

D Speech at Inner Temple, 25th September 1997

Text of a speech by Lord Wakeham at a press conference in Parliament Chamber 1997

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It has become so much received wisdom that 'everything changed' that dreadful night in Paris nearly four weeks ago that I do not need to debate it here this morning. Right across the spectrum, old orthodoxies are being challenged. Institutions are engaged in re-examination. Values are being scrutinised.

This is as true in the world of newspapers and magazines as anywhere else - not just among those who edit them but, in my view, among the millions who read them as well. That is why - with vigorous support from editors - I launched on 1st September an urgent review of a number of areas of the industry's Code of Practice. Although it may have been public disquiet about the activities of the so-called paparazzi abroad which sparked that review, it has not been confined merely to harassment. I have gone much wider into the whole area of intrusion - partly because it is editors themselves who have asked me to do so.

I have consulted as widely as I could during this review. I have found that editors across the industry have been of the same mind. 'Times have changed - and we want to change with them.' And that, of course, is the strength of self regulation. It can change - quickly and effectively - to meet new challenges and to rise to public expectations in a way the law never could. And it is going to change again now. In particular, I have spent a lot of time with tabloid editors - whose radicalism and sincere determination to respond swiftly to changed circumstances has greatly impressed me. A lot of what I have to say today has sprung from those conversations. But before I set out the detail of my proposals, I want to make two general points. The first is this: to make clear that the changes I am proposing today do not in any way detract from the often unsung and important success story that self regulation has been since the Press Complaints Commission was established. The system, as I have often said, is not perfect - and never will be. But it has delivered results across a wide range of fronts.

* In particular, it has significantly changed attitudes over the last five or six years about the need for accuracy and the speedy resolution of complaints where inaccuracy occurs. Many potential complaints now never come to the PCC because a newspaper has dealt with them before they get that far. And where complaints of inaccuracy are made, eight in ten are resolved without the need for adjudication or cost for the person complaining. That is a real success.

* Much of this has taken place behind the scenes. But there have been excellent examples of self regulation working in practice in more high profile ways: the responsibility all newspapers have shown in respecting without transgression the privacy of Prince William at Eton; the withdrawal of reporters and photographers from Dunblane in order to leave local people the space they needed to grieve; and the withdrawal of photographers from Balmoral this August allowing members of The Royal Family a private holiday for the first time in more than a decade. Self regulation, therefore, can work for those in the public eye as much as for ordinary people. That, in part, is thanks to the success of the Code of Practice. And that is the second point I want to make: that over the last six years, the industry's Code of Practice has continually been delivering tougher self regulation. It is a very different document from that which was established in 1991 - testimony to its flexibility and the determination of editors to keep raising standards. In the last year or two, for instance, significant changes have been made on payments to witnesses and to the identification of children in sex cases - with newspapers leading the way for the rest of the media. That is another plus for self regulation over law.

It is time now for the Code to change again. But I underline that this is not because there is anything wrong with the Code as it stands, or because newspapers do not already operate to high ethical standards. It is to meet the expectations of the public and the sincere demands of editors - the twin pillars on which effective self regulation stands. Changes to the Code are, of course, a matter for the industry's Code Committee and ultimately all editors through consultation. So what I want to do today is to make a number of far reaching proposals to the industry of the changes that I, as the independent Chairman of the PCC, want to see.

Drafting and implementation will inevitably take time. So while that is happening, I would also ask editors to take note of what I have to say and to begin to amend their own policies accordingly. Many - tabloid, broadsheet, regional alike - have already started. I want to look at specific measures in five different areas - harassment, children, privacy, public interest and intrusion into grief. First, harassment - which undoubtedly has rightly most concerned the public in the days since the tragic death of Princess Diana. To the problems of the paparazzi there are no easy solutions. The market place in which they operate

