

1. I **BARONESS BUSCOMBE**, of the Press Complaints Commission Limited, Halton House, 20/23 Holborn, London EC2N 2JD, **WILL SAY AS FOLLOWS:-**
2. I am Chairman of the Press Complaints Commission Limited ("the PCC"). On 29<sup>th</sup> July 2011 I tendered my resignation which will take effect once my successor is appointed. The comments that follow are therefore made by me in a personal capacity. Nothing I say should be taken as in anyway pre-judging the outcome of the PCC's reform process which is currently on-going.
3. On 16<sup>th</sup> August 2011, I received a letter dated 8<sup>th</sup> August 20211 from the solicitor to the Leveson Inquiry ("the Inquiry") which contained a notice ("the Notice") under Section 21(2) of the Inquiries Act 2005 ("the 2005 Act"). The Notice requires me to provide evidence to the Inquiry in the form of a Witness Statement and to provide any documents in my custody or under my control which fall into certain categories.
4. The Notice requires my Witness Statement to cover at least the following matters or issues:
  - 5.1 Who I am and a brief summary of my career history;
  - 5.2 A description of the PCC covering (at least) its origins, status, history, organisation, remit, authority and powers;
  - 5.3 The steps which the PCC takes, in general terms, to discharge its regulatory function;
  - 5.4 The PCC's experience of regulating the media, in particular in relation to phone hacking, computer hacking, "blagging", bribery, and/or corruption. This is to include examples and evidence which conveys the scale on which these issues have come to my attention;
  - 5.5 My views on the strengths and weaknesses of the PCC and, in particular, my views on the steps which might be taken to improve the regulatory framework and effort.
6. The Notice requires me to provide documents which fall into the following categories:
  - 6.1. Any document setting out the PCC 's organisation, remit, authority and powers.
  - 6.2 Any documents relating to the regulation of matters concerning phone hacking, computer hacking, "blagging" or bribery by the media or those acting on behalf of or at the instigation of the media. I have passed all material in my possession falling within these categories to the PCC's Director and understand that these will be provided by him to the Inquiry today, together with a mass of other material.
  - 6.3 Any documents relating to the effectiveness of the PCC's regulatory effort (limited to matters within the scope of the Inquiry's terms of reference) and/or proposals for improvement of reform of the same.

## PERSONAL DETAILS

7. I have had a varied career working in law, politics and in the private sector, prior to taking up my position as Chairman of the Press Complaints Commission (PCC) in April 2009.
8. I was called to the Bar in 1977 and, following pupillage, I acted as legal adviser and counsel to organisations including Barclays Bank International, New York and Barclays Bank Plc, London, The Dairy Trade Federation and the Institute of Practitioners in Advertising (IPA). Most recently, and immediately prior to the PCC, I was Chief Executive of the Advertising Association. I am currently a non-executive Director of Veolia Central Plc.
9. I have also followed an extensive career in politics and was made a Life Peer in 1998. Between 1999 and 2007, I was Shadow Minister responsible for seven briefs: Trade and Industry, Work and Pensions, Cabinet Office, Home Office, Culture, Media and Sport and Education and Skills. I was also deputy to the Shadow Lord Chancellor throughout that period.
10. Other current, voluntary Appointments include my role as Chairman of the newly formed Samaritans Advisory Network (set up to support the work of the Samaritans) and work as Founder Patron of the Institute of Paralegals.

## BACKGROUND

11. I fully endorse and adopt the Statement, in its entirety, submitted by the Director of the PCC, Stephen Abell, which provides factual details of the workings of the PCC. I have used this valuable opportunity to add, in my Statement, my personal opinion with regard to some key aspects of the work of the PCC and the overall system of press regulation. I want to add context to some of the many activities the PCC undertakes and the areas of policy for reform and improvement of the PCC that we have considered and, in many instances, introduced during my time at the PCC. I have endeavoured to avoid duplication in the statements. I am, however, conscious of some overlap.
12. I believe that my knowledge and practical experience of media regulation, gained both at the Advertising Association (the AA) and as Shadow Minister, DCMS, in charge of the Communications Bill and its passage through the House of Lords, may be relevant.
13. I should also like to emphasise that the PCC is only one part of the system that oversees the press and magazine industry. It has three parts, being the PCC, Pressbof and the Editors' Code Committee. These are in turn but one part of a patchwork of rules that affect the press, including the criminal and civil law, the ICO, the ASA (with regards to advertisements) and ATVOD (dealing with certain pay per view services). In addition, industry bodies - the Newspaper Publishers Association, and the Newspaper Society - also play a role.

