

<p>1 Tuesday, 10 July 2012</p> <p>2 (10.00 am)</p> <p>3 LORD JUSTICE LEVESON: I have misstated the position in</p> <p>4 relation to Associated Newspapers Limited, for which</p> <p>5 I apologise. I intend now to hand down a ruling dealing</p> <p>6 with the way forward in connection with the issue that</p> <p>7 has been raised.</p> <p>8 MR JAY: Sir, we're continuing with Lord Hunt.</p> <p>9 LORD JUSTICE LEVESON: Thank you very much.</p> <p>10 LORD HUNT OF WIRRELL (continued)</p> <p>11 Questions by MR JAY (continued)</p> <p>12 MR JAY: May we look now at paragraph 42 of your statement,</p> <p>13 our page 00812, where you deal with the issue of</p> <p>14 coverage. You say that universal application is utopian</p> <p>15 but the credibility of the new system could be fatally</p> <p>16 undermined if any genuinely big fish seek to escape the</p> <p>17 net. Northern & Shell, I suppose, would be a genuinely</p> <p>18 big fish, would it?</p> <p>19 A. I think I mentioned yesterday that there was a previous</p> <p>20 large publisher who had threatened to withdraw. I am</p> <p>21 not sure it's a good idea to try and concentrate on one</p> <p>22 or the other when they have all told me that they are</p> <p>23 ready, willing and able to sign up.</p> <p>24 Q. I'm just seeking to define your terms. I mean, there</p> <p>25 are bigger fish in the pond, but it's pretty big,</p> <p style="text-align: center;">Page 1</p>	<p>1 difficult to accept, but the letter from</p> <p>2 Northern & Shell reiterated the point that they are</p> <p>3 ready, willing to sign up to the new body.</p> <p>4 Q. May I ask you, to whom was that letter addressed?</p> <p>5 A. To the -- my recollection is it was to the Press Card</p> <p>6 Authority.</p> <p>7 Q. And its approximate date?</p> <p>8 A. Last week. I don't have it with me, but I can arrange</p> <p>9 for you to have a copy.</p> <p>10 Q. Well, the Inquiry will have to consider that issue, but</p> <p>11 of course if they don't sign up and the devil is in the</p> <p>12 detail, then immediately the credibility of the new</p> <p>13 system would have been fatally undermined. That must</p> <p>14 follow, mustn't it?</p> <p>15 A. Yes. Mr Jay, you've asked me whether a statute-backed</p> <p>16 system might not achieve the same outcome as a voluntary</p> <p>17 contract-based system. Well, the answer is yes, on</p> <p>18 paper it might. But from day one, I believe it would be</p> <p>19 a fundamentally different beast from the one I'm</p> <p>20 proposing and I would turn the question around. Any</p> <p>21 system founded in statute would be adversarial, and</p> <p>22 I could expand on that as and when you would like me to</p> <p>23 do so, but on balance I far prefer going down the</p> <p>24 contractual route.</p> <p>25 But as Dr Moore pointed out to me, the jury -- and</p> <p style="text-align: center;">Page 3</p>
<p>1 Northern & Shell, isn't it? It would meet this</p> <p>2 criterion?</p> <p>3 A. Well, I've met their editors, I've met Richard Desmond,</p> <p>4 I've met Paul Ashford, and I'm impressed with their</p> <p>5 determination now to move ahead with the new body and to</p> <p>6 make a fresh start.</p> <p>7 Q. Have you had anything in writing --</p> <p>8 LORD JUSTICE LEVESON: With great respect, Lord Hunt, that</p> <p>9 doesn't actually answer Mr Jay's question. Mr Jay's</p> <p>10 question was, I think, comparatively straightforward: do</p> <p>11 you agree that Northern & Shell are big fish within the</p> <p>12 terms that you seek to identify in paragraph 42 of your</p> <p>13 statement?</p> <p>14 A. Yes.</p> <p>15 LORD JUSTICE LEVESON: Thank you.</p> <p>16 MR JAY: Have you had anything in writing from them on</p> <p>17 Lord Black's proposal, in particular, whether all</p> <p>18 aspects of that proposal are acceptable to</p> <p>19 Northern & Shell?</p> <p>20 A. I have seen a letter, just seen a letter, where</p> <p>21 Northern & Shell express doubt as to whether the press</p> <p>22 card solution is the right way forward. This echoes</p> <p>23 something that -- someone I also respect, Dr Moore, had</p> <p>24 made the point to me that any system of licensing or</p> <p>25 press cards is something that he too would find</p> <p style="text-align: center;">Page 2</p>	<p>1 indeed if I'm allowed to add, also the judge -- is still</p> <p>2 out on that issue.</p> <p>3 LORD JUSTICE LEVESON: Yes, well, you're absolutely right</p> <p>4 about that, but why would a system necessarily be</p> <p>5 adversarial simply because it was underpinned by</p> <p>6 statute?</p> <p>7 A. Yes, it's the question of what does "underpinning" mean.</p> <p>8 The system which would be based in statute would, I'm</p> <p>9 sure, inevitably cost more. It would have to be funded</p> <p>10 by the hard-pressed taxpayer, by complainants or by an</p> <p>11 industry in decline. Its boundaries would be set.</p> <p>12 No one would ever join it voluntarily so it could take</p> <p>13 little or no account of rapid technological and social</p> <p>14 change, and unlike the contract-based system which I'm</p> <p>15 advocating, which could be up and running in a matter of</p> <p>16 months, any statutory underpinning would take years.</p> <p>17 I confidently predict that, and what in the meantime are</p> <p>18 we to do?</p> <p>19 MR JAY: May we look at those? Why would it inevitably cost</p> <p>20 more? That would depend on what it did, wouldn't it?</p> <p>21 A. I suppose I'm just giving you the benefit of my 36 years</p> <p>22 in Parliament. I've never known a statute underestimate</p> <p>23 the cost of any system it seeks to impose. I've no</p> <p>24 need, I hope, to go into the Dangerous Dogs Act or the</p> <p>25 Dangerous Dogs Amendment Act or indeed the Industrial</p> <p style="text-align: center;">Page 4</p>

<p>1 Relations Act, which was on the statute book when 2 I first entered politics. 3 There are numerous examples, whereas if I put 4 anything across, it is that I'm enthusiastic to proceed. 5 I think we have a wonderful opportunity to get this 6 system up and running, and my fellow commissioners on 7 the PCC have given me authority to say to this Inquiry: 8 if we receive a green light, we will immediately move to 9 set up the new body. 10 Q. In terms of funding, is there anything wrong in 11 principle with a system which has a mixture of state and 12 industry funding? 13 A. Yes, because as Ofcom has discovered, state funding is 14 always limited and usually cut. My greatest arguments 15 when I was a departmental minister were never with the 16 Opposition; they were always with the Treasury. 17 Q. If we're talking about a system which, on any view, 18 would cost less than £10 million a year, or, on your 19 calculation, significantly less than that, and the 20 funding pot were derived from a mixture of state funding 21 and industry funding, would there really be a debate 22 over quite small amounts of money? 23 A. I believe whenever a penny of public money is spent, 24 there comes into play a system of, quite rightly, 25 scrutinising the validity of every penny. Of course, Page 5</p>	<p>1 that could be done, I think that would justify the 2 taxpayer investing in such a scheme for the benefit of 3 the public, but at the moment I can't see that I could 4 persuade the taxpayer, and indeed the public, that they 5 should dip their hands in their pockets at this 6 particularly difficult time to find money to finance the 7 regulation of the press. 8 Q. You have a fundamental objection as well. You say: 9 "Any statutory system would be adversarial." 10 You may mean "confrontational". But might it be 11 said that that's the wrong characterisation? It would 12 be wholly independent, it would be wholly at arm's 13 length from the regulated entities, and although that 14 may create a degree of constructive tension, to use 15 someone else's phrase, that is desirable rather than 16 undesirable. Would you accept that? 17 A. Not -- not -- not really. I think it's up to others to 18 judge. Perhaps I'm too close to this subject, but I do 19 know that there are a number of Parliamentarians who are 20 intent on clipping the wings of the press, and we've 21 heard from a number of senior political figures at this 22 Inquiry. All of them have made it clear that they would 23 support statutory intervention against the press only 24 reluctantly and only as a last resort, which is why I'm 25 pleading for an opportunity to make progress now. Page 7</p>
<p>1 under corporate governance that should happen anyway, 2 but in corporate governance it does not require an 3 appearance before the public accounts committee and 4 indeed an accounting officer who can be subjected to 5 very close scrutiny. I just want the voluntary system 6 to move ahead by consensus, by agreement and by 7 contract, not requiring public subsidy. 8 Q. It might be said that public subsidy, or at least 9 a degree of such subsidy, is a virtue insofar as (a) it 10 contributes to the pot, and (b) insofar as there is 11 a public element, it is subject to public 12 accountability, if necessary before a committee in 13 Parliament, so that rigour is maintained over the level 14 of spending. Do you agree with that? 15 A. Most of it, yes. My concern, really, on behalf of the 16 taxpayer, so to speak, is to see some meat on the 17 arbitral arm, which is as yet unclear as to how that 18 would benefit the taxpayer by moving a system of 19 compensation away from court-dominated and 20 lawyer-dominated argument, and I personally find the way 21 the Calcutt privacy committee was looking at some form 22 of tribunal-based system -- and indeed a number of 23 commentators saying that there would be a senior figure 24 but flanked by a member of the public, an independent 25 person and by someone who represents the industry -- if Page 6</p>	<p>1 Q. But doesn't that statement, though, from 2 Parliamentarians who have testified -- and 3 ex-Parliamentarians -- indicate that they wouldn't in 4 fact clip the wings of the press if a statute were 5 introduced because they are so respectful of the 6 principle of freedom of the press? So doesn't that 7 point the other way? 8 A. Well, I do speak as a former deputy chief whip and I can 9 assure this Inquiry that there's nothing very edifying 10 or democratic about MPs voting for a measure that deep 11 down they believe to be wrong and ultimately 12 unnecessary. 13 LORD JUSTICE LEVESON: Well, if that's right that they do 14 consider it ultimately unnecessary -- and of course, 15 ultimately, this whole issue will revert back to the 16 politicians. You say, "If we receive a green light, 17 we'll set up a new system"; I'm afraid I don't have 18 coloured lights in my armoury. I will provide a report 19 which will make a recommendation but it won't be my 20 decision, as I'm sure you appreciate. 21 A. I do appreciate, sir, but I do think you have an 22 unrivalled opportunity now to set the agenda. Whether 23 others will accept that agenda -- and I hope I can 24 influence you in what that agenda should be. 25 LORD JUSTICE LEVESON: I understand. Just on the Page 8</p>

<p>1 adversarial side, isn't there some value to be obtained 2 from a system that is inquisitorial? In other words, 3 whether you have a mechanism that is resolving disputes, 4 it doesn't necessarily have to be adversarial; it can be 5 whoever is responsible for resolving the dispute, as it 6 were, taking up the cudgels, rather as these inquiries 7 or inquiries under the Inquiries Act have undertaken. 8 I'm not suggesting you want a system like this, but it's 9 a different process.</p> <p>10 A. Yes.</p> <p>11 LORD JUSTICE LEVESON: Could that work?</p> <p>12 A. I just -- my basic premise is that I believe the 13 sensible approach would be to avoid all government 14 involvement in this process. That's my instinctive 15 reaction but I recognise there are others who will come 16 to a different conclusion. But I certainly don't like 17 the idea of setting up what, in effect, would be 18 censorship and licensing powers over a constituent part 19 of the press to a body vested with responsibilities for 20 the whole of the press. There are a number of elements 21 here which I find very difficult to absorb at a time 22 when I see the way ahead so clearly.</p> <p>23 LORD JUSTICE LEVESON: Well, I hope I've made it clear that 24 I have absolutely no truck with anything that's going to 25 lead to censorship. That I don't mind revealing</p> <p style="text-align: center;">Page 9</p>	<p>1 which -- I find everyone to whom I've spoken accepts the 2 need for that cultural change.</p> <p>3 Q. Okay, if you forgive me, I'm going to move on from that 4 point. But would you agree with this point: that if, 5 for the sake of argument, this Inquiry were to recommend 6 some form of contractual solution, Lord Hunt, but before 7 that moment publishers have not signed up to the system 8 because they might be awaiting the outcome of this 9 Inquiry and its report, isn't there then a danger that 10 the more difficult members of the constituency, as it 11 were, would say, "We're not going to sign up to 12 Lord Black's proposal as currently constituted; we're 13 going to sign up to a weaker version, a softer version", 14 and at that point there would be nothing anyone could do 15 about it. Would you agree?</p> <p>16 A. Well, there's always opportunity to do something about 17 it. The only time you can't do anything is what you've 18 got a law, a statute, on the statute book, which is 19 completely inflexible.</p> <p>20 But if I may for a moment take the Irish Press 21 Council as an example, that was set up before the 22 Defamation Act. Is there any reason why we shouldn't 23 now proceed to set up this new body? I'm just at a loss 24 to understand why we can't make progress but I'm only 25 here to make a proposal, not to make decisions.</p> <p style="text-align: center;">Page 11</p>
<p>1 immediately. I think I've said it many times. Yes?</p> <p>2 MR JAY: I must say, juridically, Lord Hunt, I have 3 difficulty with even grasping your fear. If the 4 statutes -- and it would be in the primary 5 legislation -- said in terms that the regulator would 6 expressly have no role over matters of taste, decency 7 and editorial content, save as expressly provided for, 8 and that would be specifically in the areas of 9 correcting inaccuracy, dealing with harassment and 10 intrusions into privacy, then this wouldn't be 11 censorship; it would be merely doing that which your 12 contractual system aims to do in any event. I don't 13 even see how the concern can sensibly be articulated, 14 with respect. Do you see my slight frustration on this? 15 It's tilting at a windmill, frankly, which simply 16 doesn't exist, with respect.</p> <p>17 A. I certainly don't want to be quixotically chivalrous, 18 but I think you have in fact answered your own question 19 because you raised so many issues in the question. 20 Taste and decency are not part of the regulatory process 21 that I'm envisaging. Certainly editorial content 22 vis-a-vis the editorial code is a key feature of any 23 cultural change that needs to take place, but it doesn't 24 need a statute to back it up. Do we really need a press 25 law to highlight the need for a cultural change,</p> <p style="text-align: center;">Page 10</p>	<p>1 Q. But I think you're saying, Lord Hunt, that in fact the 2 publishers are almost pen poised, ready, willing and 3 able to sign up almost tomorrow the current version of 4 the Lord Black proposal. Is that your understanding?</p> <p>5 A. Yes, but the problems are caused by -- am I allowed to 6 say "the lawyers"? Who may well say, "Before you sign, 7 you need a bit more detail on this or a bit more detail 8 on that." The publishers that I've met just want to get 9 on with it.</p> <p>10 LORD JUSTICE LEVESON: Problems with lawyers. Yes?</p> <p>11 MR JAY: Paragraph 46 now of your statement, Lord Hunt. Our 12 page 00813.</p> <p>13 A. Yes.</p> <p>14 Q. You plead:</p> <p>15 "The new regulator must invest significantly in 16 improving the mediation service it offers."</p> <p>17 To what extent is this investment covered by 18 Lord Black's proposal and the proposed budget for a new 19 model? We had the figures yesterday: 1.95 million for 20 the PCC as is, 2.25 plus an enforcement fund for the new 21 regulator as will be. Is there enough money for this 22 significant investment you're referring to?</p> <p>23 A. Yes. May I add to what I said yesterday? I was asked 24 how many complaints had been resolved since I was last 25 here and I gave the figure of 260. I was asked whether</p> <p style="text-align: center;">Page 12</p>

<p>1 that was to the satisfaction of the complainant and I'm 2 told by my colleagues in the Press Complaints Commission 3 that 77 per cent of complainants have returned forms 4 saying they're very satisfied. But I should point out 5 that during that period we have actually received 2,900 6 complaints and issued 1,011 rulings, and also pointed 7 out, particularly to those who want to object to the 8 postman delivering the newspapers, that certain 9 complaints fall outside our remit. But I'm not sure 10 there is a depth of understanding of the valuable work 11 still being done by the Press Complaints Commission 12 that -- my eight staff have said to me they would be 13 very happy if anybody wished to visit the Commission to 14 see how this ongoing work is proving to be so 15 successful.</p> <p>16 But of course we can invest more in mediation, and 17 that's very much their wish, as long as -- and they are 18 united on this -- please don't extend compensation as 19 one of the options, because that would get in the way of 20 mediation.</p> <p>21 LORD JUSTICE LEVESON: Could I just understand the numbers 22 and what the number 260 means or whether it was just an 23 error. When you say you've issued 1,011 rulings or 24 2,900 complaints received and you've had 77 per cent of 25 complainants who have returned forms saying they're</p> <p style="text-align: center;">Page 13</p>	<p>1 regulatory system may well be in a better position than 2 someone who's not; is that right?</p> <p>3 A. Why correct, yes.</p> <p>4 Q. But the point of principle is this, I suppose: why, in 5 a defamation case, should a responsible publisher be 6 treated differently depending on whether he or she or it 7 was or was not a member of the relevant Press Council?</p> <p>8 A. I think there are a number of questions relating to the 9 Irish model, and I did my best to seek to understand any 10 questions in my mind when I went to Dublin. I don't 11 believe the Irish model would work as a sufficient 12 incentive. Self-regulation should, in my view, be 13 a sufficient incentive, but nonetheless, all the big 14 players have signed up, and so this model can work and 15 there are benefits which could read across, which 16 I think could be justified, such as linking 17 a Reynolds-style defence to membership of a recognised 18 regulatory structure. I don't see any unfairness in 19 that. It is a recognition that that is the right thing 20 to do.</p> <p>21 Q. I suppose my point is that, judged objectively, the 22 behaviour of the non-regulated person is exactly the 23 same as the behaviour of the regulated person, but the 24 regulated person has an additional advantage in relation 25 to a defence which it can deploy in court proceedings,</p> <p style="text-align: center;">Page 15</p>
<p>1 satisfied, is that 77 per cent of 1,000, 77 per cent of 2 3,000? What are we talking about?</p> <p>3 A. No, it's 77 per cent of the 260. The 1,011 rulings will 4 include decisions where there's no breach of the code, 5 where there is a breach of the code, where matters 6 proceed to adjudication. If I erred, it was in 7 answering the question, which I thought was: how many 8 complaints have been resolved?</p> <p>9 LORD JUSTICE LEVESON: All right. Well, I'll consider 10 whether it's appropriate to visit the PCC. At the very 11 beginning of this exercise -- it seems a very long time 12 ago -- I did visit a number of newsrooms and I'll think 13 about that. Thank you.</p> <p>14 MR JAY: Can I ask you about one aspect of the Irish system, 15 which you touch on in paragraphs 47 to 49 of your 16 statement, page 00814.</p> <p>17 A. Yes.</p> <p>18 Q. This is a point of principle, really. In the Irish 19 statute, which is the defamation bill 2009: 20 "The court may take into account, amongst other 21 things, the extent to which the person adhered to the 22 codes of standards of the Press Council and abided by 23 determinations of the press ombudsman and determinations 24 of the Press Council." 25 So, in other words, someone who signed up to the</p> <p style="text-align: center;">Page 14</p>	<p>1 but if there is no objective difference between the 2 behaviour of person A, who is regulated, and person B, 3 who is not regulated, why is the former in a better 4 position?</p> <p>5 A. Because there is a behaviour one wishes to encourage, 6 and that behaviour is to subscribe to an ethical code, 7 to a code which is clearly laid out, and relates to 8 every part of the actions of the publisher, so isn't it 9 a good way forward to encourage everyone to sign up? 10 Which is really back to my contract-based solution.</p> <p>11 Q. I suppose the justification may be one of two things. 12 Either it could be said as a matter of principle: 13 because the person has signed up to a code, although its 14 behaviour in the individual case may be exactly the same 15 as the non-regulated person's behaviour, it's 16 demonstrated a commitment to a standard of ethical 17 comportment, which requires recognition. I suppose that 18 may be one justification.</p> <p>19 The other may be a purely pragmatic one: that you 20 want people to join the system, and rightly or wrongly, 21 this is one carrot which entices people so to join. 22 Would that accurately summarise the issue, do you think?</p> <p>23 A. I think it demonstrates that there is a very strong case 24 for a significantly greater alternative dispute 25 resolution offering within the regulatory structure,</p> <p style="text-align: center;">Page 16</p>