is global - and no action that we can take on our own in this country could alter that in any way. That does not mean, however, that nothing should be done. Indeed, the proposals I will make will in part help reduce the market for paparazzi pictures in this country but will also begin to tackle some of the wider problems of harassment which can from time to time occur in this country. To deal specifically with the paparazzi, I propose that the industry should amend Clause 8(i) of its Code to prohibit the publication of pictures obtained through 'persistent pursuit' or as a result of any 'unlawful behaviour'. In the latter case I am thinking particularly of pictures obtained by freelancers who break the traffic laws, who commit trespass or who stalk their prey. There will therefore no longer be a market in this country for pictures taken by the sort of photographers who persistently pursued Princess Diana. Motorbike chases, stalking and hounding are unacceptable - and editors who carry pictures obtained by them will be subjected to the severest censure by the PCC. Combined with that, I would like the Code to place an obligation on editors to ensure that they check the way in which freelance material is obtained before it is published. They should also be required to be able to demonstrate what steps they took to check a particular picture if challenged by the PCC. To assist in that process, I should like to encourage photo agencies themselves to come within the ambit of the PCC by signing up to the industry's Code. Editors taking pictures from agencies who subscribe to the Code should be able to some extent to rely on the agency to check the manner in which a photograph has been taken; if taking pictures from other sources, they should be much more thorough in checking its origins. But I want to go further than dealing with what is, bluntly, the isolated problems posed by the paparazzi - and to set about tackling something which affects many more ordinary people who often find themselves thrust in the public eye: the media 'scrum'. At heart, the media 'scrum' occurs when many individual journalists - both print and broadcast - are each doing perfectly legitimate job, but together they form an unacceptable 'scrum' around the house or office of someone in a news story. This scrum is deeply intimidating to those at its centre - and offensive to many others who watch it. It is really a form of 'collective harassment'. Tackling it won't be easy - and it cannot be done without the willing co-operation of broadcasters. As a start, however, I would like to see a stipulation in the Code that where an intimidating media 'scrum' forms, journalists should only stay at the scene for as long as the public interest requires their presence there. This is, in effect, what happened at Dunblane and more recently at Balmoral. I want to institutionalise that best practice in the Code, and would ask the broadcasters - who have separate regulatory arrangements for which I am not responsible - to follow that lead.

That is a tough and radical package of measures on its own - but it is also important that it is taken as part of a wider series of changes dealing with intrusion. The second area

where I want to see changes to the Code is on the treatment of children. Even before the recent tragic events, the PCC had decided that it was time for a review of the way in which the Code deals with the interviewing and photographing of children. It forms an important part of my proposals – and complements what I had to say about the need for the privacy of the young Princes to be respected by ensuring it is applied to all young children. First of all, I am concerned that the Code places an arbitrary age limit of 16 on the protection of children. Some children are very grown up at that age; others not. I do not want to see any new age limits set - but I do want the Code to recognise that unless there is an overriding public interest, or unless they consent to take part in a story, young persons should be free to complete their full time education without unnecessary media intrusion.

What I am not proposing, therefore, is an extension of the Code's ban on interviewing and photographing beyond the age of 16. What I am proposing is that there is a presumption in the Code against intrusion into the lives of any young person still completing his or her studies unless there is a very good reason. I also want to see some changes to the Code as it deals with children under the age of 16 as well. At present, it is quite possible for a child at school to invade the privacy of another child - or indeed to thrust themselves into the media spotlight - by selling their story to a newspaper. I believe the public finds that unacceptable, and so do I. I am therefore proposing that the Code bans payments to minors for stories. I also think that the Code should recognise the particularly vulnerable position of one group of children - those whose fathers or mothers are in the public eye. There can be no excuse for a publication invading the privacy of a child on the grounds that there is a public interest justification for intruding into the privacy of a parent. In other words, the Code should stipulate that where a story about the private life of a child is published, there needs to be a justification for the story other than the relationship with one, other or both parents. That combination of changes will tackle some of the unacceptable intrusions that do from time to time occur, and extend to all children that degree of privacy I would expect for the Royal Princes.