14. My interest in regulation of the media began in 1984 when working at the IPA. This interest was further developed when I took the Communications Bill through the House of Lords on behalf of Her Majesty's Opposition in 2003. As Chief Executive of the Advertising Association I was very engaged with current issues pertaining to self-regulation; in particular I focussed upon developing a code for self-regulation of on-line advertisements. I was also a member of the Code of Advertising Practice Committee which writes and amends the ASA code, and also a Director of both ASBOF and BASBOF, the bodies responsible for raising the levy to fund both non-broadcast and broadcast advertising. I therefore developed a thorough knowledge and understanding of the ASA system of self-regulation from the industry perspective.
15. My role as Chief Executive of the AA was to champion the freedom to advertise responsibly and to support the ASA, whilst maintaining an arms-length relationship to ensure sufficient and credible independence of the ASA. I learned then that a great advantage of non-statutory regulation is that it can be tailored on a bespoke basis as appropriate for a particular sector. There are many similarities between the ASA and PCC, not least the fact that the PCC was, at its inception, based upon the ASA model and commentators have suggested that the PCC should be re-designed to match the ASA system which is, in effect co-regulatory with that of OFCOM. There is a risk of over-simplification here. The ASA has a back-stop power with OFCOM, but only in relation to broadcast advertising; the non-broadcast role resides to an extent with the OFT, as a result of broadcast advertising devolving to the ASA.
16. Much of the comparison made, particularly by politicians, between the two systems rests upon an assumption that the PCC is somehow demonstrably less independent from the press than the ASA is from the advertising industry. In fact, there is no material difference.
17. Substantive differences in practice between the two systems have more to do with the sectors each regulates. This is an important point for the Inquiry to consider, as I believe it gives context to the background to this Inquiry and might assist the Inquiry in its assessment of what is possible and practical for regulating the press.
18. I very much welcome this Inquiry. It gives me the opportunity, as outgoing PCC Chairman, to put the record of the PCC straight.
19. I have genuinely enjoyed my time as Chairman and am incredibly sad to be leaving, particularly given that during my period of office, we have strengthened the system by introducing numerous reforms – in particular, following the Independent Review of our Governance and Structures - without compromising freedom of expression whilst enhancing our engagement with the public.
20. This has throughout been achieved with a tiny staff of 16 people, on a budget of £1.9 million.

21. In my first months at the PCC, I observed that we were providing a high quality service to the public, within our remit, but that a review of our structures and governance was necessary some 18 years after the PCC's inception. I therefore initiated an independent review which was to be an important stepping-stone for further reform. I wanted to address additional areas of concern in the wake of the governance review, particularly regarding our sanctions and remit. I also believed that a review of our funding and the nature of our independence was entirely necessary. However, the industry was very clear that a review undertaken by the PCC should only consider issues solely within its remit. Questions as to funding, independence and sanctions were decidedly off limits.
22. I am proud of what the Independent Governance Review achieved; the Review Panel made 74 recommendations for change; the PCC through the Commission, accepted all of the recommendations in principle and the PCC has now instituted almost all of them.

## **STRENGTHS AND WEAKNESSES OF THE CURRENT SYSTEM**

### STRENGTHS IN THE CURRENT SYSTEM

#### STANDARDS

23. The PCC maintains and seeks to strengthen standards through adherence to the Editors' Code and by developing a body of precedents, which are frequently referred to in the High Court.

#### LEGISLATION-v-REGULATION

24. The media landscape is in constant flux, particularly due to technological advances. Whilst we were busy debating the Communications Bill in Parliament in 2003, Mark Zuckerberg was developing Facebook. The Communications Act does not mention the internet (with the exception of a reference to broadband, introduced by amendment in the House of Lords). Non-statutory systems are in my view better able to adapt and change and to respond, both to technological change and, just as crucial, to changes in our culture, mores and ethics. So what may have been acceptable 5 years ago – e.g. the pejorative use of language to describe a minority - is not acceptable now. The PCC already has a substantial body of rulings in cases where all forms of social media have been an important part of the factual matrix.