4 (Pages 13 to 16)

<p>1 whether it's arbitration or mediation, and that was the 2 main conclusion I came away with from Dublin, but there 3 is no direct read across, and much will depend on the 4 Defamation Act next year when it finally emerges. 5 Q. If we look at one other possible carrot or stick, 6 however you want to characterise it. Paragraph 50 of 7 your statement, 00815. When you say that "the question 8 of whether or not a publication has signed up might also 9 be taken into account by the courts when making awards", 10 you're referring to awards of damages. Do you have in 11 mind the ability to award exemplary damages if you're 12 not a signed-up person? Or what do you have in mind 13 there? 14 A. I think this is not an area where please rely on my 15 expertise, but all I'm really making the point here is 16 that I think this is an additional method of taking into 17 account good behaviour. No doubt we may come on to my 18 concept that there should be a badge or kite mark 19 associated with those publications online and in the 20 press who subscribe to the code. 21 Q. So paragraph 51 is really a marker? You're asking us to 22 think about the detail? 23 A. 51 or 50? 24 Q. 50, pardon me. 25 A. Yes, it's a suggestion, but --</p> <p style="text-align: center;">Page 17</p>	<p>1 LORD JUSTICE LEVESON: But the snag with the system that 2 you've suggested is that it's quite difficult to see how 3 the law could take account of what was simply a private 4 arrangement between members of the press. That's the 5 issue. There has to be some touchstone which the law 6 can recognise. 7 A. Yes. I agree. That is really what I would very much 8 want to see, that touchstone recognised by the law. 9 MR JAY: You say that, don't you, towards the end of 10 paragraph 49. You would like to see recognition in the 11 statute, but there is a fundamental difference of 12 principle between recognition and creation? 13 A. Yes. 14 Q. We're not going to go back into the philosophical 15 debate. We've flogged that one. May we move on, 16 though, to pick up a point which you raised in relation 17 to the badge system? It's paragraph 53 of your 18 statement. It's a form of kite mark, I suppose. People 19 wear it with pride. May I ask you, please, to explain 20 why you think that would be an advantage? 21 A. I've just had a very productive meeting with 22 representatives from the BSI, and I found there that we 23 were discussing the same agenda and I certainly believe 24 a proposed badge would be crucially important, greatly 25 increasing the credibility and visibility of the system</p> <p style="text-align: center;">Page 19</p>
<p>1 LORD JUSTICE LEVESON: It's been suggested that when 2 I raised this question that I'm seeking to punish those 3 who aren't in a system. That's not the purpose at all, 4 and one has to be very careful that somebody who is 5 libelled or whose privacy is invaded is just -- has been 6 just as libelled and their privacy has just as much been 7 invaded whether it's been by a good publisher or by a 8 "bad publisher". The issue that I was raising -- and if 9 you have any comment, I'd be very interested to receive 10 it -- was whether one couldn't say that it was relevant 11 to the assessment of culpability for the purposes of 12 damages that a publisher did have a system of checks and 13 balances internally for the way in which they decided 14 what stories to publish and could demonstrate that they 15 had such a system, one way of which being that they were 16 part of a regulated regime. Not necessarily the only 17 way, but the easiest way. 18 A. Yes, I agree with every word you've just said. 19 I wouldn't want to divert you into any other route than 20 finding a way of recognising good behaviour but 21 certainly I would not want to influence judicial opinion 22 on what constitutes a libel or slander or an unjustified 23 invasion of privacy. But I'm hoping that the system 24 which I'm seeking to set in place would mean 25 a substantial reduction in those cases.</p> <p style="text-align: center;">Page 18</p>	<p>1 and restoring public confidence as well as promoting 2 accountability in the industry. Adherence to the new 3 regulator just really has to be demonstrated much more 4 visibly -- with much more visibility than it is at the 5 present time. 6 Q. Wouldn't some publications almost wear the absence of 7 the badge as an insignia of pride, if I can put it in 8 those terms, that they are metaphorically cocking 9 a snook at the system and saying, "We aren't signed up 10 to this, it's an old boy's network" -- or whatever 11 disparaging term they choose to deploy -- "Read us 12 because we are outside the system"? Isn't there that 13 risk? 14 A. Yes. It doesn't mean we change our minds about how the 15 system should be fashioned, because in my experience 16 there are always those who wish to make a feature of the 17 fact that they do not subscribe. 18 Q. Looking at the public as a whole, is it your view that 19 the public would be more likely to read or want to read 20 the badged publication as opposed to the unbadged 21 publication? 22 A. I would want to encourage that. 23 Q. I'm sure, but would they? 24 A. One thing which I had been contemplating is that at some 25 stage we ought to have a public consultation, but I felt</p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

<p>1 that to do anything in that direction would be wrong</p> <p>2 pending the result of this Inquiry. But certainly my</p> <p>3 experience in meeting people is that there are very few</p> <p>4 I've met who would say that they would prefer to read</p> <p>5 a publication which had no badge of respectability,</p> <p>6 accuracy or adherence to the Editors' Code. But they</p> <p>7 exist, I'm sure.</p> <p>8 Q. Yes.</p> <p>9 A. But not in huge numbers.</p> <p>10 Q. Well, I'm sure some publications would take a pride in</p> <p>11 it and it's possible even to name one or two, but I am</p> <p>12 not going to now. We all have in mind one in</p> <p>13 particular, but let's move on.</p> <p>14 A. Well, Shrewsbury School has produced a lot of good</p> <p>15 papers. The magazine to which you might be referring is</p> <p>16 just one of them.</p> <p>17 Q. May I move on now, please, to paragraph 62 of your</p> <p>18 statement, Lord Hunt, at page 00818. You're dealing</p> <p>19 with the Editors' Code. You make the perfectly fair</p> <p>20 point -- and others have picked up on this and will</p> <p>21 elaborate it next Monday -- that:</p> <p>22 "Much of the language of or in the code is negative,</p> <p>23 detailing what journalists must not do."</p> <p>24 And you believe the regulator must do yet more</p> <p>25 positively to promote recommended practice across the</p> <p style="text-align: center;">Page 21</p>	<p>1 this particular point? If so, what has been editorial</p> <p>2 reaction to it?</p> <p>3 A. Well, I have discussed it with a number of editors who</p> <p>4 do not seek to contradict, but I'd be unfair on them if</p> <p>5 I didn't say they felt there were other priorities.</p> <p>6 Q. Another point you make is the expectation that editors</p> <p>7 on this committee will leave their baggage at the door,</p> <p>8 as it were, if I've correctly summarised what you --</p> <p>9 it's not quite how you put it, to be fair to you. It's</p> <p>10 paragraph 68. You say:</p> <p>11 "They must undertake to divest themselves of all</p> <p>12 sectional and/or special interests and considerations in</p> <p>13 their work for the regulator."</p> <p>14 That, of course, has been the position to date,</p> <p>15 hasn't it?</p> <p>16 A. We're not talking about the Code Committee any more;</p> <p>17 we're now talking about the complaints and mediation</p> <p>18 arm?</p> <p>19 Q. Yes.</p> <p>20 A. Yes.</p> <p>21 Q. But it applies equally to the Code Committee, doesn't</p> <p>22 it, the same principle?</p> <p>23 A. Yes, I think that in the handling of complaints and</p> <p>24 mediation, that is where I can testify that I find the</p> <p>25 contribution of the editors in dealing with each and</p> <p style="text-align: center;">Page 23</p>
<p>1 industry. So are you saying that the code could be</p> <p>2 improved not merely to identify that which is bad but to</p> <p>3 accentuate that which is good?</p> <p>4 A. Yes. This was very much a feature of the work that</p> <p>5 Sir Ian Kennedy did with the General Medical Council and</p> <p>6 indeed the Law Society has done: concentrate on what</p> <p>7 makes a good doctor or a good solicitor, rather than</p> <p>8 seeking to identify the features of someone who could be</p> <p>9 described as a bad doctor or bad solicitor. I would</p> <p>10 like to see much more positive emphasis in the code.</p> <p>11 Q. Do you feel that a Code Committee, however designated,</p> <p>12 substantially comprised of editors, would achieve that</p> <p>13 aspiration?</p> <p>14 A. Yes.</p> <p>15 Q. And why do you say that?</p> <p>16 A. Well, I have attended meetings of the Code Committee and</p> <p>17 I'm impressed by their determination to set the gold</p> <p>18 standard, to set a code which everyone can subscribe to</p> <p>19 and which can justify the preamble, which is part of the</p> <p>20 code, that all members of the press have a duty to</p> <p>21 maintain the highest professional standards.</p> <p>22 Q. These are all statements of aspiration. Have you</p> <p>23 explained, though, your idea to editors, that that which</p> <p>24 is necessary is not merely the denigration of the bad</p> <p>25 but the upholding of the good? Have you grappled with</p> <p style="text-align: center;">Page 22</p>	<p>1 every complaint which has been adjudicated on where</p> <p>2 I have been in the chair -- the contribution is</p> <p>3 exceedingly valuable and you cannot predict, because of</p> <p>4 their background, where they will be coming from, nor</p> <p>5 indeed where they feel that the adjudication should go,</p> <p>6 and I am very impressed with their contribution.</p> <p>7 May I just point out that the majority of the</p> <p>8 editors on the Commission represent not only local and</p> <p>9 regional press, press outside London, but also magazines</p> <p>10 and agencies, so there is a broad spread. As we dealt</p> <p>11 yesterday with the numbers of editors, there are huge</p> <p>12 numbers of editors now, and indeed one argument, if</p> <p>13 you're coming on to other suggestions as to how we</p> <p>14 proceed -- just to take in isolation what is referred to</p> <p>15 sometimes as a London-centric problem is to</p> <p>16 misunderstand the nature. About 50 per cent --</p> <p>17 45 per cent, 50 per cent -- of all the complaints we</p> <p>18 receive are against local or regional newspapers and</p> <p>19 magazines.</p> <p>20 My head of complaints reminded me that often local</p> <p>21 and regional newspapers will go down the road of</p> <p>22 identifying victims of sexual-oriented crime -- perhaps</p> <p>23 sometimes that is the essence of the complaint of the</p> <p>24 member of the public -- and identifying addresses.</p> <p>25 That's always quite a key part of our work. So</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 I wouldn't want to try and put across that we are just 2 dealing with problems amongst larger newspapers in 3 isolation. 4 Q. Thank you. 5 Moving forward through your statement, paragraph 77, 6 when you talk about -- this is our page 00823: 7 "All regulated publishers will be expected to put in 8 place effective internal compliance procedures. There 9 should be a named senior member of staff responsible for 10 overseeing standards within each publisher." 11 How do you believe that that will be brought about, 12 Lord Hunt? 13 A. Initially by agreement -- and some have taken this step 14 already -- but certainly it should be a matter for the 15 contract and for the regulator, and we would want 16 a requirement to provide accurate, comprehensive 17 information reporting on the internal compliance and 18 complaints-handling mechanism. 19 Q. In your discussions with publishers, have many or most 20 of them accepted that there are issues, problems in 21 relation to the culture, practices and ethics of the 22 press which this Inquiry has demonstrated and/or 23 otherwise been established to their satisfaction? Or 24 are many or most of them saying that these are isolated 25 matters which really have been overstated, overblown by,</p> <p style="text-align: center;">Page 25</p>	<p>1 tangent in relation to the criminal law? Would you 2 agree that it isn't entirely satisfactory simply to say, 3 "Well, if an offence has been committed, that's a matter 4 for the police and nobody should be concerned with 5 that"? 6 A. I strongly agree. I'm enthusiastic to see the Editors' 7 Code becoming very much part and parcel of the ethical 8 code which governs the whole industry, and I think here 9 we have a very good start, and therefore any -- and 10 I know there are disagreements about whether journalism 11 is a profession or an industry or a trade. Whatever it 12 is, those journalists I meet want to subscribe to the 13 highest possible professional standards and are 14 embarrassed by the fact that those standards are not 15 observed by what I would refer to as a small minority. 16 But that gives rise to the perception which I think 17 Mr Jay was asking me about. 18 LORD JUSTICE LEVESON: Yes. Sorry to go down a side road. 19 MR JAY: May I move forward to what you say in relation to 20 whistle-blowing, paragraph 92. Each regulated 21 publisher, you say, should be required by the new 22 regulator to provide an externally run whistle-blowing 23 service for all employees, but this would require 24 prescription under the terms of the PIDA, so it would be 25 some form of statutory underpinning but by secondary</p> <p style="text-align: center;">Page 27</p>
<p>1 for example, this Inquiry? 2 A. I think there's a ready acceptance that there is 3 a perception that the culture, ethics and practices of 4 the press need to be improved. The publishers I meet 5 accept that perception and want to do something about 6 it. 7 Again, I mustn't go too far back, but when I had the 8 responsibility of setting up the Nolan Inquiry into 9 conduct in public life, I remember Michael Nolan 10 reminded the world that it was the perception that was 11 the problem, not the actual bad behaviour, and I think 12 the same is present today. 13 LORD JUSTICE LEVESON: Well, it's not merely the perception. 14 Whatever might have been the position in relation to 15 Lord Nolan, there's certainly a fair amount of evidence 16 I've heard which suggests that this perception is 17 entirely well grounded. 18 A. Yes, I think that my example would be to exclude any 19 criminal activities, any activities which are directly 20 contrary to the law, in particular the criminal law, but 21 I was with Mr Jay referring to the perception that 22 there's something wider and deeper in the culture, 23 ethics and practices of the press, which I don't think 24 is justified, but that perception has to be tackled. 25 LORD JUSTICE LEVESON: Could I take you down a slight</p> <p style="text-align: center;">Page 26</p>	<p>1 legislation of a regulator which had already been 2 created by agreement. Have I correctly understood it? 3 A. I want anyone who feels that the code is not being 4 observed, that they are being asked to do something 5 contrary to the code as well as the criminal law, that 6 there should be the opportunity to communicate on 7 a strictly private and confidential basis with the 8 regulator to share the problem. But equally, I would 9 hope that the industry had provided that individual with 10 a mechanism within the organisation to do that first. 11 Q. On a related theme, may I go back to a point which was 12 touched on yesterday, that when one is looking at press 13 representation, either in the trust board or in the Code 14 Committee or in the complaints body, one is looking 15 always, on Lord Black's model and your proposal as well, 16 at editors. There's an absence of any reference to 17 journalists. You say, I think, journalists can come in 18 through the lay representations provisions, but isn't 19 it, as a matter of principle, desirable that there 20 should be representation of journalists, possibly on the 21 board but certainly in the complaints-handling wing of 22 the regulator and also in the Code Committee wing of the 23 regulator? 24 A. Yes, I have had representations from the Chartered 25 Institute of Journalists and the National Union of</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 Journalists that there should be more representation and 2 that's certainly something the industry should consider, 3 but I wouldn't want to dictate how they should respond 4 to that request.</p> <p>5 Q. At the moment, we see from Lord Black's proposal that 6 consideration has already been made to that possibility 7 and journalists are not going to be represented; it's 8 only going to be editors. Shouldn't there be 9 a mandatory requirement that we see the largest group of 10 journalists, which I understand to be the NUJ, clearly 11 represented on not the trust body -- but that could be 12 open for debate -- but the Code Committee and the 13 complaints-handling wing? That would offer a fresh and 14 a different perspective, perhaps, from that which we 15 would see from editors, wouldn't it?</p> <p>16 A. I find it very difficult to answer this question because 17 I'm seeking to retain my independence from the industry 18 response. But I did set out, right at the start, in 19 that document I presented to a range of people, not just 20 editors but over 50 people representing the industry. 21 I did hallmark editors as key, and I think editors are 22 key. The extent to which other sections of the industry 23 are represented I think must be a matter for the 24 industry, and I realise that there are areas of 25 divergence between Lord Black's proposal and my</p> <p style="text-align: center;">Page 29</p>	<p>1 journalists would know that journalists feature right at 2 the heart of my career and my experience. It's only on 3 very rare occasions that I have the opportunity to talk 4 to editors. Most of my discussions have taken place 5 with journalists, and indeed the National Union of 6 Journalists laid on a public meeting, which I attended, 7 which I found to be one of the most useful meetings, 8 mainly because it came on at the time I was seeing 9 Chris Jefferies and talking through with him how we are 10 going to resolve matters.</p> <p>11 Please don't feel that I am overinfluenced by 12 editors, but they are the leaders and they are widely 13 respected within their publications, and often, sadly 14 because of the decline of the industry, they remain the 15 main individuals who are responsible for editorial 16 content in the local and regional press.</p> <p>17 LORD JUSTICE LEVESON: I understand that, but could I just 18 pick you up on something you said just a moment ago? 19 You made it clear that you're not necessarily just 20 accepting whatever the industry comes forward with, and 21 that, of course, is an important mark of independence, 22 not just for independence sake but because you're 23 bringing a fresh mind to it. But doesn't that mean that 24 your observation in the same answer, that the extent to 25 which other sections of the industry are represented</p> <p style="text-align: center;">Page 31</p>
<p>1 proposal, but that's for others to judge, and I do 2 include this whistle-blowing as a possible trigger for 3 a standards investigation, whereas I see that's not -- 4 and there are other -- I also believe critical 5 adjudications should be flagged on the front page.</p> <p>6 What I don't want you to feel is that I'm just 7 accepting whatever the industry comes forward with, but 8 I do think editors are key and they set the standards 9 and they set the ethical code and that's where I think 10 the very foundation of the new structure that I'm 11 proposing must be based.</p> <p>12 Q. But you've only spoken really to proprietors and 13 editors. You defined your own terms by saying the 14 editors are the key, but journalists would say, "Well, 15 we are the keys, and there are many more of us than 16 editors." You've created a system which is 17 self-defining, self-limiting, and really 18 establishment-minded, haven't you? Isn't it essential 19 that you burst it open, not to have the majority of 20 journalists -- I'm not suggesting that; others might, 21 however -- but to have some mandatory representation by 22 journalists, really to shake the cage, which is what 23 this industry arguably needs, Lord Hunt; isn't that 24 fair?</p> <p>25 A. Well, I think anyone who's had my experience with</p> <p style="text-align: center;">Page 30</p>	<p>1 must be a matter for the industry, doesn't really work? 2 Aren't you able to say, "Well, actually, I want an 3 independent operation, I'm going to be independent, and 4 I think it needs this, that and the other"?</p> <p>5 A. I agree.</p> <p>6 MR JAY: Well, there's a mismatch then between what 7 Lord Justice Leveson was putting to you and your 8 position. If it's a matter for the industry, one ends 9 up with a system which principally they want but of 10 course they'll understand that they have to move 11 a certain distance to arguably a more liberal position, 12 otherwise they face the clashing of the sword of 13 Damocles on their heads. But if you have a system which 14 the public want or might meet a more objective standard 15 of desirability, then you need some other entity to 16 create that and we're back to our statute, aren't we?</p> <p>17 A. Oh no, I don't think we're back to the statute, but 18 I recognise that all these points are right at the heart 19 of what I'm soaking to propose, that the new body, the 20 fresh start, should be seen as just that. It's not 21 a PCC2 or PCC Plus. It is a new body and it does have 22 to be staffed, manned and worked by an amalgam of the 23 best possible independent people, chosen and appointed 24 by a widely recognised, completely independent process, 25 and representatives of the industry who are clearly seen</p> <p style="text-align: center;">Page 32</p>

