

Evidence to the Leveson Inquiry

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I am submitting this evidence as Professor of Communications at the University of Westminster and an independent commentator on journalism and media policy issues. Following a biographical statement, I first address the questions sent to me by the Inquiry about journalism and ethics teaching at the University. This is followed by a general comment on journalism training, and then a number of sections which deal with the questions on culture and practice, standards and the public interest on which the Inquiry has invited evidence.

I have no objections to this evidence being made public.

1. Relevant biographical information

I have been teaching in the University's School of Media, Art and Design for 18 years, and was awarded a personal chair in December 2000. The University's media department is the oldest in the country and is internationally recognised for its work; at the last Research Assessment Exercise it came top of the Media and Communications subject table for research excellence. I am an external examiner for the Journalism course at the University of Kent, and played a similar role at the University of Leeds from 2005 to 2008.

I specialise in media policy, regulation, press ethics, and the theory and practice of journalism and have over the last 25 years directed over thirty research projects on the structure, funding, regulation and business of communications in the UK. Before joining Westminster, I was a Research Fellow at the Broadcasting Research Unit, then founded and directed the Media Futures programme at the Henley Centre for Forecasting.

I am currently acting as specialist adviser to the House of Lords Select Committee on Communications for its inquiry into Investigative Journalism. I advised the same committee for its 2007/8 inquiry into News and Media Ownership, its 2009/10 inquiry into the British Film and TV industries, and its 2010/11 inquiry into the regulation of TV advertising. I have given oral and written evidence to a number of parliamentary committees (including most recently to the Joint Committee on Privacy and Injunctions) and to the European Parliament.

I have been a member of the NUJ for nearly 30 years, and from 1995-2000 was involved in the British Council funded World Service Training programme for journalists from the former iron curtain countries of Eastern Europe. I was a columnist on the Observer newspaper from 2000-2004, and still write for the national, online and specialist press. I have been an editorial board member of the *British Journalism Review* since its inception in 1990. I have published a number of books, book chapters and articles on journalism and media policy, and my latest book *The Rise and Fall of Television Journalism* has just been published by Bloomsbury Academic. A full list of publications is available if required.

2. Journalism and ethics training at the University of Westminster

We currently offer one undergraduate course on Journalism within the Department of Journalism and Mass Communication, taking in around 60 new undergraduates per year with a minimum A level entry requirement of 3 Bs. There are additional undergraduate courses in TV Production, Radio Production and Public Relations.

The BA in Journalism is split evenly between theory and practice. The practice element includes multimedia and online training alongside traditional journalistic skills such as research, reporting and writing in preparation for multi-skilled newsrooms. It is accredited by the Broadcast Journalism Training Council (BJTC), but we have not sought accreditation from the National Council for the Training of Journalists (NCTJ). Our view is that, while the BJTC offers flexibility in its approach to course content, the NCTJ allows less room for manoeuvre at a time when the practice and demands of journalism are changing rapidly.

While there are no specific ethics modules in the Journalism, Radio or TV undergraduate courses, ethics do comprise an integral element of several practice and analysis modules. First year students are introduced immediately to three weeks of lectures on journalism, ethics and regulation, after which ethics teaching is linked to practical skills (e.g. when discussing interviews, we would introduce the ethical issues that might arise). In addition, several of the optional theory modules such as Law and the Media, Media Policy, and News and Public Opinion will contain significant elements on journalism ethics.

At the Masters level, there are five separate MAs in Journalism, specialising in print, broadcast and online, and aimed either at domestic or international students. Again, there is no teaching aimed specifically at ethics training, although core module on Issues in Journalism and Media Law and Current Affairs, as well as optional modules on Investigative Journalism and the Sociology of News, all contain a significant amount of material on ethics.

3. Journalism and ethics training more generally

To my knowledge, there is no co-ordination around the nature or content of training, which was traditionally carried out either within industry training schemes or through apprenticeships on local newspapers. Over the last few years, as local newspapers have struggled and industry schemes have reduced or disappeared, training has effectively been “outsourced” to university departments on a piecemeal basis. We are therefore developing a more American model of journalism schools, with content – and the presence or absence of an ethics component – essentially determined at a local level. Significantly, while there is a lot of academic literature on journalism in the UK, there is no equivalent of the classic American book *The Elements of Journalism: What News People Should Know and the Public Should Expect*.¹

¹ By Bill Kovach and Tom Rosenstiel, 2nd edition published 2007.