#### PRE-PUBLICATION WORK

25. This is an area of our work that has developed in recent years and which has had an enormously beneficial impact. Anyone can call upon us any time of day or night and we will endeavour to help them to the best of our ability, even if that which concerns them has clearly not breached the Editors' code. We have provided the Inquiry with considerable detail regarding our anti- harassment and other pro-active work where we do an enormous amount to minimise the potential for real hurt and harm. I well recall that when I began working at the PCC, I was amazed by the degree to which we are able to stop within hours or minutes the publication of

information, including pictures, where there was a potential breach of the Code. The key to this is strong and very responsive engagement with the industry, night and day.

#### OUR RESPONSE AND RESOLUTION PROCESS IS FAST AND FLEXIBLE

26. In all that we do, we seek, where possible, to pre-empt – through our pre-publication work - and to minimise the hurt and harm that follows from both publication of a story and media intrusion. We do not always wait for a complaint and will also respond to complaints from third parties by attempting to reach the person or persons who are directly affected by or involved in the story.
27. At the time of the Cumbrian shootings in 2010, the PCC was directly in touch with the police and other local agencies, offering to help with regard to the media. All this before the shooting had ceased. It is only the PCC that has an institutionalised system of desist notices and which can ask the police to intervene when both the broadcast and non-broadcast media risk over-stepping the line of what is acceptable, whether it is a major or isolated incident (eg uninvited media attendance at a funeral).
28. Our goal in terms of achieving resolution is a maximum 35 working days. Sometimes we can achieve resolution within hours or less following a call from a concerned individual. Only last week, following a call from concerned individuals who had been named in a story published online about the recent riots, we called a Managing Editor who, following a brief discussion with a PCC complaints officer, removed the names of certain individuals, even though there was no strict issue with the Editors' code. I am not persuaded that a system established by statute and run by lawyers would permit this flexibility.
29. Flexibility exists also in terms of the making of changes to the Editors' Code of Practice. Not only is the Code fairly simple to understand, it can be changed with relative ease, following consultation among the Industry as well as the PCC. As I draft this document, I have received confirmation of agreement to change the Code to reflect concerns regarding the prominence of published adverse adjudications. By contrast the preponderant view is that the next Communications Act, to amend broadcast regulation, may only make the statute book in 2013.
30. Strength must often be measured by the invisible. A lot of the most effective work performed by the PCC is below the surface. It is reflected in the articles that do not appear, the journalists that do not turn up on doorsteps and the stories that are not pursued. Many people contact us to use our anti-harassment mechanisms whereby directions are given to editors to call off photographers and reporters. It has a near one hundred per cent success rate.
31. As to material which is published, I pose rhetorically this question: what is preferable as a means of redress; a lengthy, expensive court battle in which private details are pored over, or a discreet service that either obtains swift and agreed remedies such as corrections and apologies, or public vindication in the form of an upheld adjudication (which the offending paper must publish)?

32. Much has been written in recent months regarding the public interest underpinning of journalism. It is not apparent that the term public interest will ever readily be susceptible to any one-size-fits-all legal definition. Far better in my view to approach the matter in a case-by-case, open-textured way by discussion between industry experts and individuals drawn from various walks of life. This is precisely what the Commission aims to do.
33. I would therefore urge caution before any change is made that would diminish the freedom of a lay forum to fully and freely debate issues, including the public interest test, facing the press.

#### WE ARE FREE

34. We do not charge for the service and support we provide. The law by contrast is generally expensive; it may also be inflexible and slow. If access to justice is to remain a cardinal principle of our democracy, it is essential that vulnerable members of the public be able to challenge the media other than by use of a lawyer. That said, lawyers will very often contact us on behalf of their clients and we are delighted to assist them.

#### WEAKNESSES IN THE CURRENT SYSTEM

##### MEMBERSHIP AND COMPLIANCE

35. Currently, membership of the PCC is not mandatory and those who are not in membership need not abide by the Editors' Code. They remain, in effect, outside the system.
36. Public trust in the system is paramount and whether or not the publication at fault has paid into the system, compliance should be universal. I shall turn to this again.