8 (Pages 29 to 32)

<p>1 as such and represent all the best parts of the 2 industry, and I detect, certainly from the Society of 3 Editors, that they feel there is widespread support for 4 what is proposed by Lord Black. I just keep repeating, 5 perhaps too often, that the industry has come a very 6 long way. 7 When I had my meetings with journalists -- and one 8 of the main editors asked me to meet all his 9 journalists -- at what is known as quite a testing time 10 for any individual -- and it's a great privilege to be 11 asked to speak to all the journalists. I did that. The 12 main problem they identified was that it was very 13 difficult to visualise a new body which would seek to 14 regulate such a diverse industry as the full newspaper 15 and magazine industry. But no one said, "Don't try", 16 but everyone's aware that it's going to be a difficult 17 and challenging process. 18 Q. Can we look at the complaints function of the new 19 regulator. You make it clear, Lord Hunt, in 20 paragraph 101 of your statement that in your view, the 21 existing complaints function of the PCC is very 22 effective, from which starting point I suppose is might 23 be said that very little needs to be done to the current 24 complaints system to make it entirely fit for purpose; 25 is that right?</p> <p style="text-align: center;">Page 33</p>	<p>1 Q. Is that what you think should happen under the new 2 system? 3 A. Well, I -- face-to-face mediation, for example, at the 4 PCC is very rare. I think it is a process that has 5 brought some notable successes in the past and I think 6 it would be very valuable for the new body to develop 7 that work further, and I think there are a number of 8 ideas of that nature which I would want to see take 9 place. 10 LORD JUSTICE LEVESON: Is this brokered or proxy negotiation 11 driven by the person from the PCC who is operating it or 12 is it simply a postbox? I don't mean that term too 13 derisively, but I am concerned that individuals who 14 complain do not have the knowledge, the understanding, 15 the background to take on a newspaper that is well used 16 to this sort of problem, and therefore may rather more 17 easily be -- I was going to say "fobbed off", but let me 18 be more polite -- be more prepared to accept a solution 19 where somebody who understood what had gone on would 20 say, "No, that's not good enough." I'm just keen to 21 know whether the PCC sees itself as passing the 22 complaint on and making sure there is communication, or 23 whether it sees itself also as advising a person who is 24 complaining about how far they can and perhaps should go 25 in relation to a particular complaint.</p> <p style="text-align: center;">Page 35</p>
<p>1 A. Well, I feel strongly that the complaints should be 2 directed at the newspaper first. I've had some very 3 fruitful discussions with publishers on that point. Of 4 course people who are aggrieved should have an immediate 5 point of contact and the newspaper or magazines should 6 alert them to the direct telephone number, the direct 7 email address to which an aggrieved person, even before 8 a story has appeared but after a reporter or 9 a photographer had been involved -- they should have the 10 opportunity of getting straight through, and I think 11 that would be a major improvement. 12 At the moment, although it's -- important people 13 should still have the option to come to the regulator 14 first if they want to, that is at the moment the present 15 position. I do believe that as publications improve 16 their internal systems, perhaps appointing readers 17 editors, publicising contact details more effectively, 18 encouraging feedback and so on, that will encourage 19 readers and publications to build constructive 20 relationships directly. 21 Q. In terms of what the new regulator would be doing, you 22 describe what the PCC currently does at paragraph 104 as 23 a process of brokered or proxy negotiation, not 24 mediation. Do you see that? 25 A. Yes.</p> <p style="text-align: center;">Page 34</p>	<p>1 A. Well, sir, I think you would find, if you were to sit 2 with our team who answer the telephone, that they do 3 guide, they do help, they do advise as to the best way 4 forward, and they do refer a complaint to the 5 publication and do so with the necessary background 6 expertise. But I have found in my visits particularly 7 to local and regional press that they would far prefer 8 the individual to have telephoned them first, 9 particularly in cases of clear inaccuracy. I've heard 10 from those local and regional press: "Please, just tell 11 us and we'll sort it and we'll sort it quickly." 12 There is now this culture, which has improved beyond 13 measure, of a willingness to try and rectify any 14 immediate problems straight away, and therefore there is 15 no need for the public to be diverted via the PCC. 16 There should be a far better system of complaints 17 handling within the publication. 18 LORD JUSTICE LEVESON: I agree with that as well but that's 19 not quite what I was trying to drive at. 20 A. Please, if I haven't -- 21 LORD JUSTICE LEVESON: My point is that the independent 22 member of the public simply won't know what he or she 23 can do, what it is appropriate to accept or not accept, 24 and so, for example, may accept that the publication 25 of -- I'll give an example that's been given in the</p> <p style="text-align: center;">Page 36</p>

<p>1 Inquiry -- a one inch by one inch comment on 2 page whatever it is actually is sufficient, whereas 3 anybody who understands what's happening and the nature 4 of the error that's made would be saying, "Actually, 5 I think you should be insisting on rather more than 6 that." 7 A. Yes, and where that -- as I understand it, that is 8 precisely the sort of advice that is given when somebody 9 contacts the PCC, but I do know that our highly 10 qualified staff would want there to be, alongside them, 11 a standards and compliance arm which is learning from 12 every case, and indeed setting standards which mean that 13 there will be a substantial reduction in the number of 14 complaints because the errors won't occur in the first 15 place. 16 LORD JUSTICE LEVESON: Yes. 17 MR JAY: I just want to understand, Lord Hunt, how you see 18 one other important issue being resolved under the new 19 system. This is the point about prominence of 20 corrections and apologies, paragraph 110 of your 21 statement. Basically, you feel that there isn't a great 22 problem with the present system and four lines down, 23 your preference is therefore for the contract to allow 24 for the right of the regulator to dictate prominence of 25 any correction if and only if there's failure to</p> <p style="text-align: center;">Page 37</p>	<p>1 what might be acceptable to the publishers. After all, 2 they're buying into this system. Why shouldn't it be: 3 it's always for the regulator to decide; who cares what 4 the publisher thinks? If the regulator publishes an 5 adjudication, it says, "You publish this on a particular 6 page, there's no argument about it", and if a complaint 7 is made and something less than an adjudication arises, 8 again, it's for the regulator to decide. 9 Why are we giving such weight to the feelings, the 10 view of the publisher at every stage? 11 A. I thought I said prominence must be reasonable and it 12 must be to the freely expressed satisfaction of the 13 individual and/or organisation adversely affected by the 14 original story. That's the hallmark of the way in which 15 complaints are handled. 16 Q. But it may be the hallmark of good regulation that the 17 upshot is not to the freely expressed satisfaction of 18 the regulated person. It may be deeply disappointing to 19 the regulated person, but the regulated person has to do 20 as its told. That's the advantage of a truly 21 independent system where the regulator is at arm's 22 length from the regulated entity and moreover can wholly 23 dictate what the regulated entity has to do. But your 24 system always has a tinge of what the regulated entity 25 might want, because you're using terms like "freely</p> <p style="text-align: center;">Page 39</p>
<p>1 agree -- that's between the complainant and the 2 publisher, of course -- or a publication reneges on such 3 an agreement. But why shouldn't the regulator always 4 have power to dictates where a correction or apology -- 5 or an adjudication even -- should go in a newspaper? 6 Why should it be the first port of call for the parties 7 to agree? 8 A. I think that, to my mind, is the sensible way forward. 9 Demanding equal prominence in all instances is just 10 simply too prescriptive and the emphasis is the 11 prominence must be reasonable but it must be to the 12 freely expressed satisfaction of the individual and/or 13 organisation adversely affected by the original story. 14 But a critical adjudication is a different matter. 15 I think that's a meaningful and highly visible sanction 16 in a competitive industry. I don't think anyone likes 17 to have to publicise to their readers and rivals that 18 they've been caught asleep at the wheel, and I think 19 therefore my view is that there is a case for all 20 critical adjudications to be flagged up on the front 21 page or home page of the publication concerned. I think 22 that would increase the effectiveness of the 23 adjudications and the awareness of the new regulatory 24 system. 25 Q. Your starting point always, if I may say so, Mr Hunt, is</p> <p style="text-align: center;">Page 38</p>	<p>1 expressed satisfaction". What's their satisfaction got 2 to do with it? 3 A. Freely expressed satisfaction of the public? 4 Q. No, of the regulated -- 5 A. My words were: 6 "Prominence must be reasonable and it must be to the 7 freely expressed satisfaction of the individual and/or 8 organisation adversely affected by the original story." 9 Q. So the publisher is not within this -- 10 A. No, it's what the individual and/or organisation wants 11 who are adversely affected by the original story. And 12 I realise that there is some divergence from what the 13 industry is suggesting, particularly so far as critical 14 adjudications are concerned. I want those to be flagged 15 up on the front page and I think that is what the public 16 would want. 17 Q. Mm. 18 A. So it's always a balance. I think the whole system I'm 19 suggesting is constantly trying to balance, but it is 20 a system that is so far untried and untested, 21 I recognise that. 22 Q. I'm not sure all your ideas have been reflected in 23 Lord Black's proposal, have they, in terms of -- 24 LORD JUSTICE LEVESON: I think Lord Hunt has said in terms 25 they haven't been, but that's where we are.</p> <p style="text-align: center;">Page 40</p>

10 (Pages 37 to 40)

<p>1 MR JAY: Thank you. Moving forward, the issue of 2 third-party or group complaints. Paragraph 115 and 3 following, particularly paragraph 117. What exactly is 4 your proposal here, Lord Hunt? 5 A. On third-party complaints? 6 Q. Yes. 7 A. Well, the PCC's policy on dealing with third-party 8 complaints has evolved over time and I think the true 9 position is often misunderstood. As I set out in the 10 submission, our first-party rule is not substantially 11 different from the rules on standing promulgated by all 12 tribunals. The PCC does generally take forward 13 complaints about matters of fact for which there is no 14 first party or for which the information needed to reach 15 a determination is already in the public domain. 16 Now, in circumstances where there is an individual 17 involved and that individual has not complained 18 or perhaps pursuing an investigation or negotiating 19 a remedy could be potentially intrusive to that person 20 or impose other difficulties, complainants are now 21 offered the opportunity to argue that there is an 22 exceptional public interest, meaning the Commission 23 should take forward an independent, own volition 24 investigation. 25 In practice, the PCC rarely chooses to proceed in</p> <p style="text-align: center;">Page 41</p>	<p>1 having now held many meetings with individuals and 2 organisations from all sections, including several who 3 have given evidence to this Inquiry -- I know that many 4 people are concerned that clause 12 of the code, 5 discrimination, relates only to individuals, but I think 6 we've already within the PCC taken a more flexible 7 position than many people would recognise. 8 Of course, much of the problem can be addressed by 9 means of clause 1, where a first party is not necessary, 10 but I believe that when a body of evidence has mounted 11 suggesting that any publication has been engaged in 12 repeated or systematic vilification of any vulnerable 13 group, the new standards arm might well have a role in 14 publishing clear guidance. I accept that. 15 LORD JUSTICE LEVESON: Yes. 16 MR JAY: So you're really arguing for the maintenance of the 17 status quo, save that the new standards arm may have 18 a role if it thinks the problem is systemic; is that 19 correct? 20 A. Yes, a clear pattern of complaints might reasonably be 21 taken as possible evidence of a systemic breakdown in 22 standards, and the regulator could regard this as 23 a sufficiently serious issue of public interest to 24 justify a pre-investigation by the standards arm, and 25 the complaints arm would draw any such pattern of</p> <p style="text-align: center;">Page 43</p>
<p>1 such cases but I think the current position is sensible. 2 But I think the new regulator, the new body, should 3 clarify the policy and make an increasing effort to 4 communicate it effectively. That's what I'm suggesting. 5 LORD JUSTICE LEVESON: I'm sure you've had the opportunity 6 to see the evidence I've heard. I've heard from 7 immigrant groups, from transgender groups, from other 8 groups, and indeed I'm pressed to hear from disabled 9 groups, but it's the same point and I recognise it very, 10 very clearly: that they feel that there is simply no 11 mechanism through the PCC whereby they can get redress 12 for what are considered to be egregious distortions of 13 fact and unbalanced stories. 14 Of course, one has to allow for freedom of 15 expression but there is some way between freedom of 16 expression on the one hand, simply so expressed, and the 17 type of complaint that you will have seen I have heard, 18 and in respect of which there are many other submissions 19 that I have received. 20 A. Yes. The notion of group complaints is a tricky one, 21 I accept that, and there's a delicate balance we have to 22 try and achieve because it wouldn't be in the public 23 interest to open up the possibility of allowing the code 24 to be systematically abused by those whose principal or 25 sole aim is to restrict freedom of expression. But</p> <p style="text-align: center;">Page 42</p>	<p>1 complaints to the attention of the standards arm where 2 appropriate. 3 Q. At the end of the five years of your commercial 4 contractual regime, Lord Hunt, what's to stop the 5 industry en masse agreeing to new contracts which are 6 much less stringent? 7 A. Well, I have already made it clear to those who are 8 looking at the contractual terms that I never really 9 liked the idea of five years. I want a binding 10 contract. I'm told, however, to take a period of five 11 years would be a sensible way forward, but I would add 12 the word "rolling", so there is always a five-year 13 commitment. But as I understand it at the moment, no 14 further work is being done in developing the contracts 15 pending the result of this Inquiry, which is a very fair 16 position for the industry to take, but I'm just keen to 17 get on with this. 18 Q. Yes, whatever you get on with, though, Lord Hunt, would 19 have to be for a fixed-term because that's the legal 20 advice that Lord Black has received, and it's correct 21 advice. You can't have a contract which is indefinite 22 or indeterminate. At the end of the fixed-term, there's 23 nothing, is there, to stop the industry en masse getting 24 together and agreeing a less stringent regime, is there? 25 A. Well, I understand the very best brains are being</p> <p style="text-align: center;">Page 44</p>

<p>1 engaged on this and I would have thought you could have 2 a period of notice which would have to be given by 3 anyone or any party seeking to withdraw, and I suppose 4 any contract can be revisited, subject to what the 5 provisions allow, but I hadn't wanted to get into all 6 that. I just want to get on, set up the new body. 7 But you're quite right; we must make sure it can't 8 be suddenly -- it can't be met with a brick wall one 9 day. It has to be -- and I want to see a new body which 10 gathers strength over the years and establishes 11 a completely new and strengthened culture, which the 12 overwhelming majority in this great -- I would call it 13 profession -- want to see. 14 And so, I suppose in a way I seriously commend to 15 you the model I propose. I don't think it's perfect, 16 I don't think any model can be perfect, but what I can 17 do is to suggest and to assure you that this model would 18 mark a fundamental shift in the balance of power between 19 the regulator and the regulated, which I'm presently 20 encouraged to believe that the newspaper and magazine 21 industry is now willing to endorse. 22 Q. Of course, in five years' time, all of us will have 23 moved away from this, won't we? 24 A. Well, if I'm still here in five years' time, I would 25 hope that people will look back and see this Inquiry as</p> <p style="text-align: center;">Page 45</p>	<p>1 it was possible to see the way in which complaints are 2 handled at first hand rather than the documentation 3 relating to it. It's the one thing that really has 4 impressed me, which is why I'm determined that we will 5 maintain the existing complaints and mediation system. 6 It's the one thing that has impressed me about all that 7 has been achieved so far, and I have seen victims, and 8 the complaints, generally speaking, about the existing 9 system are that there aren't yet sufficient powers to 10 enable things to be done which should be done, and when 11 I've sat down with victims with this key question of: 12 "What can the new body do to ensure that what happened 13 to you will never be allowed to happen again?" -- that 14 has been the key question, and I think we are now poised 15 in being able to do something about it and to restore to 16 the regulator, which in my view is the regulator for the 17 first time ever, the ability to strengthen public trust 18 and confidence in British journalism. 19 LORD JUSTICE LEVESON: All right. Thank you very much 20 indeed. We'll take a break. 21 (11.25 am) 22 (A short break) 23 (11.36 pm) 24 MR JAY: Sir, the next witnesses are being called together: 25 Ms Stanistreet and Professor Frost.</p> <p style="text-align: center;">Page 47</p>
<p>1 having set the agenda to which the industry has 2 responded constructively. This system can achieve 3 whole-hearted commitment by the regulated community, and 4 above all I believe it can restore trust in British 5 journalism. 6 MR JAY: Well, I think on that note, Lord Hunt, those were 7 all the questions I -- I'm mindful of the fact I've set 8 myself a timetable for today and I've now hit the end of 9 that time. 10 LORD JUSTICE LEVESON: Right. Is there anything you feel 11 that you've not had the chance to develop that you 12 wanted to develop, Lord Hunt? 13 A. No, sir, but I would hope that perhaps there could be 14 some opportunity to share with the Inquiry the actual 15 workings and handling of complaints as they occur today. 16 LORD JUSTICE LEVESON: I have had the benefit, as you know, 17 of an enormous volume of material from the PCC, which 18 admittedly hasn't included visual sight of people 19 working, but it's certainly included the paper 20 consequences of all they've done, so I'm very mindful of 21 what's been happening, unless you tell me something is 22 very different today than it was from last summer when 23 all this evidence was submitted. 24 A. It's just, sir, I felt that the questions about how 25 complaints are handled would be far better understood if</p> <p style="text-align: center;">Page 46</p>	<p>1 LORD JUSTICE LEVESON: Thank you. What tab? 2 MR JAY: Tabs 56 and 27. 3 PROFESSOR CHRIS FROST (affirmed) 4 MS MICHELLE STANISTREET (recalled) 5 Questions by MR JAY 6 MR JAY: Ms Stanistreet, you've already given an affirmation 7 or oath. You're already bound by it. 8 Professor Frost, you haven't given evidence before. 9 Your full name, please? 10 PROFESSOR FROST: My full name is Christopher Peter Frost. 11 Q. What we have from you is a witness statement dated 12 1 June 2012 and you've also contributed to a joint 13 submission with Ms Stanistreet, which is undated, in 14 fact, but I think arrived with us also in June. Insofar 15 as there are facts set out in both statements, do you 16 attest to their truth? 17 PROFESSOR FROST: I do. 18 LORD JUSTICE LEVESON: Professor Frost, let's just deal with 19 one point for the sake of transparency. You were 20 brought in to assist I think the National Union of 21 Journalists. You weren't actually approached by the 22 Inquiry; is that right? 23 PROFESSOR FROST: That's right. 24 LORD JUSTICE LEVESON: Is that in the last few weeks, or 25 comparatively recently?</p> <p style="text-align: center;">Page 48</p>