We should, however, beware of placing too much emphasis on journalism training as a means of improving professional practice. Aspiring journalists do not start their university courses with a burning desire to hide in bushes with long-lens cameras, entrap celebrities, fabricate interviews or blag confidential information about the relatives of terrorism victims. Every aspiring journalist I have taught starts with a measure of idealism about wanting to make a useful contribution to knowledge, understanding, and even democracy. It is newsroom cultures which turn them into something less than their idealised vision; it is this culture – at least within the tabloid and mid-market press – which needs to change.

4. Culture, Practice and Ethics

I have no personal experience of working in newspaper newsrooms but can offer two relatively trivial personal experiences, one relating to privacy and the other to the Press Complaints Commission. I then have two general points about evidence of newsroom practice.

The first experience refers to a brief encounter with a journalist seeking information about a successful singer (who had never sought publicity) living in my street. I have written briefly about this for current edition of the *British Journalism Review*, and attach the article.

The second relates to an incident in April 2006 when I was contacted – through a colleague – by the late Sir Charles Wheeler for advice on how to deal with journalists who were door-stepping his family home. This followed publicity surrounding an alleged affair of his son-in-law, Boris Johnson. I gave him the PCC's emergency number and some information about the Editors' Code, but was shocked by two elements of this episode: first, that whatever the legitimate public interest around Mr Johnson's relationship, newspapers felt it appropriate to hound his in-laws at their country home. And second, that one of the nation's most celebrated and eminent television journalists was unfamiliar with the PCC's code and operation. This spoke volumes about the PCC's inability to promote itself to the general public.

Beyond those specific examples, I wish to make two points about newsroom practice. First, it is extremely difficult for individual journalists who have themselves been involved in or witnessed unethical practices to reveal themselves. Some are still working journalists and are not prepared to risk their livelihoods or the wrath of their employer by whistle-blowing. Others who have themselves been involved in hacking phones – perhaps in genuine ignorance that it was illegal, given that the practice appears to be widespread – will be concerned about the possibility of prosecution. Moreover, all will have seen the opprobrium and disbelief heaped on the very few who speak out – such as Richard Peppiatt – and will not be prepared to subject themselves to the same vilification. We should not take the absence of first-person accounts from working journalists to indicate the rareness of unethical practices.

Second, it is nevertheless possible to construct a reasonable understanding of newsroom pressures, particularly on tabloid journalists over the last few years. Writing in the Press

Gazette in October 2010, its editor Dominic Ponsford quoted a “red-top insider” who no longer worked in journalism but described the pressure in the early part of the decade:

It came about because of the massive pressure to get a story. When you have your editor shouting at you to get a story you lose your morality. If you need to get a story and everyone else is doing it, you think that’s normal. And you don’t really see the celebrities as being real people. You see them as a product, as a story.²

A fairly graphic example of this morality was contained in a conversation between Greg Miskiwi, then assistant news editor of the *News of the World*, and the *News of the World* reporter Charles Begley who was complaining about being required to dress up as Harry Potter for an internal news conference the day after 9/11. According to the *Daily Telegraph* transcript of the recorded conversation, Miskiwi told Begley at the end of the conversation: “Charles, that is what we do - we go out and destroy other people's lives.”³

Perhaps the most comprehensive and authentic published account of life on the tabloids is by Sharon Marshall, whose 2010 book chronicled her ten years of working on seven different red-top titles. In reflecting on the newsroom cultures she had experienced, she wrote:

There is a line between what is and what isn't acceptable, and..... we often crossed it. Whether it was because of deadlines looming, desperation to keep the job, desperation to pay the rent. Or perhaps because when thousands of stories are churned out each week, it's easy to lose sight of the impact those stories have on the people involved.⁴

There is therefore considerable evidence both that unethical practices were endemic within certain elements of the industry (not just the *News of the World*), and that journalists on several newspapers were under immense pressure from newsrooms to adapt to an amoral and unprincipled editorial culture, in direct contravention of the Editors’ Code.