##### INDEPENDENCE

37. It is hard to argue that we are entirely independent from those whom we oversee when one of the key components of a self-regulatory system is strong engagement between the regulator and those whom it regulates. Many non-statutory oversight bodies are in the same position. Much more problematic however, is the fact that the PCC is paid for, on a voluntary basis, by those over whom it sits in judgement. Public confidence is plainly more difficult to establish in this context.
38. Inadequate resource is a fundamental problem for the PCC. Whilst the industry, through Pressbof, has expressed sympathy for the constraints placed upon us as a result of a lack of resource, the position is unsustainable and I believe the industry could have and should have done more to support the PCC in this regard, notwithstanding the sector's own commercial pressures. The fact is that our budget has been effectively regressive since 2003.
39. Our performance runs the risk of being compromised because of a lack of adequate funding.

40. We do the job to the best of our ability. However, this is not sufficient given the increase in the number of complaints, the growth in our pre-publication work, and the constant demands and requests made of us by external organisations and agencies.
41. So, whilst there has been a real desire on the part of all of us at the PCC to raise our game and further develop the office's remit and practices, a significant lack of resource makes this frankly impossible. The PCC functions because the 16 staff work very long hours and the current Director is working and on call 24 hours a day, 7 days a week, as is the Head of Complaints and other staff members. This is simply not sustainable and is not reasonable or sensible given the nature of our work (critical judgment calls made within tight time constraints) and its importance to society at large. I have made this point to Pressbof as forcibly as is reasonable at each meeting with them since 2009.

#### INADEQUATE POLITICAL SUPPORT

42. It will be critical that any reform led system of press supervision has a period of reliable support from this country's elites, not least in Parliament. As matters stand, politicians' responses to our work in my experience, are invariably a reflection of the injustice many feel as a result of what they consider unfair handling by the press. We function as a proxy for their real enemy – the newsrooms of the major titles. I of course accept this as part of the territory but it reflects the context in which this Inquiry has been established.

#### INDUSTRY SUPPORT IS CONTINGENT

43. It is possible for news organisations to register the threat of withdrawing from the system following the issuing of decisions against them. I have been made aware of this in my time as Chairman, although it has never been acted upon. However, it does reveal a potential fragility in the system.

#### INDUSTRY DOES NOT PUBLICLY SUPPORT THE PCC

44. More than this, I do not consider that the industry has been a consistent supporter of the PCC core complaints function in the way it should be.
45. I can do no better than quote Peter Preston who, in a submission to the PCC's governance review, said "the Commission will never enjoy a quiet life or complete public trust whilst many people within the press it seeks to regulate speak or write so scornfully about it. Much publicity for the PCC is poor publicity – and this seems an endemic condition, because many of those who deal in scorn or distrust either don't acknowledge that there is such a thing as "the press", as opposed to a flood of newspapers and magazines catering for very different audiences, or don't understand how the Commission operates." The latter is particularly disappointing, given compliance with the Editors Code is in most journalists' contracts of employment.

46. Peter went on to say, in reference to the editors who sit on the Commission itself: “My successor at The Guardian has never had a Commission seat, and nor has anyone from the FT, The Times or The Independent. In short, the papers most consistently questioning of Commission performance have never been part of its deliberations.”

#### **STEPS WHICH MIGHT BE TAKEN TO IMPROVE THE REGULATORY FRAMEWORK**

47. I want to stress from the outset of this section that none of the following suggestions are possible without adequate funding.

#### **REGULATORY CONVERGENCE**

48. This Inquiry provides a real opportunity to consider regulatory convergence of all media. This should not, in my view, in any event lead to state regulation for otherwise, as with current broadcast legislation, it will not be able to develop in line with technology. In essence, the law will not keep pace with technology and its primary purpose – to protect the public – will not be served.
49. To put it in context, I suggest that the word “broadcast” is almost an anachronism now and will mean nothing to the listener and viewer within a decade.
50. Whilst there are calls for stronger regulation, thought will need to be given to what will actually be feasible and practical, given the speed of technology and the global nature of news-gathering and dissemination. I suggest “stronger” should not mean less flexible, otherwise what might be considered right in 2011/12 may be largely anachronistic within less than five years.
51. One of the key questions going forward (and which already challenges regulation of the media), is who and what constitutes a journalist and when does a journalist become a news organisation and part of a regulatory system? Given the global nature of media, much of what reaches us as consumers of content is already sourced from another jurisdiction. What is clear is that journalists – both print and broadcast – now digest outpourings from those who are not journalists in any traditionally recognisable respect. So I suggest it is very important to have ethical guidelines about how to use that information. Arguably, a voluntary code, reinforced by practical guidance from industry precedents, is a model for maintaining standards in this area – particularly given that access to information through technology is constantly changing.
52. Supplementary to the question “who or what constitutes a journalist” is the question “who should enjoy the privilege of protection of sources”? Should that protection remain sacrosanct, even where so-called journalists are not clearly identifiable as such? Should an editor remain responsible for the actions of a journalist reporting to him/her in all circumstances?