12 (Pages 45 to 48)

<p>1 PROFESSOR FROST: I've been a long term NUJ member and 2 campaigner -- 3 LORD JUSTICE LEVESON: Was it in connection with the 4 Inquiry? 5 PROFESSOR FROST: I suppose so. Obviously I've been 6 interested from the beginning and campaigning with the 7 NUJ. 8 LORD JUSTICE LEVESON: The reason I raise it is because, as 9 you probably know and is public knowledge, in fact 10 tomorrow Liverpool John Moores University is to bestow 11 an honour upon me and I just wanted to make it clear 12 there had been no connection between the Inquiry and you 13 until the National Union of Journalists sought to put 14 you forward as a witness. 15 PROFESSOR FROST: Thank you. 16 MR JAY: What I'm going to do is go through the evidence in 17 what I believe to be a sensible order, which means that 18 I'll be interleaving into the joint submission points 19 which arise only in Professor Frost's evidence. Insofar 20 as the points arise in Professor Frost's statement, 21 doubtless Professor Frost will wish to speak to them, 22 but in the joint submission I'm going to leave it to 23 your discretion how to address my questions and 24 obviously it will make sense if we can have a balance of 25 articulation from each of you.</p> <p style="text-align: center;">Page 49</p>	<p>1 more concern about the rights of others, such as privacy 2 and so on. 3 Q. Thank you. In paragraphs 7 to 22 of your statement, 4 Professor Frost, you look at the history from the 1930s, 5 if not before, both in terms of the contributions of 6 Royal Commissions but also in terms of what the NUJ has 7 done in the past. The history, generally speaking, is 8 well understood by the Inquiry, but we're grateful for 9 your additional contribution. Really, we'd like to hear 10 from you -- can you give us the highlights of what the 11 NUJ has done in the past, insofar as you think it's 12 relevant to our present consideration? 13 PROFESSOR FROST: I think one of the key points is in 1936 14 when we decide that a code of conduct for our members 15 would be important. I mean, this is not the first code 16 of conduct for journalists invented -- most other 17 countries had them well before that -- but we introduced 18 one in 1936 and it's worth mentioning that this was 19 controversial at the time and a code produced at the 20 time wouldn't necessarily be recognisable as a code that 21 we have now. 22 We were then quite concerned about growing problems, 23 particularly around privacy, during the 30s and '40s, 24 and were instrumental, at least, in helping the 1947 25 Royal Commission, which is incredibly important, to be</p> <p style="text-align: center;">Page 51</p>
<p>1 But Professor Frost, first of all, you are professor 2 and head of journalism at Liverpool John Moores 3 University. You are a member of the NUJ and you've been 4 in journalism and education for 40 years, as you say, 5 and you've written a significant number of books on the 6 subject. 7 First of all, paragraph 5 of your statement, our 8 page 00490, where you make the point that: 9 "Freedom of expression should be given maximum 10 licence but this is not an absolute freedom." 11 In what way, in your view, is the freedom not 12 absolute? 13 PROFESSOR FROST: Clearly other people have other freedoms 14 which may come into conflict. The obvious ones are 15 reputation, privacy, fair trial and so on, all as 16 mentioned in the Human Rights Act, and clearly 17 journalists need to balance their -- and indeed 18 everybody needs to balance their right to freedom of 19 expression against those other rights. 20 This becomes particularly important for the media, 21 which is in a particular position of power, so that 22 whereas the kind of freedom of expression you and 23 I enjoy when talking to other people can have a little 24 more licence, when it's driven by a media which is 25 talking potentially to millions, there needs to be much</p> <p style="text-align: center;">Page 50</p>	<p>1 set up, and we're very pleased, by and large, with some 2 of the things that came out of that: suggestions for 3 better training, suggestions for a press complaints 4 commission of its time. It was the first time those 5 sorts of things had been mentioned. 6 As I say in my evidence, we were heavily involved in 7 helping to set those up -- the Press Council and also 8 training through the National Council for the Training 9 of Journalists -- but we were very disappointed when we 10 reached the end of the 1980s, or all through the 1980s, 11 when clearly the Press Council is no longer working in 12 the way that we felt that it should, and we left. 13 We set up our own ethics council to try to take on 14 that kind of work, with some success, but we also meet, 15 at that time, a changing industrial landscape which made 16 it much more difficult for us to be able to enforce our 17 code of ethics on members who were struggling in the 18 workplace, and so when we were able to rejoin the Press 19 Council in 1989, we did that. That was during the 20 period of Calcutt's inquiries at the time and the 21 suggestion of a press complaints commission was jumped 22 on by the proprietors and by editors, who set up the 23 Press Complaints Commission, excluding the NUJ and also, 24 notably, excluding quite a large number of the public at 25 the time. The Press Complaints Commission, when it was</p> <p style="text-align: center;">Page 52</p>

<p>1 first set up, was very much dominated by editors. 2 Since then we've tried to become more involved. 3 We've continued with the ethics council, we continue 4 with our code of conduct and have made some changes, but 5 we have found it much more difficult because of the 6 changing industrial landscape. 7 Q. Can I ask you, please, a point on paragraph 21 of your 8 statement, Professor Frost. You're addressing here the 9 PCC code and you state: 10 "The NUJ opposed the idea of putting the PCC code 11 into journalists' contracts of employment without 12 a conscience clause." 13 May I understand what your position is. Would there 14 be an objection, in your view, to the code being part of 15 journalists' contracts if two things occurred: first of 16 all, that there were a conscience clause -- and you deal 17 with that later in the joint submission -- but secondly 18 that the NUJ had some input into the creation of the 19 code itself or the amendment of the code? Have 20 I correctly understood your thinking? 21 PROFESSOR FROST: Yes. There's a couple of points I should 22 make absolutely clear, and it follows some of the 23 evidence we've heard earlier today. There is 24 a significant difference between a code for journalists 25 and a code for publishers, in that they are dealing with</p> <p style="text-align: center;">Page 53</p>	<p>1 Q. So different albeit overlapping codes for publishers and 2 for journalists. In relation to the code the 3 journalists would be required to sign up to, it would be 4 a contractual stipulation. Journalists would have some 5 role in the new regulator, perhaps, in the creation of 6 that code; is that a fair summation of the position? 7 PROFESSOR FROST: It is. We would feel that would be very 8 important. There are a number of stakeholders in 9 this -- the public, editors, proprietors -- and 10 journalists quite clearly are one of those, and we think 11 it's just incredible that journalists have been excluded 12 from the process over the last 20 or so years, when 13 quite clearly journalists are heavily involved in 14 actually applying ethics day to day. 15 Q. Just to deal with one issue -- I mentioned the fact that 16 these codes are likely to be overlapping. It's how the 17 public interest would be assessed. Is it your view that 18 journalists should have themselves a decision-making 19 role as to the public interest balance or is this 20 something which only editors should be doing? Because 21 it might be said that the journalists won't have always 22 the full picture. How do you see it operating in 23 practice, particularly in the context of the conscience 24 clause? 25 PROFESSOR FROST: It will vary, really, from assignment to</p> <p style="text-align: center;">Page 55</p>
<p>1 different things, and I won't talk down to you by 2 explaining what those differences are but they are 3 significant. What's been attempted by the PCC is to put 4 into journalists' contracts a publishers' code. What we 5 would say is there should be a journalists' code. 6 Now, if we were involved with the PCC in helping to 7 develop the code -- or any subsequent body in helping to 8 develop the code -- of course we could make sure that 9 there were suitable elements of that code to apply to 10 journalists. We accept that journalists should have 11 a code of conduct that they should be obliged to follow. 12 We don't have a problem with that being in the contract 13 of employment, provided there is a conscience clause 14 which gives journalists the right to say, "That 15 assignment is unethical and I'm not going to follow that 16 through" without detriment to their career or their 17 position. 18 The difficulty is, at the moment, as we know, that 19 if a journalist were to refuse to take an assignment, 20 they risk at the very least detriment in their position, 21 quite possibly also risk being dismissed, and we hear 22 endless stories -- and Michelle is much better to give 23 you the evidence on that -- of the way that journalists 24 have been treated where they have attempted to follow 25 a more ethical line and refuse assignments.</p> <p style="text-align: center;">Page 54</p>	<p>1 assign, but quite a lot of assignments are coming from 2 the journalists. They would be the ones who would know 3 about the public interest. There could well be 4 exceptions and I would expect this normally to be 5 a discussion at some point between the journalist and 6 their editor, and certainly if there was a story where 7 a journalist was saying, "Hang on a moment, I'm a bit 8 concerned about this, it appears to breach the code of 9 practice", that there would then be a discussion between 10 the journalist and their editor about where the public 11 interest lies. 12 This happens perfectly normally in broadcasting. It 13 happens perfectly normal in the BBC, where these kind of 14 discussions are absolutely normal, and we can't 15 understand why that doesn't happen in newspapers. 16 LORD JUSTICE LEVESON: And it doesn't; that's your 17 experience? 18 PROFESSOR FROST: That's certainly our experience, yes. I'm 19 not saying there aren't some very good examples where 20 maybe it does happen on occasion, but not nearly enough, 21 no. 22 LORD JUSTICE LEVESON: Does it go beyond that as well? 23 Contrary to what some people say, I understand only too 24 well how newspaper stories are put together and how 25 they're then subedited and headlines come in later.</p> <p style="text-align: center;">Page 56</p>

<p>1 Should there be a discussion between the journalist and 2 whoever is writing the headline so as to ensure that the 3 headline accurately reflects the balance of the report 4 or is that going too far? 5 PROFESSOR FROST: I don't think it's going too far. It's 6 not always possible. Time pressures and -- 7 LORD JUSTICE LEVESON: I understand that. 8 PROFESSOR FROST: -- practicalities can get in the way, but 9 certainly my experience -- and remember, I've worked as 10 a reporter and a subeditor and editor for about 20 years 11 of my 40-year career -- is that that's the best way to 12 do it. It's just not always possible. But certainly if 13 you're a little bit uncertain as an editor as to whether 14 the headline does accurately reflect exactly what the 15 story says, remembering that it's probably been through 16 an editing process so may already have been changed, 17 then it is good practice to check, yes. I've certainly 18 been saved on one or two occasions by doing that. 19 LORD JUSTICE LEVESON: There's no question that one of the 20 great complaints that's been made to the Inquiry has 21 been: well, you can read the content of the article and 22 you can just about discern that's either fact or fair 23 comment or may be so, but then the headline screams 24 something entirely different, and that's the complaint. 25 PROFESSOR FROST: Indeed, and the PCC's position is that the</p> <p style="text-align: center;">Page 57</p>	<p>1 inflammatory and the headlines were actually being 2 written at that time -- the owner and the editor were 3 taking a deep interest in this and were the ones who 4 were crafting the headlines on a daily basis, and that 5 was one of the key problems that journalists on the 6 newspaper had, because they had absolutely no control 7 about this process. 8 Now, there should be a dialogue between reporters, 9 journalists, who have written work, who are heavily 10 involved in their work and the subbing process, but 11 obviously it's the editor, whether it's the news editor 12 or the overall editor of the newspaper, that has the 13 control and the power to follow through that process 14 right to the final stage, because quite often 15 a journalist isn't even in the building at the time when 16 a piece is subjected and when a headline is drafted. 17 LORD JUSTICE LEVESON: Yes, I understand that and 18 I understand the dynamics of the pressure of time. I'm 19 just wondering what the solution is to it. 20 MS STANISTREET: Well, I suppose it's about the genuine 21 sharing of that responsibility and the having a process 22 in some newspapers and some newsrooms would be a big 23 step forward, because it's not as routine as it should 24 be and as it is in some broadcasters, where there is 25 a genuine discussion and a dialogue about the public</p> <p style="text-align: center;">Page 59</p>
<p>1 headline doesn't really need to bear any relationship to 2 the article because it is comment, and I just find that 3 slightly incredible. Well, very incredible. 4 It also raises the question, which I don't think too 5 much has been made of anywhere, about moral rights for 6 journalists. Those were removed from us about 10 or 15 7 years ago. That means that our copy can be changed 8 without us having any say about that. It means copy can 9 be written and put under our byline if we're a staff 10 journalist without us having any say in that at all in 11 terms of either being able to say, "No, it shouldn't be 12 written like that because I know that it's wrong", or 13 that "I would prefer it was written another way". 14 That's something we certainly would like to change. Did 15 we mention that in our evidence? 16 MS STANISTREET: May I come in on this? Because one of the 17 examples that I cite in our joint statement refers to 18 complaints that journalists at Express Newspapers raised 19 back in 2001, in 2004 and 2005, and certainly in the 20 earlier complaints, which was about the depiction of 21 asylum seekers. That precisely all hung about the use 22 of the headline. Some of those stories, the actual copy 23 that was filed by journalists was pretty run-of-the-mill 24 straight up and down news stories, but the headlines 25 were incredibly -- we felt them to be racist and</p> <p style="text-align: center;">Page 58</p>	<p>1 interest and about the presentation of the story in its 2 roundest possible sense. 3 The danger of putting -- just simply sticking the 4 Editors' Code into a journalist's contract is again, 5 it's about another way of individualising the problem 6 and holding the individual journalist to blame for 7 something that might happen or the consequences of 8 a mistake, whether it was deliberate or not, later down 9 the line. 10 PROFESSOR FROST: We're not suggesting that there should be 11 a constant dialogue about edited versions but certainly 12 where a journalist's byline is used, that they ought to 13 have more opportunity at least to say, "I accept that 14 that work was done by the code." 15 MR JAY: We're going to spend most of the allotted time 16 dealing with the future, for obvious reasons, and you'll 17 wish to elaborate on your proposal, but insofar as we're 18 looking at the past and the failures of the PCC, 19 arguably it's covered in one sentence in your joint 20 statement, but I appreciate you elaborate upon it. At 21 01082, page 2 of the internal numbering, the second 22 paragraph, you say: 23 "It's the very structure of the PCC as an 24 industry-fostered self-regulatory body that has led to 25 its failure."</p> <p style="text-align: center;">Page 60</p>

<p>1 I wanted to ask you to comment -- either of you 2 really -- on the proposals we've heard yesterday and 3 today as articulated by Lord Black and Lord Hunt. The 4 basic point is: what's wrong with their proposal? 5 A substantially toughened-up version of self-regulation 6 with commercial contracts, giving the new regulator 7 significant powers it did not possess before and binding 8 the participants legally within a web from which they 9 cannot, as it were, escape. 10 LORD JUSTICE LEVESON: If anything -- 11 PROFESSOR FROST: Well, I would not accept that it's 12 substantially changed, for a start. If we actually look 13 at the way the PCC operates -- and the PCC is one of my 14 research areas as an academic. I've spent a lot of time 15 writing about it, examining in detail the way that it 16 operates, and listening to Lord Hunt earlier today, 17 there clearly is no significant change. It's been 18 dressed up, we have these contracts which are supposed 19 to enforce it, but the code is largely the same. The 20 way that it operates is largely the same. The idea of 21 third-party complaints and how that operates is largely 22 the same. The remedial and mediation systems might be 23 slightly improved, but in the end are largely the same. 24 If we look at the way the PCC deals with complaints 25 at the moment -- and there is nothing, on the face of Page 61</p>	<p>1 with are in the area of resolution, where the national 2 newspapers are using the resolution system to their 3 advantage, and in the complaints that never get to them 4 in the first place because they're too big, they're too 5 complicated and they simply don't reach the PCC. 6 Privacy, for instance. They deal with a reasonable 7 number of privacy complaints but if your privacy was 8 seriously intruded by a newspaper, would you want to 9 complain to a PCC, whose only retribution is that 10 a story would eventually be published saying that the 11 newspaper had had its wrist smacked? I don't think 12 you're likely to do that. 13 So it's not approaching the problem in the right 14 way. The code is not structured in the right way and 15 the type of complaints that it takes are not right. So 16 third-party complaints, for instance. We get a lot of 17 dealings with the very same groups that you've already 18 talked about, those representing various vulnerable 19 groupings, who feel that they cannot complain and the 20 number of complaints, particularly about asylum 21 seekers -- I'm trying to remember the exact period, 22 about ten years ago, I think -- rose dramatically. So 23 the number of complaints going to the PCC about 24 discrimination shot through the roof and the PCC just 25 rejected them all and diverted some of them to look at Page 63</p>
<p>1 it, wrong with it. The complaints that they receive, 2 the numbers that they deal with, are approximately 7,000 3 a year at the moment. They then go on to examine those. 4 They resolve approximately -- this is fairly typical -- 5 350 complaints. After some debate -- the kind of 6 resolution system that Lord Hunt was talking about 7 before -- approximately 40 go on to adjudication, of 8 which approximately 50 per cent or typically 50 per cent 9 are then upheld, and those that are upheld are quite 10 rightly upheld. They very often are mistakes and errors 11 which have clearly been introduced by junior staff on 12 local newspapers and shouldn't have happened, but 13 nevertheless they did. Lord Hunt talked specifically 14 about jigsaw identification of victims in sexual 15 offences and there have certainly been several of those 16 kind of cases over the last year, and I would say almost 17 certainly that that's something that's been introduced 18 by a junior member of staff, perhaps one not employed 19 very long on a local paper, who didn't come to the 20 lecture I gave during his training course on jigsaw 21 identification, and has missed it and the editor has 22 missed it in the paper. A mistake. We all make 23 mistakes. We're never going to be able to eradicate 24 that kind of mistake. 25 The difficult kinds of complaints that the PCC deals Page 62</p>	<p>1 accuracy, which they did, and some complaints were 2 upheld but the majority of complaints were about issues 3 that the PCC simply doesn't look at. Discrimination. 4 Taste and decency, which Lord Hunt again today excluded 5 quite specifically, and whilst I have some sympathy with 6 that view -- newspapers should be able to pursue much 7 more offensive material than perhaps you can allow on 8 broadcasting -- it's certainly wrong to suggest that 9 newspapers don't take concern at offence, because they 10 do, and the suicide clause which Lord Hunt lauded 11 largely surrounds either privacy or offence. 12 MS STANISTREET: But the proposals that they've outlined 13 yesterday and today effectively amount to nothing but 14 more of the same. There is no real substantive change 15 in what's on the table. They've ignored the opportunity 16 to address key problems that have been highlighted not 17 just by the NUJ but by many other campaign groups 18 involved in press freedom and journalism, by many 19 members of the public and groups who have come here to 20 explain to you -- Chris was saying how badly they feel 21 let down by the press and by the PCC's failure to do 22 anything about it, and it seems to us that this is 23 nothing more than an attempt by the vested interests -- 24 the owners and editors -- to have a continuation of the 25 status quo, and obviously it's in their interest that Page 64</p>