5. Standards

As a workable set of professional standards, there is little wrong with the Editors’ Code of Practice. It is considerably less detailed than those offered by, say, the BBC or the *New York Times*. Its brevity could be interpreted as a lack of commitment, but the principles themselves represent a benchmark for professionalism and quality.

Since it is endorsed by the newspapers themselves, the Code represents an acknowledgement by the industry that the law on its own is an insufficient guarantor of professionalism or of

² Quoted in Dominic Ponsford: “Hacking: Old interviews take on new significance amid spirit of self-scrutiny on Fleet Street” 28 July 2011, <http://blogs.pressgazette.co.uk/wire/8054>

³ The full transcript was published in *The Daily Telegraph* of 6 September 2002 and can be read at <http://www.telegraph.co.uk/news/uknews/1406429/Pottergate-we-publish-the-secret-tapes.html>

⁴ Sharon Marshall, 2010, *Tabloid Girl*, Sphere Books, p237. To assure readers of the veracity of her account, she writes in a preface that “...these stories all happened. These Very Bad Things were done. They still are being done. By tabloid journalists, right now”.

public protection from breaches of professional standards. We have heard in graphic terms from some of those on the receiving end of such breaches and I would emphasise, in particular, the devastating effect which casual, reckless and wilful inaccuracy can have on ordinary people's lives. As one example, I referred in my seminar presentation to the case of Juliet Shaw whose private life was so distorted after an interview with the Daily Mail that she became a laughing stock in her own community – and even after two years of fighting, never received an apology.⁵

Thus, the problem is not the Code but its implementation. The Press Complaints Commission has neither the powers nor the institutional will to investigate breaches, to provide remedies, or to promote high standards of professional practice. As the creature of newspaper interests, it cannot (and would not) impose fines, and appears to be mainly concerned to ensure that complaints are assessed with minimal fuss, minimal publicity, minimal transparency and minimal redress. It is worth remembering that in the case of privacy intrusion, remedy is rarely the issue: transgressions of privacy cannot be undone, and protection depends on unlawful and unjustifiable intrusions being prevented in the first place. I outline at the end a set of principles which needs to inform a new system of regulation to protect the public, to liberate journalists and to prevent the egregious practices of the last ten years.

6. Television journalism and lessons for regulation

Television offers valuable lessons in terms of commitment to and implementation of a set of principles. Despite the rise of the internet, TV remains the public's most important source of national and international news. As surveys consistently testify, it is also the most trusted: my own research three years ago, long before the phone-hacking scandal, showed that over half the UK population felt they could trust TV journalists (nearly two thirds for the BBC) compared to 43% for broadsheet newspaper journalists, and just 15% for tabloid journalists.⁶

These results are not surprising because Britain's television journalism has a reputation – internationally as well as at home – for being robust, independent, ethical and accurate. It is the product of both institutional evolution and thoughtful regulation, and demonstrates that a sensibly constructed, responsibly implemented and genuinely independent regulatory regime can actually promote high journalistic standards rather than restrain them.

If regulation “chills” television journalism, how does one explain the information and investigation records down the years of programmes like *Panorama*, *World in Action*, *This Week*, *Dispatches*, and *Unreported World*, as well as news analysis programmes such as *Newsnight*, *Channel 4 News* and the *Today* programme? While ITV's appetite for this kind of journalism may have dimmed in recent years, both the BBC and Channel 4 – each in their different ways subject to statutory regulation – have continued to support and invest in journalism which holds governments, public authorities, corporations and powerful

⁵ The full story can be found on the following blog, dated 31 January 2011:

<http://nosleptilbrooklands.blogspot.com/2011/01/true-story-of-daily-mail-lies-guest.html>

⁶ Steven Barnett, “On the Road to Self-Destruction” in *British Journalism Review*, Vol 19 No 2, 2008, pp5-13.

individuals to account. Ironically, ITV's reduction in peak time current affairs is directly attributable to the relaxation rather than tightening of regulatory requirements.⁷ Over the last few weeks, many distinguished television reporters and editors have attested to the House of Lords Select Committee on Communications about their ability to conduct fearless and independent investigative journalism within a statutory regime.⁸