MEMBERSHIP AND COMPLIANCE

53. Membership of any non-statutory system by news organisations who attain and sustain threshold minimum circulation should, I believe, be mandatory. This has, in the case of the PCC, proved difficult to achieve in all cases on a voluntary basis. I want to stress that Northern and Shell is currently very much the exception in this regard; however, I should also refer again to the threat of editors to leave the system; that very regrettable possibility could be prevented by requiring membership of the system.
54. I therefore suggest that membership is a component of the system whereby some form of compulsory framework might be considered.

CO-REGULATION?

55. The right conditions for co-regulation are of paramount importance. There have been calls for co-regulation with OFCOM. If that were to be the case, OFCOM must first become entirely independent of Government. In my experience, both as a Shadow Minister and as Chief Executive of the Advertising Association, this has not always been the case. What may prove acceptable in practice for example, the advertising industry (where the OFCOM back-stop power is rarely used), may not be acceptable to the news industry; if co-regulation is proposed, it must be totally unfettered by Government – or Opposition! I firmly believe that freedom of the press is a bulwark of our democracy and any attempts to try and “strengthen” or “improve” press regulation by harnessing its regulator to a body that can be influenced by the state would be a fundamental backward step. Politicians talk about “independent” press regulation but need to think about what they mean.
56. For co-regulation to work effectively, in addition to genuine independence from the state, there must also be a clear division of responsibilities between the two bodies concerned. Further, the system must remain open, transparent and easy to use.
57. In addition, it is my belief that use of the system must remain free.

CONSTITUENTS OF THE SYSTEM

THE PCC

58. I have already explained that not all news organisations have or ever have had representation on the Commission. In the future I believe that consideration should be given to insisting upon a regular turnover of editorial membership. In the period during which I have chaired the Commission there has been no change in the editorial membership. That is because the editorial seats are in the gift of PressBof, not the PCC. In contrast, there has been considerable change among the lay Commissioners. Following the review of our governance and structures we instituted a rigorous system of appointments for lay Commissioners. We last advertised for 3 positions in January 2011 and received nearly 3000 Applications. The quality of applicants was frankly outstanding and I continue to lament having to turn down so many excellent candidates. I say this to demonstrate awareness and interest in a system which some consider broken!

59. Some have suggested that all commissioners should be 'lay' or 'independent' of the industry. I resist that as a proposition as, in my experience, it has been enormously helpful when considering complaints to have the benefit of senior, front-line, editorial experience to draw upon (for example as regards the use of photographs). Industry involvement in the Commission mirrors that of the ASA.

#### PCC CHAIRMAN

60. I do not think that the industry should retain the sole power to appoint and fire the PCC Chairman. There should be a lay element in the process of his or her appointment to ensure the transparency of the process. Consultation with the PCC is not, in my view, sufficient.
61. With regard to the right criteria for the role of Chairman, consideration should be given to appointing someone who has had recent, albeit not current, experience of the industry. When I was appointed, a condition of appointment was "no experience" in the Industry.

#### PRESSBOF

62. In addition, I believe that a current weakness in the system, which affects perception in terms of independence and influence and which contrasts with the ASA, is the fact that the Chairman of Pressbof is a current executive of a news organisation.
63. The question whether there should be lay members on Pressbof has been raised frequently. Once again, I compare my experience as a member of the equivalent committee for the ASA system, in which some members are actively employed and some have recent experience in the advertising industry.
64. One of the reasons why editors and journalists comply with the current system is because it is they who write the Code; it is not imposed top down from elsewhere, whether by judges or parliament. I would suggest that a call from the PCC to remind a journalist/editor about the Code will in most instances receive a far more collaborative, positive response than a lawyer's letter which threatens libel. Collaboration is key. In addition and ironically, I have often felt that industry participants tend to lean towards a more draconian approach than lawyers!
65. Following its Governance Review, the PCC has a clearer, more active, and (I would suggest) more positive engagement with the Editors' Code Committee. Whilst the Chairman and Director used to attend as observers and be encouraged and invited to make informal suggestions to the Committee, the Chairman and Director now have a clear role in representing the views of the Commission and a full report is now made by the PCC Chairman to the Commission following Code Committee meetings. The Commission now regularly considers making recommendations to the Code Committee for amendments to the Code and the PCC must be consulted on any proposed changes to the Code before it is asked to ratify them.