<p>1 that would be the outcome of this Inquiry, but it would 2 be a monumental waste of a golden opportunity for change 3 and a waste of everybody's time here. 4 PROFESSOR FROST: We also see this has happened over and 5 over and over again. If you follow the PCC through from 6 1989 when it was first set up, every time it reaches 7 criticism -- and that's happened every three or four 8 years or so -- they've done exactly the same. They've 9 moved a little bit, changed a little bit, only a tiny 10 bit, in the hope that the criticism will go away for 11 long enough so they can then get on with business as 12 usual, and that's exactly what's happening here. 13 Looking at the contracts, which is the only 14 significant new part of what they're suggesting, I just 15 don't understand how that would be enforced. Are they 16 seriously suggesting that if a newspaper decided that 17 they would not, after considerable mediation and 18 discussion, move to a resolution on a complaint, that 19 the new PCC or whatever it's called would then sue? 20 I just don't see that as credible. I'm sorry. 21 MS STANISTREET: It's also highly plausible -- and it 22 happens all of the time -- all of the companies that 23 would have to be voluntarily part of this commercial 24 contract process, they breach contracts routinely, 25 whether it's with our members or with other</p> <p style="text-align: center;">Page 65</p>	<p>1 and the public interest. Therefore anybody that doesn't 2 have that as their primary duty, I think, fails, and 3 indeed I would say that's partly the reason why the PCC 4 failed. It specifically refused to take that duty on 5 board when it was first set up. 6 LORD JUSTICE LEVESON: So in fact, you're agreeing with 7 Mr Jay, that although obviously underlying whatever we 8 do must be freedom of expression and a free press -- 9 they're not quite the same -- 10 PROFESSOR FROST: No, they're not, no. 11 LORD JUSTICE LEVESON: -- that has to be read subject to 12 appropriate consideration -- I appreciate I'm using 13 a weasel word -- of the rights of others? 14 PROFESSOR FROST: Yes. But I think the idea of weasel words 15 is very important. All of this ends up being about 16 balances, checks, weasel words and so on, because there 17 is no right answer in any one circumstance. This is why 18 we're all sat here, because it's so difficult. 19 I'd certainly like to pick up on your absolutely 20 correct point that the freedom of the press and freedom 21 of expression are not identical, and we sometimes forget 22 that. 23 MR JAY: Yes. The other point -- we fully understand 24 "freedom from interference by the state and 25 politician" -- that doesn't require expansion -- but</p> <p style="text-align: center;">Page 67</p>
<p>1 organisations or companies. Some rip them up. Some 2 just simply ignore them. It wouldn't give the 3 organisation the teeth that have been so badly absent 4 from the PCC and the way in which it does its work. 5 MR JAY: May we look now at the attributes of the system 6 that you are proposing. It really starts at page 01084. 7 On the internal numbering it's page 4 of your joint 8 statement. 9 You identify, first of all, that the primary duty of 10 any new body must be to ensure the freedom of the press, 11 must be independent of state, politicians, media owners 12 and editors. Can we just break that down first? 13 Primary duty to ensure the freedom of the press. It is 14 a regulator and therefore balancing that primary duty 15 against other perhaps equally primary rights and 16 obligations, namely the private rights of individuals; 17 is that correct? 18 PROFESSOR FROST: That's right. There's no point in having 19 a regulator for the press unless it sees freedom of the 20 press as being of considerable -- paramount, even -- 21 importance, because otherwise you become a regulator 22 which just says, "You shouldn't invade privacy, you 23 shouldn't do this, you shouldn't do that", and clearly 24 there is damage there. You have to be able to justify 25 doing those things on the basis of freedom of expression</p> <p style="text-align: center;">Page 66</p>	<p>1 "independent of media owners and editors" -- to be clear 2 about that, you see within the system some role for 3 editors and proprietors in the constitution of the 4 system? You're not ruling them out altogether? 5 PROFESSOR FROST: No, no. 6 Q. And that doesn't infringe your principle of 7 independence? 8 PROFESSOR FROST: No, no, no, we think all the major 9 stakeholders should be involved, and that includes 10 proprietors and editors -- they're the ones who run the 11 newspapers -- editors who run the editorial side day to 12 day, the public, journalists. All need to be involved. 13 MR JAY: When you say "independent" of, for example, 14 editors, do you mean this: that editors shouldn't have 15 a majority voice? 16 PROFESSOR FROST: Yes. 17 MS STANISTREET: We believe it's the members drawn from 18 civil society should actually form the majority in terms 19 of the shake holder control of that body. The 20 journalists should be represented via their trade body, 21 the NUJ. The editors can be, the owners can be. 22 There's a way of balancing all of the very genuine 23 interests that everybody has in the process but it's 24 important that public members should form the majority 25 so that it's not one body, the editors or the owners,</p> <p style="text-align: center;">Page 68</p>

<p>1 who are actually controlling proceedings.</p> <p>2 Q. Your second point: the body needs to be free for users</p> <p>3 but in terms of the funding of the body, are you ruling</p> <p>4 out some form of state subvention?</p> <p>5 PROFESSOR FROST: No. I mean, that may be entirely</p> <p>6 appropriate. I don't see the costs of a body of this</p> <p>7 sort being significantly higher than the present PCC.</p> <p>8 There's no particular reason why it should be. But</p> <p>9 I certainly wouldn't rule out funding. We've not talked</p> <p>10 about it in detail.</p> <p>11 Q. Can I ask you about the body needing to encourage good</p> <p>12 practice. You include within the scope of that having</p> <p>13 a right of reply, but what are the attributes of good</p> <p>14 practice in terms of category that you have in mind and</p> <p>15 how is the body going to achieve those objectives?</p> <p>16 PROFESSOR FROST: There's a whole range of good practice,</p> <p>17 starting with sticking by the code of practice that's</p> <p>18 decided by the new body, sticking by the right of reply,</p> <p>19 but also a whole range of other practice which the body</p> <p>20 could identify, and we hope it would build up over</p> <p>21 a period guidelines on good practice -- there are some</p> <p>22 obviously in existence already and some generally</p> <p>23 accepted points -- always contacting the subject of</p> <p>24 a story to attempt to get a comment from them, for</p> <p>25 instance, would be considered as good practice -- so</p> <p style="text-align: center;">Page 69</p>	<p>1 publication: "You must publish the relevant viewpoint of</p> <p>2 the person attacked, or whatever, within a certain time</p> <p>3 and in a particular place in your journal or</p> <p>4 publication"? Is that how you see it working?</p> <p>5 PROFESSOR FROST: I would certainly hope so. One of the</p> <p>6 advantages of a scheme like this -- and we go on later</p> <p>7 on to talk about an ombudsman, but I would see the</p> <p>8 complaint coming to the ombudsman initially, who would</p> <p>9 be able to say to the publication concerned: "Is there</p> <p>10 any good reason why you shouldn't publish this as</p> <p>11 a right of reply? If not, then you should do so as</p> <p>12 quickly as possible." The sooner it's published the</p> <p>13 better. I mean, ideally, the next day or the next</p> <p>14 publication date.</p> <p>15 Q. We heard from Lord Hunt that a failing in the current</p> <p>16 system, looking at it more generally, is that editors,</p> <p>17 newspapers, don't often deal with complaints as the</p> <p>18 first port of call as a matter of course, and if only</p> <p>19 they did, that would reduce the work of the PCC or any</p> <p>20 successor regulator. I mean, is it your view that the</p> <p>21 newspaper itself should, generally speaking, be the</p> <p>22 first port of call and only if that fails, as it were,</p> <p>23 should the regulator move into focus?</p> <p>24 PROFESSOR FROST: That seems to me to be the ideal, if you</p> <p>25 have a complaint -- a newspapers has published something</p> <p style="text-align: center;">Page 71</p>
<p>1 that over the period the new body would be able to say</p> <p>2 to journalists and to student journalists as well: "This</p> <p>3 is what we consider to be good practice and that can be</p> <p>4 continually developed."</p> <p>5 Q. Are you arguing for a right of reply which is mandatory</p> <p>6 in the newspaper?</p> <p>7 PROFESSOR FROST: We certainly wouldn't oppose that. We're</p> <p>8 not arguing strongly in favour of it. We feel it is</p> <p>9 something that should happen. It's part of our code of</p> <p>10 conduct that if someone seeks a right of reply on</p> <p>11 matters of significant inaccuracy, that that should be</p> <p>12 corrected. We see that as being good practice that</p> <p>13 should automatically happen, and I'm slightly astonished</p> <p>14 that it still doesn't, really.</p> <p>15 MS STANISTREET: It's also the issue of due prominence when</p> <p>16 that right of reply happens, so it's not just buried</p> <p>17 somewhere at the back of the book but it equates with</p> <p>18 the weight of the original story.</p> <p>19 Q. What would the role of the regulator be, though, in</p> <p>20 relation to the right of reply? For the right of reply</p> <p>21 to be valuable, one would want it to be exercised fairly</p> <p>22 quickly.</p> <p>23 PROFESSOR FROST: Mm.</p> <p>24 Q. Is the regulator going to have a fast-track system</p> <p>25 whereby it would, in the appropriate case, say to the</p> <p style="text-align: center;">Page 70</p>	<p>1 about you which is in correct or breaches a code -- that</p> <p>2 you contact the editor directly. Ideally, on a big</p> <p>3 paper where the editor can't deal with everything, they</p> <p>4 would have a readers' editor or some sort of compliance</p> <p>5 officer who would deal with that and make sure that</p> <p>6 happens.</p> <p>7 If we look at what happens in a number of countries</p> <p>8 abroad, they have readers' editors or news ombudsmen who</p> <p>9 take calls and deal with them on a regular basis so that</p> <p>10 the complaint can be dealt with in a matter of a couple</p> <p>11 of days at most. Obviously, not all of them can be</p> <p>12 corrected then and that would then go on to the new body</p> <p>13 but hopefully it would deal with a large number of sort</p> <p>14 of fairly run-of-the-mill complaints.</p> <p>15 Q. The next topic to deal with -- you've touched on this</p> <p>16 already, but we'll develop it -- is the issue of</p> <p>17 third-party or group complaints. There may be a slight</p> <p>18 difference between the two. A third-party complaint may</p> <p>19 be visualised as one whereby someone wishes to complain</p> <p>20 on behalf of the first-party complainant who is</p> <p>21 expressly identified in the publication but may or may</p> <p>22 not wish to complain himself or herself. A group</p> <p>23 complaint may be where there isn't in fact a first-party</p> <p>24 complainant because the complaint can only be made by</p> <p>25 the group and no one individual is identified. These</p> <p style="text-align: center;">Page 72</p>

18 (Pages 69 to 72)

<p>1 may be seen as Venn diagrams with common ground between 2 the two, perhaps, but what is your general view in terms 3 of policy in relation to each category and what the new 4 regulator should be doing here? You cover this in three 5 or four pages of your statement, but in your own way 6 could you develop that point? 7 PROFESSOR FROST: Certainly we think that the body should 8 take complaints from anyone who wants to make 9 a complaint. You're quite right; some of the complaints 10 from people who are not directly involved in the story 11 may concern stories that do involve someone else. This 12 particularly applies to stories about the Royal Family, 13 for instance, where people may feel very upset on behalf 14 of one member of the Royal Family, for some reason, the 15 story that's been written, and would feel obliged to 16 complain. Quite clearly, the subject of the story may 17 then say, "No, this is fair game, I'm not interested", 18 and I certainly think the new body would need to consult 19 with the subject of the story to find out their position 20 on that type of complaint. 21 The more usual complaints that we're concerned with 22 are more of the group nature, although it doesn't have 23 to come from the group, but a story about almost 24 anything where there isn't it an identifiable subject of 25 the story. It might be about a group of people --</p> <p style="text-align: center;">Page 73</p>	<p>1 if it isn't made by the person who is affected? So your 2 Royal Family example is clear on one side of the line. 3 The family of somebody who died might actually be rather 4 more difficult. 5 PROFESSOR FROST: Yes, it would be more difficult, but 6 certainly my experience is that those kind of cases are 7 more of a minority, and whilst that doesn't diminish 8 their obvious importance, they would be much easier to 9 deal with in the sense that there wouldn't be that many 10 of them. 11 I also think it would be incredibly useful to deal 12 with those kind of complaints, probably through the 13 ombudsman, who would need to contact various people who 14 are connected with the story, in terms of providing good 15 practice, because although it may end up that it would 16 not be seen as being a breach of the code, it would 17 offer guidance to journalists about the way that the new 18 body feels that we should be dealing with those, and 19 that's something that's missing at the moment. We don't 20 necessarily get the guidance from the PCC, mainly 21 because they resolve so many of the complaints it's 22 difficult to actually understand where they see that 23 line as being, so that it always ends up being a grey 24 area. It's a criticism I've made of the PCC on a number 25 of occasions that we simply don't get sufficient</p> <p style="text-align: center;">Page 75</p>
<p>1 asylum seekers was one I mentioned before, where there 2 were a large number of stories a few years ago about 3 asylum seekers, many of them quite outrageous, and it 4 wasn't possible to make a complaint to the PCC because 5 if there was a subject of the story, they weren't the 6 people who were making the complaints. And those kind 7 of complaints could come from individuals, they could 8 come from groups, but those should be entertained by the 9 new body to look at how they line up against the code 10 and practice and also potentially to fit into this good 11 practice that I was talking about so they could say, 12 "Well, good practice in these types of stories would 13 be ..." And the PCC does do a little bit of that, 14 although not as much lately as it has done in the past. 15 LORD JUSTICE LEVESON: But there aren't any black lines 16 here, are there? Because the example that's cited in 17 your evidence concerned somebody who died. He can't 18 complain. Indeed, I heard from Mr and Mrs Watson about 19 their story. Somebody who is dead can't do anything 20 about it, yet equally one can't litigate about what 21 happened 200 years ago. Somebody might complain that 22 Guy Fawkes had been very badly traduced by the press and 23 still is every year. We can't go that far, but would 24 you agree there has to be some room for a judgment to be 25 exercised as to whether a complaint is legitimate, even</p> <p style="text-align: center;">Page 74</p>	<p>1 guidance, and I would hope the new body, probably 2 through the ombudsman, would be able to give much more 3 of that kind of guidance so that journalists could learn 4 about it, so people like me could teach new journalists 5 in our courses about the way that the industry in the UK 6 sees those kind of things being shaped. 7 LORD JUSTICE LEVESON: Yes. That was merely an example, but 8 it's an example of a wider problem, that the lines are 9 sometimes rather more blurred than strict black letter 10 rules might suggest. 11 MS STANISTREET: But that's why it should -- sorry, 12 I interrupted you. 13 LORD JUSTICE LEVESON: No. 14 MS STANISTREET: That's why it's really important that it's 15 as open access as it possibly can be, because at the 16 moment, the reality is that so many people, whether the 17 family members of somebody who may well have died in 18 tragic circumstances who feel that they've been maligned 19 and the person that they've lost has been treated really 20 unfairly by the press, or whether they're groups of 21 people who might be disabled and have come under attack 22 for things that have been written about them disabled 23 people in general or asylum seekers -- so many groups 24 and individuals have been excluded from justice and 25 a fair hearing by the PCC. So that has to change.</p> <p style="text-align: center;">Page 76</p>

<p>1 So there are grey areas but the general principle 2 should be to make it as inclusive and open as it 3 possibly can be, and that's why it's hugely 4 disappointing to sit and hear Lord Hunt today state that 5 this isn't something that his new body is going to even 6 consider. I think that says a lot about their way 7 forward on this core issue that has clearly affected so 8 many people, and so many groups and individuals have 9 come to the Inquiry to explain in very powerful detail 10 just how they've been affected by stories in the press, 11 even though they haven't been necessarily named. 12 PROFESSOR FROST: If I can add, I think this is absolutely 13 why such a new body would be crucial, because if it was 14 black line, we could deal with it all through the law, 15 which is very good at dealing with black line issues. 16 It's because it's so grey, because it depends exactly on 17 what's written in this story or that story, exactly how 18 the people who are written about feel about it, that it 19 needs to be a body which is able to look at this in much 20 more detail. 21 MR JAY: Can I raise two possibly contrary positions with 22 you both? The first is a general point. Do you accept 23 there is a danger that the complaints process might be 24 turned into a campaigning platform? 25 PROFESSOR FROST: That's certainly a risk and I know those</p> <p style="text-align: center;">Page 77</p>	<p>1 the third-party complaint point, although again, it 2 overlaps with it. It's paragraph 50 of Professor 3 Frost's statement. We touched on it briefly earlier, 4 the harm and offence issue, where you say: 5 "At the moment, the PCC does not make complaints 6 about issues of harm and offence unless it involves 7 death/suicide in particular." 8 Isn't there a danger here that if the regulator does 9 become embroiled in issues of harm and offence, given 10 that these may be said to be subjective, that we are 11 moving into the area of possible censorship and so 12 therefore the PCC or the regulator is right to draw 13 a line in the sand at this point? 14 PROFESSOR FROST: I certainly think it's right to draw 15 a line in the sand. The difficulty is it has drawn 16 a line in the sand where it says, "We will not deal with 17 harm and offence or taste and decency", and I certainly 18 don't think we should get involved in taste and 19 decency -- there's a significant difference -- but it's 20 wrong to say it doesn't get involved in harm and 21 offence. If we look at some of the complaints that the 22 present body takes about suicide, for instance, 23 a significant amount of that is about not reporting too 24 much of the detail of a suicide, partly because it may 25 spark copycat suicide but partly because it's just too</p> <p style="text-align: center;">Page 79</p>
<p>1 who, when the PCC was set up, moved away from 2 third-party complaints because they felt that there were 3 one or two people who had been using it as a campaigning 4 base. 5 Having said that, I don't necessarily see that as 6 being a huge problem, because if there is a campaigning 7 base around a big issue, then maybe the body ought to 8 take much more consideration about why that is happening 9 and can then identify what good practice is and should 10 be in those circumstances, lay that down so that it can 11 then say in future: "Right, all of these complaints 12 don't comply with our practice so we can put them away. 13 These do and we will take those on to look at how those 14 stack up against our good practice guidelines." 15 LORD JUSTICE LEVESON: But also there must be a mechanism to 16 dismiss frivolous complaints if they are made. 17 PROFESSOR FROST: Of course. And a large number are. 18 Lord Hunt mentioned about the people who write to 19 complain that the newspaper boy doesn't deliver their 20 newspapers properly. That happens all the time in any 21 such body and is bound to happen here. 22 LORD JUSTICE LEVESON: Yes. That merely reflects a lack of 23 understanding of what the body actually does. 24 PROFESSOR FROST: Mm. 25 MR JAY: The second is a related issue. It's not quite on</p> <p style="text-align: center;">Page 78</p>	<p>1 offensive. 2 I'm certainly personally of the view that most harm 3 and offence can be dealt with. If a newspaper wants to 4 go around offending its readers, then it should be 5 entitled to do that providing it's not breaching the law 6 in other ways. So it is a very difficult area and 7 I certainly agree we don't want to go too far down the 8 line of introducing it, but I think it's foolish to not 9 consider it at all. 10 The key question here is around video. At the 11 moment, television and radio are obliged to consider 12 harm and offence, and that applies to their Internet 13 sites as well, which means we get the anachronistic 14 problem of newspaper websites being allowed to put 15 material on which would breach harm and offence, but 16 broadcast websites publishing the same stories would not 17 be allowed to do that. We feel there needs to be 18 balance between those two and it may be that the new 19 regulator would have to look at harm and offence in 20 relation to video on websites to align it much more 21 closely to the Broadcasting Act. Communication Act, 22 sorry. 23 Q. It might be said there's something more vivid about 24 a moving image which requires a particular form of 25 regulation, and it could be that in terms of press</p> <p style="text-align: center;">Page 80</p>