That leads me on to the wider question of privacy - which has always been the focus of most scrutiny of self regulation. The privacy requirements already in the Code are tough and, in my view, have been effective in squeezing out of most publications the unacceptable intrusions into the lives of ordinary people that occurred too regularly a decade ago. But there are two ways in which I think it could be further strengthened - both matters of definition. First, there is a general acceptance among editors that the definition of private property in the Code is far too tight - and it does not cover a number of those places such as the inside of a Church or a restaurant where individuals might have a legitimate expectation of privacy. We need to change that. I would therefore like the Code

Committee to expand the definition of private property to include those 'public places' where individuals might rightly expect to be free from media attention. Secondly, I think the Code should also set out briefly to define those areas which constitute a 'private life' - for instance, a person's health, his or her home life and family relationships, and personal correspondence. Although a definition could never be comprehensive, and in many ways would act only as a guide, I think it will be a sure signal to the public about those areas of an individual's life which newspaper editors value and which they will respect. It will represent a significant tightening of the Code.

There is one other matter relating to intrusion where I think we have to make progress - although I remain to be convinced that it is one that can be codified. Under the existing wording of the Code, it is public interest and consent alone which can justify intrusion. Where public interest is the determinant, I would like the Commission - whether or not the Code stipulates the point - to be able to satisfy itself that the level of intrusion is proportionate to the public interest involved. In other words, would a minor lapse of judgement by a public figure thirty years ago be proportionate to putting a story about it on the front page of a newspaper today?

In dealing with privacy I think the time is now right to look again at the question of what constitutes a public interest. I have been in this business for far too long to know there is no point trying to redefine the public interest - although I have tried to expand on it from time to time. But what I do think is important is that the Code recognises there are different degrees of public interest justification for different types of intrusion - and seeks to quantify that. At the moment the Clause in the Code on payments for witnesses includes the concept of the 'overriding need' for payments to be made. I would propose that we should build on that and introduce an 'overriding public interest' exemption, which is set at a higher threshold than the existing one, for Clause 8 on harassment as well as for the more general parts of the Clause on children.

The final of the specific areas in which I want to make a proposal for change is the Code's provisions on intrusion into grief and shock. At the moment, the Code only covers enquiries by journalists at such times - which must be carried out with sympathy and discretion. I do not see why, in normal circumstances, publication should not also be carried out with due sympathy and discretion. Of course, there will be times when sympathy and discretion are not appropriate - when, for instance, a murderer or a corrupt despot dies; but there will be times when it is. And although definition will be very important, I would like the Code Committee to look at this Clause to see whether publication of stories at times of grief or shock could normally be carried out with due discretion for the sake of the families involved. That is a tough package of measures which goes well beyond the rather narrow issue of the

paparazzi. In doing so it touches on every aspect of the question of intrusion which recent events have highlighted. There are two other more general policy issues on which I would like to touch. The first of these is the question of the sanctions which the PCC can impose when there is a breach of the Code. At the moment, any publication which is censured by the PCC is duty bound to print the adjudication which follows in full and with due prominence. I have never had cause to criticise a newspaper for failing to give an adjudication such due prominence. But again, I think it is right that we take the opportunity to examine whether this power is enough in the light of public expectations. I will therefore be looking to review the whole question of sanctions - in particular to move to a position where prominence of an adjudication is agreed between the editor of the newspaper and me as Chairman of the PCC. I should also like to see adjudications more clearly branded as PCC adjudications. Both these matters - and perhaps others that are suggested by editors and the industry - need to be considered thoroughly. Secondly, I want to take the opportunity of my remarks to outline an important development in self regulation. At the moment, the Code of Practice and the PCC's jurisdiction apply only to publications which appear in a printed form. This therefore excludes publications that appear on the Internet but which come from the same publishers as those who subscribe to the Code for their own printed material. Following consultation across the industry, it has been agreed that the PCC will from today accept and deal with complaints about on-line material published by those who already subscribe to the Code. This will end an anomaly that exists and is a first step in an important area. We will keep progress under review, and will be considering further steps in future.

That concludes my announcements today. I would like to sum up with three important messages.

To the public. We've listened and we've acted.

To editors. You've made a great success of self regulation over the last six years. Let's keep it that way by rising to this new challenge.

And to Government. This new Code will be the toughest set of industry regulations anywhere in Europe. It is doing far more than legislation ever could. You are right to put your trust in effective self regulation.

ENDS

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