PCC REMIT

INVESTIGATIONS

66. It is often said that the PCC should have the power to undertake investigations. Whilst this may be right in principle, what is meant by “investigations” must be considered with extreme care. Whilst the PCC sometimes consider issues without seeking the consent of the parties in a particular case, I believe there is a limit to what is feasible and sensible within a non-statutory system. First and foremost, any investigation should not interfere with any other agency’s responsibility – the police being an obvious example. Even where an investigation might be appropriate, the powers, resource and size of the PCC would have to increase exponentially to enable one effectively to take place. There is an important question here: to what degree should we have powers to compel, whilst retaining our independence from the state? For example, should the PCC have powers to subpoena witnesses?
67. In any event, whilst we have sometimes felt frustrated at our limited ability to investigate issues within our remit, we have been concerned to avoid raising expectations that we cannot meet as the PCC is currently structured. A clear example of this is phone hacking, to which I turn later.

SANCTIONS

68. There must be effective and credible sanctions that provide the right incentive to comply and which can be imposed promptly. In large part I believe the current sanctions are effective; however more can be done to underpin credibility and trust in the system.
69. Sanctions must be proportionate to the infringement and on a set sliding scale.
70. Consideration should be given to introducing a monitoring system to ensure that sanctions have been complied with. Again, to quote Peter Preston, “public perception that the PCC can inflict real pain on journalists who don’t abide by the code” is critical.
71. An obvious quick fix would be to introduce a system of fines; I think it is important to consider what that would achieve and what it would improve. One of the key attributes of any self-regulatory system - and one that is so often misunderstood by critics and particularly lawyers - is the ability of a regulator to work with the industry it regulates to achieve the best outcomes in terms of adherence to the system. Self-regulation, by its nature, demands self-restraint and a degree of trust on the part of all those who buy into it; the industry writes its own code and, in so doing, it places an obligation upon its participants to pursue their profession with integrity. I say particularly lawyers because we are used, as lawyers, to working within an adversarial system. Self-regulation, in marked contrast, demands an element of “buy-in” to achieve effective outcomes.

72. The introduction of fines is likely, in my view, to move the system from one that is collaborative to one that is adversarial. This will inevitably lead to hugely-increased costs and will thereby diminish access to redress for the public. Currently, the system is entirely bespoke, such that the PCC can treat each case on its merits and it is free to act, negotiate or request immediate take-downs prior to publication (i.e. whatever makes sense in each case), without the newspaper in question fearing that any positive response on its part amounts necessarily to an admission of infringing the Editors' Code. If there is a threat of a fine from the outset, I am concerned that editors may prefer to avoid communication (and thereby co-operation) with the PCC and instead, become themselves more guarded and more reluctant to act and assist the complainant in many cases where there may not even be a Code breach.
73. The Inquiry will in this context need to compare other systems of media regulation and regulation of the public sector. If a fine is imposed, who exactly pays? For example, the license fee-payer funds any fines imposed upon the BBC and the taxpayer normally pays for fines in the public sector. Arguably, the individual at fault feels no pain at all.
74. I would not rule out the imposition of a fine where, for example, there is continued, gross infringement of the Code. Currently, following what amounts to a gross infringement, in addition to an upheld adjudication and full publication of that adjudication in the offending publication, as PCC Chairman, I write to the publisher concerned. To the outside world, this may seem immaterial; I can confirm that this has proved highly effective, as it is seen by editors and publishers as an extremely serious and unwelcome reprimand from a body which includes their peers. It is a taint upon someone's judgement and working practices; it hurts.
75. Adherence to the Editors' Code throughout the UK should, I suggest, be mandatory and it should be a condition of employment and expressed in all journalists' and editors' contracts. I have encouraged all news organisations to make this a condition within their employment practices. I am aware of two journalists losing their jobs as a result of a breach of the Code, since 2009.
76. All published adjudications and any published references to a resolution should refer to the fact that the PCC has been instrumental in achieving a resolution. Currently, in many instances, the fact that we have achieved resolution is not mentioned.
77. Where the Commission decides that a breach has been serious, a strong sanction to support the publication of the adjudication could be to refer to editors by name in the decisions.
78. Suspension of a publication has been suggested. I do not agree with this at all. Shutting down a newspaper would self-evidently chill freedom of expression and be hugely problematic legally.