It is also a framework which ensures that effective sanctions are imposed when standards are breached. Carlton Television was punished in 1998 for its award-winning documentary *The Connection* which purported to show how drugs were routinely smuggled into the UK from Columbia. When large parts of the programme were exposed by the Guardian as faked, Carlton were obliged to broadcast a peak-time apology and were subjected to an unprecedented £2 million fine by the Independent Television Commission which described the programme as "a wholesale breach of trust between programme makers and viewers". The message was unequivocal: such practices are unacceptable newsroom practice, and sanctions will be punitive.⁹

This is categorically not an argument for statutory regulation of the press, for the imposition of impartiality rules on the press, or for licensing of newspapers. This comparison is to help us understand that an independent regulatory framework can not only protect but actively promote the kind of intelligent, accessible, information-rich, and watchdog journalism which most professionals crave and on which democracy thrives. Neither licensing nor frontline statutory regulation such as Ofcom are necessary for proper implementation of the PCC code, nor for instilling in our newspapers the kinds of newsroom practices that are routine in broadcasting.

What is essential, however, is that any self-regulatory system incorporates the kinds of investigatory powers, punitive sanctions and protection for the public that have produced a television journalism culture which takes its professional codes of conduct seriously. This will require self-regulation to be supported by a backstop, independent body with the democratic legitimacy of Parliament.

7. Freedom of speech and the public interest

Our broadcasting environment therefore provides empirical evidence that journalistic freedom is not impaired by an effective regulator with teeth. There is also a more subtle philosophical argument. It is most eloquently advanced by the Cambridge philosopher Onora

⁷ This is the theme of my recently published book, which traces the context for and emergence of Britain's global reputation for high quality, independent television journalism: Steven Barnett, *The Rise and Fall of Television Journalism*, Bloomsbury Academic, 2011.

⁸ These include Dorothy Byrne, Head of News and Current Affairs at Channel 4; Tom Giles, editor of *Panorama*; Ian Squires, Controller of Current Affairs and News at ITV; Tom Giles, editor of *Panorama* and its long-standing reporter John Ware; and independent producers Ray Fitzwalter, Roger Bolton, and Roger Graef. Their oral evidence can be accessed at <http://www.parliament.uk/business/committees/committees-a-z/lords-select/communications-committee/inquiries/the-future-of-investigative-journalism/>

⁹ The full story can be found in Raymond Fitzwalter, *The Dream that Died: the rise and fall of ITV*, Matador Publishing, 2008, pp202-3.

O'Neill who made the distinction in her 2002 Reith lectures between "individual" free speech and "corporate" free speech, and warned that we were "perilously close to a world in which media conglomerates act as if they too had unrestricted rights of free expression."¹⁰

Baroness O'Neill elaborated on this theme in her recent Reuters Lecture when she distinguished between individual self-expression and the speech of powerful organisations: "the communication of the powerful can shape and influence, improve and damage others' lives, and in democracies we have long since taken steps to regulate the communication of most powerful organisations". Crucially, however, she drew a distinction between regulating media *content*, which was not acceptable, and regulating media *process* which was both acceptable and desirable as a means of ensuring transparency for audiences as well as accountability of the powerful.¹¹ Regulating the *process* by which fairness, accuracy, respect for privacy, and redress for journalistic malpractice are properly implemented by the press need entail no constraint on newspapers' freedom to publish.

Integral to this idea is a developed concept of protecting and promoting journalism "in the public interest", a framework which should be determined by Parliament. It need not be prescriptive and, like all laws, would inevitably require interpretation and refinement through the courts. Importantly, however, it would enshrine the fundamental importance of journalism's watchdog function, and could therefore serve to *liberate* rather than restrict the very journalism which apologists for self-regulation suggest would be endangered. A statutory definition would therefore safeguard the absolute right to publication in the case of:

- Exposing wrongdoing, injustice or incompetence amongst private or public officials in positions of responsibility, including abuses of public office
- Protecting the public from potential danger
- Preventing the public from being misled either by erroneous statements or by the hypocrisy of those attempting to create a false image of themselves
- Revealing information which fulfils a democratic role in advancing a better understanding of important issues or assists the public to come to electoral or other decisions of clear democratic importance.