<p>1 regulation, although harm and offence without more may 2 not be within the regime, if one is talking about 3 serious harm, serious offence -- and this is where 4 suicide comes in with the copycat issue -- if you are in 5 the realm of very serious harm, that may be where the 6 regulator could have a proper function, but not 7 otherwise. Do you think that may be --</p> <p>8 PROFESSOR FROST: Absolutely, although if we get to the 9 stage of serious harm and offence, usually that's 10 covered by some appropriate law or another in any case. 11 But you're right about video and what it shows and we 12 don't see why it's okay to show some, I don't know, 13 video of the latest terrorist outrage happening, 14 perhaps, on a newspaper website but not on a TV website. 15 If we think in this country that it is not appropriate 16 to show film like that, it's not appropriate to show it.</p> <p>17 Q. The attributes of the new system -- you break it down 18 into three issues at the bottom of page 7 on the 19 internal numbering of your joint statement, 01087 then 20 onto the next page. The first general rubric is that of 21 authority; in other words, what's the source of the 22 jurisdiction. I think it's right to say that you favour 23 some form of statutory underpinning which you see as 24 different from statutory regulation. I can ask 25 Ms Stanistreet to develop that point. What is the</p> <p style="text-align: center;">Page 81</p>	<p>1 of the press in terms of small magazines, small 2 websites, small newspapers, but we think all of the 3 major players have to be there. That we can't have -- 4 it's been called the Desmond question throughout this 5 process, where you have somebody who chooses to leave 6 a system of regulation because it's demonstrated very 7 clearly just the lack of power and accountability that 8 the PCC genuinely has, and the system that the industry 9 is proposing as a solution in terms of commercial 10 contracts doesn't wash, and it's quite clear -- I'm 11 surprised to hear that from Lord Hunt that all of those 12 publishers have agreed to be part of a new framework.</p> <p>13 He referred to a letter that was sent to the 14 gatekeeper's authority earlier this week in which 15 Northern & Shell, owners of Express Newspapers, 16 expressed doubt about the press card, the use of the 17 press card, as a mechanism to introduce ethical 18 behaviour. Well, I have a copy of that letter, as the 19 NUJ is also one of the key distributors of the press 20 card, and it's not expressing doubt, the Express 21 Newspapers; it's outright hostility. They're 22 threatening legal action and alleging that this would 23 constitute a serious breach of UK and EU competition 24 law. So it's quite clear that there's not unanimity of 25 purpose in this process and their solution for the way</p> <p style="text-align: center;">Page 83</p>
<p>1 difference between statutory underpinning and statutory 2 regulation?</p> <p>3 MS STANISTREET: We believe that there would need to be 4 a framework for this new council and the ombudsman 5 process to be established -- that would have to be in 6 statute, it would have to be underpinned in the same way 7 as the Irish Press Council and ombudsman is over in 8 Ireland -- that it would lay out the framework and the 9 terms of reference for those organisations and their 10 obligations and their responsibilities, so it wouldn't 11 be as deeply developed as a piece of legislation in its 12 own right but it would very clearly underpin the 13 existence of those bodies in statute, and we also 14 believe that it would be wrong if this was a voluntary 15 process for publishers to be able to choose whether or 16 not they opt into it or not. We believe that they would 17 have to be part of that organisation and that would be 18 the only way of achieving real change.</p> <p>19 LORD JUSTICE LEVESON: That's a big step. How would you 20 define who must be involved?</p> <p>21 MS STANISTREET: Well, we think all of the major publishers 22 in the press should be. We've talked in here about 23 using turnover or using whether an organisation is 24 eligible for VAT, for example, as a means of separating 25 out the smaller organisations that make up quite a chunk</p> <p style="text-align: center;">Page 82</p>	<p>1 forward.</p> <p>2 LORD JUSTICE LEVESON: But do you think that one of the 3 reasons that there is the divergence of membership is 4 a consequence of the way that the present PCC is set up, 5 and that if it were set up in a way that did not, on the 6 face of it, favour certain interests, then these 7 problems might become less acute? If I'm being coy, I'm 8 sure you understand precisely what I mean.</p> <p>9 MS STANISTREET: But we heard yesterday from Lord Black that 10 if we see any form of statutory involvement, whether 11 it's underpinning or regulation, that members of the 12 industry would up sticks and leave the country and set 13 up elsewhere, so in terms of relying on their goodwill 14 to be part of a new process, if it's a voluntary 15 process, I would have doubts that they would play ball 16 if it's not the exact model that they would wish to see 17 as a result of this Inquiry. So making it a compulsory 18 process seems to me the only sensible, pragmatic way 19 forward.</p> <p>20 PROFESSOR FROST: If I can add that the problem about being 21 voluntary is inevitably you end up playing to the lowest 22 common denominator because otherwise you're scared 23 someone will leave, quit, and this has happened with the 24 PCC on several occasions. So you're constantly playing 25 down rather than fighting, as you would be able to do</p> <p style="text-align: center;">Page 84</p>

<p>1 with a statutory system, for a sensible system of 2 regulation, not one that is anything to do with 3 censorship, not one that is anything to do with obliging 4 people to do things -- because it would still remain 5 largely in the control of the stakeholders -- but one 6 that didn't have to play to the lowest common 7 denominator, that could raise the standards of the 8 lowest hopefully to match the standards if not of the 9 highest then at least of those in the middle.</p> <p>10 LORD JUSTICE LEVESON: You mention the Irish model, but 11 I think the Irish model is not compulsory. Isn't that 12 right?</p> <p>13 MS STANISTREET: That is right. I mean, there would be some 14 in Ireland at the moment who would see that as 15 a potential weakness and that is something that should 16 be considered in the future in terms of getting more 17 people as part of that process, but I think the problems 18 that we've experienced in the UK go far beyond anything 19 that's happened in Ireland, and so we're trying to 20 resolve and issue and the problems within the culture, 21 the practices and the ethics of the press here in the UK 22 that haven't been experienced and didn't in Ireland to 23 in any way that degree and didn't lead to the inception 24 of the Press Council of Ireland as it is currently.</p> <p>25 LORD JUSTICE LEVESON: The other thing that people have</p> <p style="text-align: center;">Page 85</p>	<p>1 riot with their ethics, we wouldn't be in the situation 2 now anyway and we could have a voluntary system exactly 3 of the sort we have. The fact is, it hasn't worked. 4 That's why we're all here. We have to look at new 5 solutions.</p> <p>6 LORD JUSTICE LEVESON: Actually, that raises a question 7 which I meant to ask you, relying on your interest in 8 the way in which regulation has worked over many years. 9 It has been said more than once to the Inquiry that 10 actually we've never tried self-regulation and that 11 everything that's happened in the past isn't regulation 12 really at all; it's only been complaints-handling. If 13 one looks at the use of the language over the years, the 14 word "regulation" certainly does appear, but I'd be very 15 grateful for your historical perspective upon the 16 evidence that I've received that actually this would be 17 the first attempt at self-regulation.</p> <p>18 PROFESSOR FROST: Yes, you're quite right. We've had this 19 remarkable change over the last few months, really, that 20 the PCC is just a complaints body and has never been 21 a regulator. But you're also quite right; it's always 22 called itself a self-regulator since the day it was set 23 up. It was set up with a view to regulating the press. 24 The fact that it didn't do it very well and was just 25 a complaints body is a criticism that a number of</p> <p style="text-align: center;">Page 87</p>
<p>1 said -- and I'm putting them to you for comment -- I've 2 received a number of submissions, which I have sure 3 you've seen, which talk about the very idea of statutory 4 regulation as being fit only for other countries which 5 operate systems which are not akin to democracy.</p> <p>6 MS STANISTREET: There's been a lot of reference to 7 Zimbabwe.</p> <p>8 LORD JUSTICE LEVESON: Yes, I didn't refer to the --</p> <p>9 MS STANISTREET: It's farcical, really. The vested 10 interests -- the elements of the press who have a lot to 11 lose if this changes have tried to polarise the 12 discussion, the debate and the options as if it's 13 a choice between state control of the media and press 14 freedom as we know it, and of course that's daft and the 15 truth lies somewhere in the middle. And statutory 16 underpinning of the kind that we are supporting and 17 proposing absolutely would not jeopardise press freedom 18 in the UK. You've made it very clear that you have no 19 intention of doing anything akin to the jeopardy of 20 putting press freedom in peril, and that doesn't have to 21 be the choice before us.</p> <p>22 PROFESSOR FROST: You also have to understand that if the 23 press over the last 30 years had actually behaved in the 24 way that they claim now that they have always wanted to 25 and had not allowed their commercial interests to run</p> <p style="text-align: center;">Page 86</p>	<p>1 people, me included, have made since 1989. It has not 2 changed the way the PCC has proceeded until it 3 absolutely felt that it had failed. We gave evidence to 4 the PCC review in 2010 detailing a lot of what's in our 5 evidence this time, as did a number of other interested 6 parties, and that was all rejected. The PCC was not 7 prepared to take that on board then. Suddenly it is.</p> <p>8 Maybe we ought to give them one last chance, but 9 they've had inordinate number of chances. I don't think 10 they're prepared to accept it, and so reluctantly the 11 only other place to go is some sort of statutory 12 underpinning.</p> <p>13 LORD JUSTICE LEVESON: Let me just follow that on. People 14 have said: oh, this would be horrific, the industry 15 would fight it tooth and nail, as indeed it may. But 16 what's the view of your members, Ms Stanistreet?</p> <p>17 MS STANISTREET: The industry would have to live with it. 18 That would be the reality.</p> <p>19 The view of our members -- as you can imagine, there 20 will be mixed views. We're a very broad church, the 21 NUJ, and very proud of that, but it's been the policy 22 position of the National Union of Journalists for years 23 now that the PCC needed drastic reform, that it wasn't 24 fit for purpose, it needed to change, and we have 25 lobbied and campaigned and tried to engage with the PCC</p> <p style="text-align: center;">Page 88</p>

<p>1 over a long period of time to fulfil the wishes of our 2 members to see radical change.</p> <p>3 At the point of our delegate conference two years 4 ago now, there was a motion debated -- so it was 5 a democratic process by all of the delegates at that 6 meeting -- and the overwhelming consensus was that the 7 PCC had had its day, that it was beyond repair, that it 8 had shown itself not to be capable of reforming and 9 changing and that the union's policy position shifted to 10 be one of opposing the PCC and calling for a fresh new 11 body to replace it, and that's the policy position of 12 the union.</p> <p>13 Our policy since then -- and we were caught slightly 14 on the hop in terms of our position -- was for a new 15 body, but we didn't have a blueprint of exactly what it 16 would look like, so since the News of the World scandal 17 and the Inquiry was established, it's been a process of 18 going through our democratic structures to tie down our 19 policy in more detail, which has led to the position now 20 being that we believe statutory underpinning is 21 absolutely vital.</p> <p>22 LORD JUSTICE LEVESON: And I think somebody said recently, 23 "Well, the NUJ is only a comparatively -- it's not 24 a representative body." How many journalists are now 25 members of the NUJ?</p> <p style="text-align: center;">Page 89</p>	<p>1 to be compelled, but can we be clear of two things, 2 really: first of all, what are the criteria for entry 3 and secondly, why aren't smaller entities going to be 4 brought into this system?</p> <p>5 PROFESSOR FROST: There are two key elements. One is the 6 difference between freedom of the press and freedom of 7 expression. That raises issues around the abuse of 8 power or potential abuse of power by newspapers. If 9 I say something in public, people can contact me, they 10 can argue the case. It may well be face to face of 11 them. That is not true of a big newspaper -- the 12 Daily Mail, for instance -- where it's much more 13 difficult for somebody who is traduced by them to get 14 a response. So we need to find a way of addressing that 15 potential abuse of power.</p> <p>16 There's also a difference between me freely 17 expressing my views, you doing the same, and then 18 someone doing that for commercial gain, to pursue 19 a particular viewpoint because they think it will be 20 popular with their readers. So we need to take account 21 of those two quite significant differences in the 22 freedom of the press and the freedom of expression of 23 the individual.</p> <p>24 We've tried to look at ways of saying: how can we 25 exclude those who are writing, blogging, whatever it may</p> <p style="text-align: center;">Page 91</p>
<p>1 MS STANISTREET: 35,000, over. It's more of 2 a representative body than a handful of editors and 3 owners --</p> <p>4 LORD JUSTICE LEVESON: Oh, let's not get into an argument 5 about it, Ms Stanistreet. I'm merely wanting to deal 6 with the point so that you've said it.</p> <p>7 MS STANISTREET: We are the voice for journalism and 8 journalists in the UK and in Ireland, because we cover 9 Ireland as well. So we have members who work in the UK 10 and Ireland.</p> <p>11 LORD JUSTICE LEVESON: Do you have any idea of how many 12 people actually work in journalism in the UK?</p> <p>13 MS STANISTREET: It's very difficult to get exact figures. 14 We believe -- and of course, with new media, the 15 industry in the broadest sense is expanding all the time 16 and we represent members right across the industry, so 17 in book publishing, in magazines, newspapers, in 18 broadcasting. We believe we probably have about 19 a 65 per cent penetration, but as I say, the statistics 20 are very difficult to come by.</p> <p>21 LORD JUSTICE LEVESON: I just wanted to get, if you like, 22 orders of magnitude, as much as anything else. Thank 23 you.</p> <p>24 MR JAY: In terms of recruitment to the system, I think you 25 made it clear that smaller entities you wouldn't expect</p> <p style="text-align: center;">Page 90</p>	<p>1 be, for their own personal campaigning purposes or 2 because they are the editor of a fanzine for a sports 3 club or a parish magazine or a stamp collector's club or 4 association, and those who are selling large scale 5 newspapers to the public in general? We've suggested 6 that there could be a number of ways of doing that: 7 circulation, turnover, VAT registration, we've 8 suggested. We're not particularly wedded to any 9 particular system, but we do believe there needs to be 10 a cut-off point where those commercial organisations of 11 a reasonable size would automatically be covered by the 12 new body -- they wouldn't have an option, they wouldn't 13 have to join, they are just covered -- and those who 14 fall below that, who may wish to join, to take on board 15 the code, to carry some sort of kite mark, but don't 16 have to.</p> <p>17 Q. Yes, I understand that. Thank you.</p> <p>18 The other point I've been asked to put to you in 19 relation to statutory underpinning -- you identify on 20 page 9, second paragraph, our page 01089, what the new 21 regulation will be doing: taking complaints, enforcing 22 penalties, carrying out investigations, monitoring 23 performance and also setting -- I'm adding this to the 24 list -- standards of best or good practice. But would 25 one need statutory underpinning for all those aspects?</p> <p style="text-align: center;">Page 92</p>

<p>1 Is there room, at least in principle, for 2 self-regulation and best practice in relation to some of 3 them? 4 PROFESSOR FROST: Yes, I think so, and for most of the 5 day-to-day dealings I suspect that would be the case. 6 I can't see that the board would need to deal with too 7 many but there would need to be statutory underpinning 8 of some sort in order to be able to allow the board to 9 say, "This is such a serious breach that we will apply 10 a penalty, a financial penalty or fine", almost 11 certainly, because otherwise the newspaper could just 12 say, "Well, we're not paying it. What are you going to 13 do about it?" 14 I think that's really about the only point where the 15 statutory underpinning comes in, in the application of 16 those penalties and perhaps some identification of the 17 structure of how that would operate. 18 If we use the PCC -- and that may not be a good idea 19 since we say it doesn't deal with sufficient complaints 20 anyway, but if we use them as an example, because 21 they're only adjudicating 40 complaints or so a year, of 22 which they uphold about 20, I would envisage only two or 23 three of those at most would be the kind of complaints 24 that would be likely to attract penalties. 25 But even if we said the new body -- because it would</p> <p style="text-align: center;">Page 93</p>	<p>1 MR JAY: Can I deal with the issue of money in the context 2 of funding. Last paragraph on your page 9, 01089. You 3 outline a number of options. One of the options you 4 address, the third, is to charge fees for complaints 5 against those companies who are not prepared to treat 6 complaints seriously in the first instance. 7 Are you saying this: that if the publisher is not 8 able to deal with the complaint adequately internal and 9 the complainant is forced to go to the new regulator, 10 it's the company who should be paying a fee to meet the 11 complaints? Is that how you envisage it working? 12 PROFESSOR FROST: Well, it's certainly a possibility that if 13 the new body became concerned that newspapers were 14 wilfully ignoring complaints that had come to them 15 first, that they could charge a fee, but I have to say 16 it's not my favoured option. I don't think we would 17 want to push that. It would be much more sensible for 18 the new body to be funded either from the industry or 19 from state funds or a mix of the two. 20 LORD JUSTICE LEVESON: Well, you have to be very careful 21 about frivolous complaints then, haven't you? 22 PROFESSOR FROST: Indeed. 23 LORD JUSTICE LEVESON: One could say that any successfully 24 adjudicated complaint carries with it a costs 25 implication well. There are lots of potential models</p> <p style="text-align: center;">Page 95</p>
<p>1 be more expanded, because it would be much better known 2 by then -- deals with three or four times the number of 3 complaints, we're still only talking about the handful 4 of potential breaches that would require potential 5 penalties. 6 Q. Because the threshold for the application of a penalty 7 would be a serious breach; is that correct? 8 PROFESSOR FROST: Yes. We're suggesting that it would be 9 a very serious breach, or where there's evidence of 10 recklessness on behalf of the newspaper or where it's 11 a repeated breach of the same. 12 LORD JUSTICE LEVESON: Could you distinguish between the 13 type of topic that engaged that sort of approach? So, 14 say, for example, privacy on the one hand or accuracy on 15 the other, or is it just not possible to do that? 16 PROFESSOR FROST: I'm not sure that it's possible. If you 17 were able to show that a newspaper had recklessly 18 misrepresented the facts, then you may well want to 19 bring a penalty. I think it's much more likely that 20 privacy cases would be the sort where there would be 21 a penalty, but no, it's very difficult to say without 22 knowing exactly what type of complaints it would 23 receive. It would receive different complaints to the 24 PCC now, because hopefully people would be more likely 25 to complain because there would be a reason to do so.</p> <p style="text-align: center;">Page 94</p>	<p>1 for this. 2 MR JAY: Your second option, which is a levy which could be 3 organised by tax breaks, that would be another form of 4 state funding, put precisely in those terms, wouldn't 5 it? 6 PROFESSOR FROST: We just tried to raise some options. 7 We're not particularly wedded to any of them. 8 Q. The second category deals with powers. We've already 9 dealt with the issue of complaints. I'm quite 10 interested though in the final paragraph on page 10, our 11 page 01090: 12 "The new body should have a role in monitoring the 13 press' performance as well as monitoring threats to 14 press freedom. It could also monitor trends in 15 reporting. For example, if a newspaper is regularly 16 responsible for stories that are anti-Islamic, the new 17 body must have the autonomy to launch an investigation." 18 But on what basis though would the regulator make 19 judgments such as the one you are putting forward here? 20 "Regularly responsible for stories that 21 are anti-Islamic"; is that not somewhat subjective? 22 PROFESSOR FROST: It is a bit subjective, but stories from 23 a number of papers that were anti-Islamic raised quite 24 a furore a few years ago and it would be entirely 25 appropriate, it seems to me, for the new body to decide</p> <p style="text-align: center;">Page 96</p>