WHISTLE-BLOWING

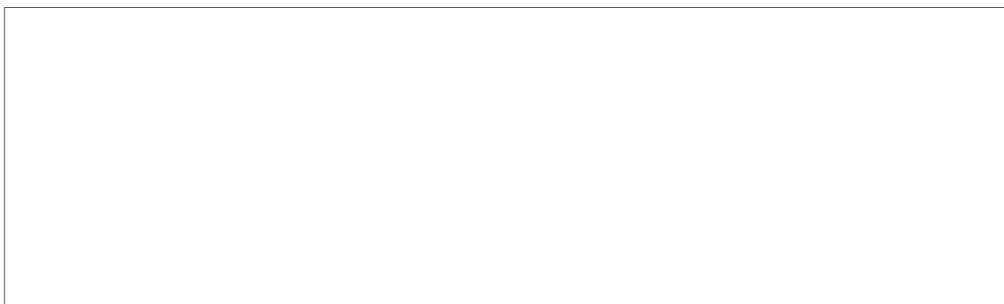
79. Quite out-with the PCC system, I suggest that all news organisations should have an independent whistle-blowing system in place, so that any beleaguered journalist can have free access, without fear, to a second opinion as to his rights at law.

**PHONE HACKING**

80. I adopt all that has been stated in the PCC's Director's Statement concerning phone hacking, computer hacking, blagging or bribery by the media or those acting on behalf of or at the instigation of the media.
81. We have always been consistent and clear in our condemnation of the practices that have given rise to this Inquiry. The PCC's involvement in this appalling episode has, in my view, been made particularly difficult given different expectations regarding our locus.
82. We have always been clear that phone hacking is a criminal offence. As with all aspects of the criminal law, we neither have locus, or power to intervene. We were very clear that we could not duplicate the work of either the CPS or the police. Even now, I feel rightly constrained in what I would like to say because of current criminal and civil investigations.
83. What is sometimes lost in this issue is the fact that the PCC, in trying in 2009 to meet rising public concern about events at News International exceeded its remit. It is an open question as to whether the PCC would now be better placed if it had made publicly clear in 2009 that it was in no position sensibly to examine the charges made about News International.
84. In this context, much of the critical media commentary about the PCC's role in phone hacking has been disingenuous.
85. In 2007 the PCC responded to the convictions of Goodman and Mulcaire by looking to establish what lessons could be learned and what measures could be introduced to try and ensure elimination of the practices which had come to light. I say, "try" because, of course, no regulator can guarantee that, by its actions, it can prevent anyone active in the industry it regulates from breaking the law. That said, the PCC has been entirely consistent in its deprecation of the deplorable actions of those involved and criticised the News of the World for its lack of controls.

86. As part of our response to the allegations made in 2009, we followed the oral and written evidence given to the Media Select Committee, cognisant of the fact that the Committee has far greater powers to summon individuals to attend and may rely upon parliamentary privilege. The select Committee, in its Report in 2010, confirmed that they had not found any evidence that phone hacking was continuing. In terms of the extent of our locus, we had to rely upon what we were told and that was unequivocal.
87. In January 2011, I set up a Phone Hacking Review Committee to help examine how the PCC has acted, and what it can learn for the future. In my opinion, affecting and improving future practice was (and should be) at the heart of the PCC's role in this. As part of that Review process, the Director and I met with almost all of the most senior representative of news and magazine organisations to discuss the need to develop new and consistent, industry-wide protocols for newsgathering and dissemination of personal information. It struck me, at those meetings, how distant most of them are from the work of the PCC, including its structure, remit and funding. In terms of reform in the area of press standards, I therefore believe it important that corporate governance within news organisations should be extended to ensure that senior executives, at Board level, are responsible for the ethical practices of journalists and their compliance with the system of self-regulation.

This statement is true to the best of my knowledge and belief.



**THE BARONESS BUSCOMBE**

**16 September 2011**