A democratically agreed public interest framework could then be extended to legitimise other journalistic techniques which are currently not protected – most obviously, phone-hacking itself. The corollary would be less or no protection for trivial, inaccurate or intrusive journalism which caused distress or harm with no public interest justification. The argument of some newspaper editors – that law is being made by "unaccountable, unelected and invisible judges" – would of course have less purchase if a public interest framework were enshrined in law.

¹⁰ Onora O'Neill, *A Question of Trust: the BBC Reith Lectures 2002*, Cambridge University Press, 2002, pp93-4.

¹¹ Onora O'Neill, "The Rights of Journalism and the Needs of Audiences", Lecture to the Reuters Institute for the Study of Journalism, 21 November 2011

8. Principles for a new approach to regulation

While not wishing to advance specific models for a new regulatory framework, I believe it is possible to articulate a number of principles which should be embraced by a new system. These would include (though not be confined to):

- Power to initiate thorough investigations into allegations of malpractice, including misreporting or misrepresentation of groups as well as individuals.
- Effective and proportionate sanctions, including the right to prompt corrections with equal prominence.
- Power to impose punitive fines where breaches are deliberate and/or reckless.
- An independent ombudsman.
- A means to accommodate – in confidence – the complaints of individual journalists about unethical practices in their workplace.
- Severe financial penalties (for example, addition of VAT) for those publications which refused to participate in the new system. There may also be a case for compelling membership in the case of publications with very large circulations.
- An assumption in favour of prior notification for stories involving privacy, with protection afforded to newspapers on the public interest grounds outlined above.
- A means of protecting people from press harassment.
- Information about new powers of public protection and mechanisms of accountability to be promoted actively and widely to the general public.

It is important to remember that the vast majority of working journalists would also welcome a new framework which genuinely protects fairness, integrity and high ethical standards.

Ideally, implementation of these principles should be devolved to an independent body selected from within the industry (including working journalists): an active self-regulator *of* the press but not in thrall to it. Self-regulation alone, however, will not work. Those who suggest that the PCC was never designed as a self-regulatory system may have forgotten the recommendations of the original Calcutt report in 1990, set up after equally flagrant breaches of ethical standards in the 1980s. We should also remind ourselves of Sir David Calcutt's conclusions when he reviewed the new system of self-regulation in 1993:

The Press Complaints Commission is not, in my view, an effective regulator of the press. The Commission has not been set up in a way, and is not operating a code of practice, which enables it to command not only press but also public confidence.¹²

¹² Sir David Calcutt QC, *Review of Press Self-Regulation*, Dept of National Heritage, January 1993. London: HMSO, Cm 2135, p41 par 5.26.

Hence the need for a backstop body given powers by Parliament that invests self-regulation with real teeth and creates proper accountability. I have suggested that an analogous model might be the Solicitors Regulation Authority, a self-regulatory body which has the power to impose unlimited fines and is backed in law by an independent Legal Services Board.

9. Convergence

A final word on convergence. It is sometimes argued that new digital and mobile technologies are removing barriers between different media types to the point where regulation becomes unenforceable. In particular, the anarchic nature of online, social and mobile media is often quoted in privacy debates as a reason for doing nothing.

In fact, the power and reach of new media tend to be overstated, and the potential damage of these media in terms of misrepresentation or privacy breaches is tiny compared to large circulation newspapers or mass audience broadcasters. Very few blogs can count their regular readerships in more than four figures, and even the better known (such as Guido Fawkes) tend to consist of those “in the know” talking to themselves. While Twitter revelations were blamed for the “outing” of Ryan Giggs (reinforced by his naming in Parliament), the disclosure of an identity is very different from the widespread coverage generated across tabloid newspapers, further relayed by television bulletins. Crucially, the sensationalist and lurid nature of much popular press coverage cannot possibly be emulated in 140 characters on Twitter.

No-one can predict the longer term future of the printed press, and to what extent we may see today’s newspapers morph into online versions (my own view, as a former media forecaster, is that major transformative changes in media consumption are always vastly overestimated). While in the longer term, the business and shape of the printed press will have to adapt to new business and technology models, I have no doubt that the death of newspapers is greatly exaggerated: just as cinema survived the arrival of television, so newspapers and magazines will survive the advance of new media. Their power – for good and for ill – remains immense; the need for reforming the newsroom practices of the worst remains urgent.

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