judge should have a veto on filming if there is a valid reason, we don't think any single party to the case should be able to prevent it.

What has the government said about lifting the ban in England and Wales?
Last September the Justice Secretary Kenneth Clarke announced the government planned to initially allow cameras to film the proceedings in the Court of Appeal, and later on the sentencing remarks of judges in Crown Court criminal cases.

What is happening now?
Discussions are taking place in government about how to frame the primary legislation which will lift the ban. Then there will need to be secondary legislation which will set out exactly what aspects of the proceedings and which courts can be televised. The broadcasters believe it is vital that the primary legislation is included in this year's Queen's Speech for the government's proposals to reach fruition during this parliament.

Won't TV hinder the process of justice? What about the risk of intimidating witnesses?
The initial proposals specifically exclude televising witnesses. Only judges and lawyers would be televised. The broadcasters completely accept that nothing should be done which might jeopardise justice being done. We are confident that we can televise the proceedings unobtrusively and that cases will proceed completely normally. The experience of the Supreme Court has shown that lawyers and judges soon forget the cameras are there, as is the case with televised public inquiries such as the Chilcot and Leveson Inquiries.

What about identifying jurors?
The proposals for jury trials won't only allow filming of the sentencing remarks of the judge. And identifying jurors is against the law anyway.

BBC ITN sky NEWS HD

What safeguards are the broadcasters offering?

- The presiding judge in a courtroom will always have the final say on what can and cannot be filmed; all we ask is that cases should be televised unless there is a valid reason why they should not be.
- Justice must be done first, and seen to be done second. Nothing must interfere with the workings of the court.
- The rules governing the reporting of courts should always be respected. There are powerful laws in place to stop broadcasters, or anyone else, saying something which might prejudice a case, or do anything else which might interfere with justice being done. These laws will continue to apply after cameras have been allowed in.
- There will be a pre-agreed filming protocol which will set out clearly the televising rules, as is the case with the Supreme Court.

Who will decide what can be broadcast?

The judge in the courtroom will be able to stop televising at any time if she or he wants. There will be strict rules to stop video being used in an inappropriate way, for example in a comedy programme (the same type of rules which apply to the televising of parliament).

Won't this turn courtrooms into a circus, with judges and lawyers showing off to the cameras – the OJ effect?

The evidence is that the presence of cameras does not affect the proceedings. In 2005 the TV companies carried out a not-for-broadcast pilot in two Appeal Courts as part of a project initiated by the then Department of Constitutional Affairs. Several cases were recorded in the Master of the Rolls' court and the Lord Chief Justice's court. Everyone involved acknowledged that the presence of the cameras had no discernible impact on the behaviour of either lawyers or judges. More recently, the proceedings of the Supreme Court and the Leveson inquiry have shown that even if the proceedings are being broadcast, it does not affect the participants. The OJ Simpson case was an aberration, but it does not follow that that the presence of cameras affected the outcome. There have been thousands of cases in the United States and elsewhere where cameras have been present which proceeded quite normally.

What do the judges and lawyers think about the proposals?

As long ago as May 1989 a Working Party of the General Council of the Bar, chaired by Jonathan Caplan QC recommended televising of court proceedings in the 'Caplan Report'. The Bar Council reiterated its support in 2005. And only recently, the Director of Public Prosecutions, Keir Starmer, argued that the cameras should be allowed into court unless there were good material reasons not to do so. The Master of the Rolls Lord Neuberger has also voiced his support to some degree of televising of courts.

Wouldn't it be better to start with a pilot scheme for a trial period?

As mentioned, we have already done a pilot in the Appeal Court in 2005, and we have demonstrated that televising the courts could be done efficiently and effectively without affecting in any way the workings of the court. We don't think another pilot is necessary or would be useful. A copy of the report of the outcome of the pilot is available upon request.

Won't the TV companies want to go much further than the Appeal Court and sentencing remarks in the Crown Court?

We recognise that allowing any televising in courts is a major step and that everyone will want to feel confident that it is working well before extending the idea. We are confident that in a short time it will be seen as a perfectly natural part of news reporting, as has the TV coverage of parliament and public inquiries.

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23/2/12 - Letter from Justice Secretary to BBC, ITN + Sky

Ministry of JUSTICE

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Our Ref: 320685

23 February 2012

Dear Ms Boaden, Mr Hardie & Mr Ryley,

BROADCASTING FROM COURTS

Thank you for your letters of 6 February 2012 to myself and colleagues on the government's proposals to allow broadcasting of court proceedings in limited circumstances. I am responding as Her Majesty's Courts & Tribunals Service falls under my responsibilities as Lord Chancellor & Secretary of State for Justice.

As I announced in September 2011 the government plans to remove the ban on broadcasting from courts as soon as parliamentary time allows. As you will be aware the legislative programme for a parliamentary session is announced by Her Majesty The Queen in the Queen's Speech, and no formal confirmation of a timescale for a particular bill or legislation would be made before this.

I can assure you that I am fully seized of the importance of this reform, and the impact that removing the ban on cameras in courts could have on public understanding of the courts and sentencing processes. The government is committed to increasing transparency across public services, and we see the introduction of cameras in courts as a significant step forward in this work. As you recognise in your letter, however, it is essential that this does not hinder the administration of justice and that it protects victims, witnesses, offenders and jurors. I am also very clear that this must not give offenders the opportunity for theatrical display.

Any legislation which the Government introduces to remove the ban on cameras in courts must be workable in the operational context of the Courts Service. I am grateful for your constructive contributions to discussions on this with my officials, and I have asked them to continue working closely with you and the Judiciary to develop practical solutions to any technical issues so that we can implement this change as soon as parliamentary time allows.

KENNETH CLARKE