<p>1 to investigate what this is. It would fit very well 2 with the good practice guidelines I was talking about 3 where, having made some recommendations at the end, the 4 body would say, "We feel that this would be an 5 appropriate way forward in this area." 6 I mean, this has happened before. The old Press 7 Council used to do reports and did one or two extremely 8 good ones which were very useful for the industry in 9 guiding them to future best practice. The PCC has also 10 occasionally, in a much more narrow way, more focused 11 way, done something similar, which has brought good 12 guidance, particularly in media packs and things of that 13 sort. 14 So we feel it's very important that the new body 15 should be able to instigate investigations and monitor 16 practice when it feels things are not going as well as 17 they could be, and to issue guidance. I mean, with the 18 phone tapping, for instance, we've heard a number of 19 editors -- well, some editors say that they hadn't 20 realised this was illegal. Maybe if the PCC had pointed 21 that out at some point, it would have been easier for 22 people. 23 Q. Arguably the problem was compounded by the Code 24 Committee because paragraph 10 of the code specifically 25 says that there's a public interest defence even in the</p> <p style="text-align: center;">Page 97</p>	<p>1 there will be a small piece on the front page saying, 2 "We're sorry, see page ..." whatever it is, and there 3 will be a much longer apology there, fairly close to the 4 front. 5 I think most people accept that the seriousness of 6 the offence the newspaper has caused and where it was 7 published in the first place both play a part in where 8 the apology should eventually be published, and also the 9 size of the apology and what should appear in it is also 10 something that the new body should do. Remember, the 11 newspapers had an opportunity to correct this in the 12 first place without it going to the body, or should have 13 done, if the complaint had come to the editor. And so 14 if it's that serious, why didn't they deal with it at 15 that stage? 16 Q. The other issue -- I'm not sure you touch on it 17 directly -- is the possible payment of compensation to 18 complainants. We heard Lord Hunt and I think Lord Black 19 as well saying that that would be a poor idea since it 20 would encourage legalisation of the system. Do you 21 share that view or not? 22 PROFESSOR FROST: I don't think we've taken a specific view 23 on this. Speaking entirely personally, I don't see 24 there's a huge problem with it but I'm not too we had 25 to it because I do think there is a risk of people</p> <p style="text-align: center;">Page 99</p>
<p>1 case of phone hacking, which of course is not correct, 2 but anyway I'll pass over that observation and move to 3 the issue of sanctions. 4 You covered the issue of fines already and in the 5 written statement it's at page 11, 01091. You're 6 reserving those for serious cases or cases of 7 recklessness, et cetera, but there's also the question 8 of placement of corrections or apologies. Your 9 preferred system is that the regulator itself should 10 have the ability to impose an outcome on the publisher 11 and say exactly in what form and in what place the 12 correction or apology should appear, but might it be 13 said that that is a significant infringement of freedom 14 of expression or, put slightly differently, press 15 freedom, this degree of imposition on editorial judgment 16 as to where these matters should go in a newspaper? 17 PROFESSOR FROST: No, I don't see that. If we're saying 18 that the adjudication should be published -- and I think 19 everyone accepts that they should be -- we're only 20 really debating about whereabouts that they should be 21 published, and depending on the seriousness of the 22 offence, I can't see the new body saying, well, the 23 whole of the front page of this national newspaper 24 should become a correction, regardless of how serious 25 the offence was, but what they might want to say is that</p> <p style="text-align: center;">Page 98</p>	<p>1 pursuing cases in the hope of getting some compensation. 2 What this body should be doing is deciding whether 3 a newspaper has behaved unethically or not, not deciding 4 on the level of damage to the individual concerned, who 5 may have other forms of redress. 6 LORD JUSTICE LEVESON: Do the union have a view on some sort 7 of mechanism to resolve privacy and libel disputes short 8 of the lottery that is litigation at the moment? 9 PROFESSOR FROST: Yes. We've certainly been involved in 10 discussions on the potential new Libel Act and we would 11 certainly welcome the idea that there should be 12 a defence in the new Act that a newspaper or indeed any 13 publisher or broadcaster who is able to show that they 14 worked very hard on their ethics of news-gathering 15 should have stronger Reynolds-type defences than papers 16 who don't, but we don't want to sort of include that 17 with this new body. 18 LORD JUSTICE LEVESON: It's quite difficult -- that wasn't 19 quite my point. 20 PROFESSOR FROST: Oh, sorry. 21 LORD JUSTICE LEVESON: If I just pick up the point you've 22 just made, one has to be very careful because if it is 23 a voluntary body not a compulsory body, then one can't 24 penalise somebody who says, "Actually, my ethical 25 approach to stories is just as good as theirs, I'm not</p> <p style="text-align: center;">Page 100</p>

25 (Pages 97 to 100)

<p>1 in this system for reasons A, B and C" -- and they may 2 be good reasons -- "but actually we take just as much 3 care and therefore I shouldn't be treated any 4 differently than those who don't take the care." That 5 strikes me as a reasonable standpoint. 6 But I was really asking about whether there couldn't 7 be some part of this system that encourages an 8 alternative dispute resolution for privacy or libel or 9 the sort of complaints which, to litigate about, will 10 cost you a lot of money. If you don't have a view on 11 it, that's absolutely fine, but I just wanted to ask 12 whether the NUJ had formed a view on it. 13 PROFESSOR FROST: We've certainly left libel to one side. 14 So reputation, we've said that's dealt with by the law. 15 But privacy we would certainly hope would be covered by 16 the new body. Of course, if it's such a gross intrusion 17 into privacy that the person involved feels they're best 18 going to law about it, that of course is their choice, 19 but we would hope that the new body would deal 20 appropriately with privacy, and one of the advantages of 21 the kind of system we're suggesting is that an ombudsman 22 could deal with a privacy complaint reasonably privately 23 and pick up the issues involved from it, hopefully to 24 the satisfaction of the complainant, without having to 25 go through the kind of procedure now where it risks</p> <p style="text-align: center;">Page 101</p>	<p>1 public members; is that right? 2 PROFESSOR FROST: Yes. We think the majority should be with 3 the public, that the industry people need to be there, 4 because they bring a legitimate viewpoint, experience, 5 expertise to the board, but that they shouldn't be the 6 majority. 7 MS STANISTREET: We also think it doesn't necessarily have 8 to be editors. What we're seeing in the PCC is the 9 dominance of editors in that process. You don't have 10 that same approach in Ireland, for example. The 11 industry representatives tend to be more newsroom 12 editors, editors lower down the chain but who are very 13 much more in touch with what's going on in their 14 newsrooms, and we've heard many editors come here 15 professing ignorance about the worst excesses of 16 behaviour in their newsrooms, and perhaps it would be 17 better in a new body if the people who were representing 18 the industry were people who were genuinely in touch 19 with what was going on. 20 LORD JUSTICE LEVESON: Well, I think those who have said 21 that they weren't present were dealing with specifically 22 egregious reports and there certainly were a number of 23 people who were on holiday at very important times. 24 MS STANISTREET: Blame the B team. That's been the 25 approach.</p> <p style="text-align: center;">Page 103</p>
<p>1 bringing it all back into the public domain again. 2 MS STANISTREET: The kind of process that you refer to, 3 though, that kind of an adjudication, would be an 4 attractive thing for organisations in the industry if 5 that was part of this -- the regulator's process, 6 because it could be a way of resolving these issues, you 7 know, cheaply and speedily rather than being dragged 8 through the courts. So it could be an attraction in 9 some ways for media organisations to have that as part 10 of this process. 11 MR JAY: The constitution and structure of the new body. 12 One has to read the bottom of page 11, 01091, with 13 Professor Frost's statement, paragraphs 41 and 14 following. The basic structure, if I've correctly 15 understood it, is that the new body, which you're going 16 to call the Press Standards Commission, although the 17 label doesn't matter, should have two sections: a board 18 and ombudsman. When we're talking about the 19 constitution of the board, it's that which you address 20 at the top of page 12, where you have four categories of 21 stakeholder, and the division between the two is that 22 two-fifths are going to come from appropriate press 23 organisations, whether they be employers' groups, the 24 NUJ, Society of Editors, Association for Journalism 25 Education, and three-fifths are going to be lay or</p> <p style="text-align: center;">Page 102</p>	<p>1 MR JAY: In terms of what the new body is going to be doing 2 we're setting aside what the ombudsman might be doing. 3 Paragraph 44 Professor Frost's statement. It draws up 4 the code of practice, it investigates areas of 5 malfeasance, it deals with complaints, it campaigns for 6 better standards, et cetera. But if we're talking about 7 the code of practice, isn't it important, though, that 8 the editors have a significant voice, not even 9 a majority voice, when it comes to the code of practice 10 for their standards, their proprietors' standards, as it 11 were? I can see that for the contracts of employment 12 for journalists, where there might be a different code 13 of practice, well, then the voice of the editors should 14 be less loud. Is there merit in that analysis? 15 PROFESSOR FROST: Well, if we're in a position where there 16 would be two codes, one for the editors, one for the 17 journalists, I think that's absolutely right. But if 18 we're talking about one code that would be applied to 19 journalists' contracts, then there need to be 20 journalists on that committee. But I would say yes, 21 there also need to be editors. We need to get the 22 widest possible experience and understanding in 23 developing codes. Everybody has to be able to sign up 24 to that, otherwise no matter whether the organisation is 25 statutory or not, it's going to be applying a code that</p> <p style="text-align: center;">Page 104</p>

26 (Pages 101 to 104)

1 people don't believe in.
2 MR JAY: There are a few topics to deal with, probably about
3 15 or 20 minutes' worth, but is it convenient to break
4 now?
5 LORD JUSTICE LEVESON: I think we'll break now and carry on
6 if that's all right with you. 2 o'clock.
7 (1.00 pm)
8 (The luncheon adjournment)
9
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A	achieved 47:7	46:1	98:12 99:3,8,9	arrived 48:14	b 6:10 16:2 101:1	7:2 46:16
abided 14:22	achieving 82:18	aggrieved 34:4,7	appear 87:14	article 57:21	103:24	benefits 15:15
ability 17:11	Act 4:24,25 5:1	ago 14:12 31:18	98:12 99:9	58:2	back 8:15 10:24	best 15:9 32:23
47:17 98:10	9:7 11:22 17:4	58:7 63:22	appearance 6:3	articulated	16:10 19:14	33:1 36:3
able 1:23 12:3	50:16 80:21,21	74:2,21 89:4	appeared 34:8	10:13 61:3	26:7 28:11	44:25 57:11
32:2 47:15	100:10,12	96:24	appears 56:8	articulation	32:16,17 45:25	92:24 93:2
52:16,18 58:11	action 83:22	agree 2:11 6:14	application 1:14	49:25	58:19 70:17	97:9 101:17
62:23 64:6	actions 16:8	11:4,15 18:18	93:15 94:6	Ashford 2:4	102:1	bestow 49:10
66:24 70:1	activities 26:19	19:7 27:2,6	applied 104:18	aside 104:2	background	better 15:1 16:3
71:9 76:2	26:19	32:5 36:18	applies 23:21	asked 3:15 12:23	24:4 35:15	36:16 46:25
77:19 82:15	actual 26:11	38:1,7 74:24	73:12 80:12	12:25 28:4	36:5	52:3 54:22
84:25 93:8	46:14 58:22	80:7	apply 54:9 93:9	33:8,11 92:18	bad 18:8 22:2,9,9	71:13 94:1
94:17 95:8	acute 84:7	agreed 83:12	applying 55:14	asking 17:21	22:24 26:11	103:17 104:6
97:15 100:13	add 4:1 12:23	agreeing 44:5,24	104:25	27:17 101:6	badge 17:18	beyond 36:12
104:23	44:11 77:12	67:6	appointed 32:23	asleep 38:18	19:17,24 20:7	56:22 85:18
abroad 72:8	84:20	agreement 6:6	appointing 34:16	aspect 14:14	21:5	89:7
absence 20:6	adding 92:23	25:13 28:2	appreciate 8:20	aspects 2:18	badged 20:20	big 1:16,18,25
28:16	additional 15:24	38:3	8:21 60:20	92:25	badly 64:20 66:3	2:11 15:13
absent 66:3	17:16 51:9	ahead 2:5 6:6	67:12	aspiration 22:13	74:22	59:22 63:4
absolute 50:10	address 34:7	9:22	approach 9:13	22:22	baggage 23:7	72:2 78:7
50:12	49:23 64:16	aim 42:25	94:13 100:25	assessed 55:17	balance 3:23	82:19 91:11
absolutely 4:3	95:4 102:19	aims 10:12	103:10,25	assessment	40:18,19 42:21	bigger 1:25
9:24 53:22	addressed 3:4	akin 86:5,19	approached	18:11	45:18 49:24	bill 14:19
56:14 59:6	43:8	albeit 55:1	48:21	assign 56:1	50:17,18 55:19	binding 44:9
67:19 77:12	addresses 24:24	alert 34:6	approaching	assignment	57:3 80:18	61:7
81:8 86:17	addressing 53:8	align 80:20	63:13	54:15,19 55:25	balances 18:13	bit 12:7,7 56:7
88:3 89:21	91:14	alleging 83:22	appropriate	assignments	67:16	57:13 65:9,9
101:11 104:17	adequately 95:8	alleged 83:22	14:10 36:23	54:25 56:1	balancing 66:14	65:10 74:13
absorb 9:21	adhered 14:21	alotted 60:15	44:2 67:12	assist 48:20	68:22	96:22
abuse 91:7,8,15	adherence 20:2	42:14 45:5	69:6 70:25	associated 1:4	ball 84:15	black 12:4 33:4
abused 42:24	21:6	64:7 93:8	81:10,15,16	17:19	base 78:4,7	44:20 61:3
academic 61:14	adjournment	allowed 4:1 12:5	96:25 97:5	association 92:4	based 4:8 30:11	74:15 76:9
accentuate 22:3	105:8	47:13 80:14,17	102:22	102:24	basic 9:12 61:4	77:14,15 84:9
accept 3:1 7:16	adjudicated 24:1	86:25	appropriately	assure 8:9 45:17	102:14	99:18
8:23 26:5	95:24	allowing 42:23	101:20	astonished 70:13	Basically 37:21	Black's 2:17
35:18 36:23,23	adjudicating	alongside 37:10	approximate 3:7	asylum 58:21	basis 28:7 59:4	11:12 12:18
36:24 42:21	93:21	alternative 16:24	approximately	63:20 74:1,3	66:25 72:9	28:15 29:5,25
43:14 54:10	adjudication	101:8	62:2,4,7,8	76:23	96:18	40:23
60:13 61:11	14:6 24:5 38:5	altogether 68:4	arbitral 6:17	attack 76:21	BBC 56:13	blame 60:6
77:22 88:10	38:14 39:5,7	amalgam 32:22	arbitration 17:1	attacked 71:2	bear 58:1	103:24
99:5	62:7 98:18	amendment 4:25	area 17:14 63:1	attempt 64:23	beast 3:19	blogging 91:25
acceptable 2:18	102:3	53:19	75:24 79:11	69:24 87:17	becoming 27:7	blueprint 89:15
39:1	adjudications	amount 26:15	80:6 97:5	attempted 54:3	beginning 14:11	blurred 76:9
acceptance 26:2	30:5 38:20,23	64:13 79:23	areas 10:8 29:24	54:24	49:6	board 28:13,21
accepted 25:20	40:14	amounts 5:22	61:14 77:1	attended 22:16	behalf 6:15	67:5 88:7
69:23	admittedly 46:18	anachronistic	104:4	31:6	72:20 73:13	92:14 93:6,8
accepting 30:7	advantage 15:24	80:13	arguably 30:23	attention 44:1	94:10	102:17,19
31:20	19:20 39:20	analysis 104:14	32:11 60:19	attest 48:16	behaved 86:23	103:5
accepts 11:1	63:3	and/or 23:12	97:23	attract 93:24	100:3	bodies 82:13
98:19	advantages 71:6	25:22 38:12	argue 41:21	attraction 102:8	behaviour 15:22	body 2:5 3:3 5:9
access 76:15	101:20	39:13 40:7,10	91:10	attractive 102:4	15:23 16:2,5,6	9:19 11:23
account 4:13	adversarial 3:21	answer 2:9 3:17	arguing 43:16	attributes 66:5	16:14,15 17:17	28:14 29:11
14:20 17:9,17	4:5 7:9 9:1,4	29:16 31:24	70:5,8	69:13 81:17	18:20 26:11	32:19,21 33:13
19:3 91:20	adversely 38:13	36:2 67:17	argument 6:20	authority 3:6 5:7	83:18 103:16	35:6 42:2
accountability	39:13 40:8,11	answered 10:18	11:5 24:12	81:21 83:14	believe 3:18 5:23	43:10 45:6,9
6:12 20:2 83:7	advice 37:8	answering 14:7	39:6 90:4	automatically	8:11 9:12	47:12 54:7
accounting 6:4	44:20,21	anti-Islamic	arguments 5:14	70:13 92:11	15:11 19:23	60:24 66:10
accounts 6:3	advise 36:3	96:16,21,23	arises 39:7	autonomy 96:17	21:24 25:11	68:19,20,25
accuracy 21:6	advising 35:23	anybody 13:13	arm 6:17 23:18	avoid 9:13	30:4 34:15	69:2,3,6,11,15
64:1 94:14	advocating 4:15	37:3 67:1	37:11 43:13,17	awaiting 11:8	43:10 45:20	69:18,19 70:1
accurate 25:16	affirmation 48:6	anyway 6:1 87:2	43:24,25 44:1	award 17:11	46:4 49:17	72:12 73:7,18
accurately 16:22	affirmed 48:3	93:20 98:2	armoury 8:18	awards 17:9,10	68:17 82:3,14	74:9 75:18
57:3,14	afraid 8:17	apologies 37:20	arm's 7:12 39:21	aware 33:16	82:16 89:20	76:1 77:5,13
achieve 3:16	agencies 24:10	98:8	arrange 3:8	awareness 38:23	90:14,18 92:9	77:19 78:7,21
22:12 42:22	agenda 8:22,23	apologise 1:5	arrangement		105:1	78:23 79:22
46:2 69:15	8:24 19:23	apology 38:4	19:4	B	benefit 4:21 6:18	87:20,25 89:11

89:15,24 90:2	business 65:11	32:11 71:2	chunk 82:25	collector's 92:3	competitive	63:5
92:12 93:25	buying 39:2	84:6	church 88:20	coloured 8:18	38:16	comply 78:12
95:13,18 96:12	byline 58:9 60:12	certainly 9:16	circulation 92:7	come 9:15 17:17	complain 35:14	comportment
96:17,25 97:4		10:17,21 18:21	circumstance	28:17 33:5	63:9,19 72:19	16:17
97:14 98:22	C	19:23 21:2	67:17	34:13 50:14	72:22 73:16	compounded
99:10,12 100:2	C 101:1	25:14 26:15	circumstances	56:25 58:16	74:18,21 78:19	97:23
100:17,23,23	cage 30:22	28:21 29:2	41:16 76:18	62:19 64:19	94:25	comprehensive
101:16,19	calculation 5:19	33:2 46:19	78:10	73:23 74:7,8	complainant	25:16
102:11,15	Calcutt 6:21	56:6,18 57:9	cite 58:17	76:21 77:9	13:1 38:1	comprised 22:12
103:17 104:1	Calcutt's 52:20	57:12,17 58:14	cited 74:16	90:20 95:14	72:20,24 95:9	compulsory
book 5:1 11:18	call 38:6 45:12	58:19 60:11	civil 68:18	99:13 102:22	101:24	84:17 85:11
70:17 90:17	71:18,22	62:15,17 64:8	claim 86:24	103:14	complainants	100:23
books 50:5	102:16	67:19 69:9	clarify 42:3	comes 5:24 30:7	4:10 13:3,25	concentrate 1:21
bottom 81:18	called 47:24	70:7 71:5 73:7	clashing 32:12	31:20 81:4	41:20 99:18	22:6
102:12	65:19 83:4	73:18 75:6	clause 43:4,9	93:15 104:9	complained	concept 17:18
bound 48:7	87:22	77:25 79:14,17	53:12,16 54:13	coming 24:4,13	41:17	concern 6:15
78:21	calling 89:10	80:2,7 87:14	55:24 64:10	56:1 71:8	complaining	10:13 51:1
boundaries 4:11	calls 72:9	93:11 95:12	clear 7:22 9:23	commend 45:14	35:24	64:9 73:11
boy 78:19	campaign 64:17	100:9,11	31:19 33:19	comment 18:9	complaint 24:1	concerned 27:4
boy's 20:10	campaigned	101:13,15	36:9 43:14,20	37:1 57:23	24:23 35:22,25	35:13 38:21
brains 44:25	88:25	103:22	44:7 49:11	58:2 61:1	36:4 39:6	40:14 43:4
breach 14:4,5	campaigner 49:2	cetera 98:7 104:6	53:22 68:1	69:24 86:1	42:17 57:24	51:22 56:8
56:8 65:24	campaigning	chain 103:12	75:2 83:10,24	commentators	65:18 71:8,25	71:9 73:21
75:16 80:15	49:6 77:24	chair 24:2	86:18 90:25	6:23	72:10,18,23,24	74:17 95:13
83:23 93:9	78:3,6 92:1	challenging	91:1	commercial 44:3	73:9,20 74:4	100:4
94:7,9,11	campaigns 104:5	33:17	clearly 9:22 16:7	61:6 65:23	74:25 79:1	conclusion 9:16
breaches 72:1	capable 89:8	chance 46:11	29:10 32:25	83:9 86:25	95:8,24 99:13	17:2
94:4	card 2:22 3:5	88:8	42:10 50:13,16	91:18 92:10	101:22	conduct 26:9
breaching 80:5	83:16,17,20	chances 88:9	52:11 55:10,13	commission 13:2	complaints	51:14,16 53:4
break 47:20,22	cards 2:25	change 4:14	61:17 62:11	13:11,13 24:8	12:24 13:2,6,9	54:11 70:10
66:12 81:17	care 101:3,4	10:23,25 11:2	66:23 73:16	41:22 51:25	13:11,24 14:8	conference 89:3
105:3,5	career 31:2	20:14 58:14	77:7 82:12	52:4,21,23,25	23:17,23 24:17	confidence 20:1
breakdown	54:16 57:11	61:17 64:14	83:7	102:16	24:20 28:14	47:18
43:21	careful 18:4	65:2 76:25	clip 8:4	commissioners	33:18,21,24	confidential 28:7
breaks 96:3	95:20 100:22	82:18 87:19	clipping 7:20	5:6	34:1 36:16	confidently 4:17
brick 45:8	cares 39:3	88:24 89:2	close 6:5 7:18	Commissions	37:14 39:15	conflict 50:14
briefly 79:3	carries 95:24	changed 57:16	99:3	51:6	41:2,5,8,13	confrontational
bring 94:19	carrot 16:21	58:7 61:12	closely 80:21	commitment	42:20 43:20,25	7:10
103:4	17:5	65:9 88:2	club 92:3,3	16:16 44:13	44:1 46:15,25	connected 75:14
bringing 31:23	carry 92:15	changes 53:4	cocking 20:8	46:3	47:1,5,8 52:3	connection 1:6
102:1	105:5	86:11	code 10:22 14:4	committed 27:3	52:21,23,25	49:3,12
British 46:4	carrying 92:22	changing 52:15	14:5 16:6,7,13	committee 6:3	57:20 58:18,20	conscience 53:12
47:18	case 15:5 16:14	53:6 89:9	17:20 21:6,19	6:12,21 22:11	61:21,24 62:1	53:16 54:13
broad 24:10	16:23 37:12	characterisation	21:22 22:1,10	22:16 23:7,16	62:5,25 63:3,7	55:23
88:20	38:19 70:25	7:11	22:11,16,18,20	23:21 28:14,22	63:15,16,20,23	consensus 6:6
broadcast 80:16	81:10 91:10	characterise	23:16,21 27:7	29:12 97:24	64:1,2 71:17	89:6
broadcaster	93:5 98:1	17:6	27:8 28:3,5,13	104:20	72:14,17 73:8	consequence
100:13	cases 18:25 36:9	charge 95:4,15	28:22 29:12	common 73:1	73:9,21 74:6,7	84:4
broadcasters	42:1 62:16	Chartered 28:24	30:9 42:23	84:22 85:6	75:12,21 77:23	consequences
59:24	75:6 94:20	cheaply 102:7	43:4 51:14,15	communicate	78:2,11,16	46:20 60:7
broadcasting	98:6,6 100:1	check 57:17	51:19,20 52:17	28:6 42:4	79:5,21 87:20	consider 3:10
56:12 64:8	categories	checks 18:12	53:4,9,10,14	communication	87:25 92:21	8:14 14:9 29:2
80:21 90:18	102:20	67:16	53:19,19,24,25	35:22 80:21	93:19,21,23	70:3 77:6 80:9
broadest 90:15	category 69:14	chief 8:8	54:4,5,7,8,9,11	community 46:3	94:3,22,23	80:11
broadcaster	73:3 96:8	chivalrous 10:17	55:2,6 56:8	companies 65:22	95:4,6,11,14	considerable
100:13	caught 38:18	choice 86:13,21	60:4,14 61:19	66:1 95:5	95:21 96:9	65:17 66:20
broadcasters	89:13	101:18	63:14 69:17	company 95:10	101:9 104:5	consideration
59:24	caused 12:5 99:6	choose 20:11	70:9 72:1 74:9	comparatively	complaints-ha...	29:6 51:12
broadcasting	copyright 9:18	82:15	75:16 92:15	2:10 48:25	25:18 28:21	67:12 78:8
56:12 64:8	9:25 10:11	chooses 41:25	97:23,24 104:4	89:23	29:13 87:12	considerations
80:21 90:18	79:11 85:3	83:5	104:7,9,12,18	compelled 91:1	completely 11:19	23:12
broadest 90:15	cent 13:3,24 14:1	chosen 32:23	104:25	compensation	32:24 45:11	considered 42:12
brokered 34:23	14:1,3 24:16	Chris 31:9 48:3	codes 14:22 55:1	6:19 13:18	compliance 25:8	69:25 85:16
35:10	24:17,17 62:8	64:20	55:16 104:16	99:17 100:1	25:17 37:11	constant 60:11
brought 25:11	62:8 90:19	Christopher	104:23	competition	72:4	constantly 40:19
35:5 48:20	certain 13:8	48:10	colleagues 13:2	83:23	complicated	84:24
91:4 97:11						
BSI 19:22						
budget 12:18						
build 34:19						
69:20						
building 59:15						
buried 70:16						
burst 30:19						

constituency 11:10	controversial 51:19	30:16	21:18 23:25	22:24	9:9,16 29:14	divergence 29:25
constituent 9:18	convenient 105:3	creation 19:12	25:2 41:7	denominator 84:22 85:7	38:14 41:11	40:12 84:3
constitute 83:23	copy 3:9 58:7,8	53:18 55:5	53:25 60:16	departmental 5:15	46:22 54:1	diverse 33:14
constituted 11:12	58:22 83:18	credibility 1:15	75:18 77:15	depend 4:20 17:3	55:1 57:24	divert 18:19
constitutes 18:22	copycat 79:25	3:12 19:25	103:21	depending 15:6	81:24 94:23	diverted 36:15
constitution 68:3	81:4	credible 65:20	dealings 63:17	98:21	104:12	63:25
102:11,19	core 77:7	crime 24:22	93:5	depends 77:16	differently 15:6	divest 23:11
constructive 7:14 34:19	corporate 6:1,2	criminal 26:19	deals 61:24	depiction 58:20	98:14 101:4	division 102:21
constructively 46:2	correct 15:3	26:20 27:1	62:25 94:2	deploy 15:25	difficult 3:1 7:6	doctor 22:7,9
consult 73:18	43:19 44:20	28:5	96:8 104:5	20:11	19:2 29:16	documentation 47:2
consultation 20:25	66:17 67:20	criteria 91:2	dealt 24:10 72:10	depth 13:10	33:13,16 52:16	Dogs 4:24,25
contact 34:5,17	72:1 94:7 98:1	criterion 2:2	80:3 96:9	deputy 8:8	53:5 62:25	doing 10:11
72:2 75:13	99:11	critical 30:4	101:14	derisively 35:13	67:18 75:4,5	34:21 55:20
91:9	corrected 70:12	criticism 65:7,10	death/suicide 79:7	derived 5:20	75:22 80:6	57:18 66:25
contacting 69:23	72:12	38:14,20 40:13	debate 5:21	describe 34:22	90:13,20 91:13	73:4 86:19
contacts 37:9	correcting 10:9	75:24 87:25	19:15 29:12	described 22:9	94:21 100:18	91:17,18 92:6
contemplating 20:24	correction 37:25	crucially 19:24	62:5 86:12	designated 22:11	difficulties 41:20	92:21 100:2
content 10:7,21	38:4 98:12,24	cudgels 9:6	debated 89:4	desirability 32:15	difficulty 10:3	104:1,2
31:16 57:21	corrections 37:20 98:8	culpability 18:11	debating 98:20	desirable 7:15	54:18 79:15	domain 41:15
context 55:23	correctly 23:8	cultural 10:23,25	decency 10:6,20	28:19	diminish 75:7	102:1
95:1	28:2 53:20	11:2	64:4 79:17,19	Desmond 2:3	dip 7:5	dominance 103:9
continually 70:4	102:14	culture 25:21	51:14 96:25	83:4	direct 17:3 34:6	dominated 53:1
continuation 64:24	cost 4:9,19,23	26:3,22 36:12	decided 18:13	detail 3:12 12:7	34:6	door 23:7
continue 53:3	5:18 101:10	45:11 85:20	65:16 69:18	12:7 17:22	direction 21:1	doubt 2:21 17:17
continued 1:10	costs 69:6 95:24	current 12:3	deciding 100:2,3	61:15 69:10	directly 26:19	83:16,20
1:11 53:3	council 11:21	33:23 42:1	decision 8:20	77:9,20 79:24	34:20 72:2	doubtless 49:21
continuing 1:8	14:22,24 15:7	71:15	decisions 11:25	89:19	73:10 99:17	doubts 84:15
contract 6:7	22:5 52:7,8,11	currently 11:12	14:4	detailing 21:23	disabled 42:8	Dr 2:23 3:25
25:15 37:23	52:13,19 53:3	34:22 85:24	decision-making 55:18	88:4	76:21,22	drafted 59:16
44:10,21 45:4	82:4,7 85:24	cut 5:14	decline 4:11	details 34:17	disagreements 27:10	dragged 102:7
54:12 60:4	97:7	cut-off 92:10	31:14	detect 33:2	disappointed 52:9	dramatically 63:22
65:24	countries 51:17	D	deep 8:10 59:3	determination 2:5 22:17	disappointing 39:18 77:4	drastic 88:23
contracts 44:5	72:7 86:4	daft 86:14	deeper 26:22	41:15	discern 57:22	draw 43:25
44:14 53:11,15	country 81:15	daily 59:4 91:12	deeply 39:18	determinations 14:23,23	discovered 5:13	79:12,14
54:4 61:6,18	84:12	damage 66:24	82:11	determined 47:4	discretion 49:23	drawn 68:17
65:13,24 83:10	couple 53:21	100:4	defamation 11:22 14:19	detriment 54:16	discrimination 43:5 63:24	79:15
104:11,19	72:10	damages 17:10	15:5 17:4	54:20	64:3	draws 104:3
contractual 3:24	course 3:11 5:25	17:11 18:12	defence 15:17,25	develop 35:6	discussed 23:3	dressed 61:18
10:12 11:6	8:14 13:16	Damocles 32:13	97:25 100:12	46:11,12 54:7	discussing 19:23	drive 36:19
44:4,8 55:4	23:14 31:21	danger 11:9 60:3	defences 100:15	54:8 72:16	discussion 56:5,9	driven 35:11
contract-based 3:17 4:14	32:10 34:4	77:23 79:8	define 1:24 82:20	73:6 81:25	57:1 59:25	50:24
16:10	38:2 42:14	Dangerous 4:24	defined 30:13	developed 70:4	65:18 86:12	Dublin 15:10
contradict 23:4	43:8 45:22	4:25	degree 6:9 7:14	82:11	discussions 25:19 31:4	17:2
contrary 26:20	54:8 62:20	date 3:7 23:14	85:23 98:15	developing 44:14	34:3 56:14	due 70:15
28:5 56:23	71:18 78:17	71:14	delegate 89:3	104:23	100:10	duty 22:20 66:9
77:21	86:14 90:14	dated 48:11	delegates 89:5	devil 3:11	dismiss 78:16	66:13,14 67:2
contributed 48:12	98:1 101:16,18	day 3:18 45:9	deliberate 60:8	diagrams 73:1	dismissed 54:21	67:4
contributes 6:10	courses 76:5	55:14,14 68:11	delicate 42:21	dialogue 59:8,25	disparaging 20:11	dynamics 59:18
contribution 23:25 24:2,6	court 14:20	68:12 71:13	deliver 78:19	60:11	dispute 9:5 16:24	E
51:9	15:25	87:22 89:7	delivering 13:8	dictate 29:3	101:8	earlier 53:23
contributions 51:5	courts 17:9	days 72:11	Demanding 38:9	37:24 39:23	disputes 9:3	58:20 61:16
control 59:6,13	102:8	day-to-day 93:5	democracy 86:5	dictates 38:4	100:7	79:3 83:14
68:19 85:5	court-dominated 6:19	dead 74:19	democratic 8:10	died 74:17 75:3	distance 32:11	easier 75:8 97:21
86:13	cover 73:4 90:8	deal 1:13 48:18	89:5,18	76:17	distinguish 94:12	easiest 18:17
controlling 69:1	coverage 1:14	53:16 55:15	demonstrate 18:14	difference 16:1	distortions 42:12	easily 35:17
	covered 12:17	62:2 63:6	demonstrated 16:16 20:3	19:11 53:24	distributors 83:19	echoes 2:22
	covered 12:17	71:17 72:3,5,9	25:22 83:6	72:18 79:19		edifying 8:9
	60:19 81:10	72:13,15 75:9	demonstrates 16:23	82:1 91:6,16		edited 60:11
	92:11,13 98:4	75:11 77:14	denigration	differences 54:2		editing 57:16
	101:15	79:16 90:5		91:21		editor 56:6,10
	coy 84:7	93:6,19 95:1,8		different 3:19		57:10,13 59:2
	crafting 59:4	99:14 101:19				
	create 7:14 32:16	101:22 105:2				
	created 28:2	dealing 1:5 10:9				

59:11,11,12	enable 47:10	27:7 30:9	expanding 90:15	73:17 76:25	34:2,14 36:8	founded 3:21
62:21 72:2,3,4	encourage 16:5,9	54:25 83:17	expansion 67:25	fairly 62:4 70:21	37:14 38:6	four 37:22 65:7
92:2 99:13	20:22 34:18	100:24	expect 56:4	72:14 99:3	41:14 43:9	73:5 94:2
editorial 10:7,21	69:11 99:20	ethics 25:21 26:3	90:25	fall 13:9 92:14	47:2,17 50:1,7	102:20
10:22 23:1	encouraged	26:23 52:13,17	expectation 23:6	family 73:12,14	51:15 52:4	framework 82:4
31:15 68:11	45:20	53:3 55:14	expected 25:7	75:2,3 76:17	53:1,15 63:4	82:8 83:12
98:15	encourages	85:21 87:1	experience 20:15	fanzine 92:2	65:6 66:9,12	frankly 10:15
editors 2:3 21:6	101:7	100:14	21:3 30:25	far 3:23 26:7	67:5 71:18,22	free 67:8 69:2
21:19 22:12,23	encouraging	EU 83:23	31:2 56:17,18	35:24 36:7,16	77:22 81:20	freedom 8:6
23:3,6,25 24:8	34:18	event 10:12	57:9 75:6	40:13,20 46:25	87:17 91:2	42:14,15,25
24:11,12 27:6	endless 54:22	eventually 63:10	103:4 104:22	47:7 57:4,5	95:6,15 99:7	50:9,10,11,18
28:16 29:8,15	endorse 45:21	99:8	experienced	74:23 80:7	99:12	50:22 64:18
29:20,21,21	ends 32:8 67:15	everybody 50:18	85:18,22	85:18	first-party 41:10	66:10,13,19,25
30:8,13,14,16	75:23	68:23 104:23	expertise 17:15	farcical 86:9	72:20,23	67:8,20,20,24
31:4,12 33:3,8	enforce 52:16	everybody's 65:3	36:6 103:5	fashioned 20:15	fish 1:16,18,25	86:14,17,20
34:17 52:22	61:19	everyone's 33:16	explain 19:19	fast-track 70:24	2:11	91:6,6,22,22
53:1 55:9,20	enforced 65:15	evidence 26:15	64:20 77:9	fatally 1:15 3:13	fit 33:24 74:10	96:14 98:13,15
60:4 64:24	enforcement	42:6 43:3,10	explained 22:23	favour 70:8	86:4 88:24	freedoms 50:13
66:12 68:1,3	12:20	43:21 46:23	explaining 54:2	81:22 84:6	97:1	freely 38:12
68:10,11,14,14	enforcing 92:21	48:8 49:16,19	express 2:21	favoured 95:16	five 44:3,9,10	39:12,17,25
68:21,25 71:16	engage 88:25	52:6 53:23	58:18 83:15,20	Fawkes 74:22	45:22,24	40:3,7 91:16
72:8 90:2	engaged 43:11	54:23 58:15	expressed 38:12	fear 10:3	five-year 44:12	fresh 2:6 29:13
97:19,19	45:1 94:13	74:17 87:16	39:12,17 40:1	feature 10:22	fixed-term 44:19	31:23 32:20
102:24 103:8,9	enjoy 50:23	88:3,5 94:9	40:3,7 42:16	20:16 22:4	44:22	89:10
103:12,12,14	enormous 46:17	evolved 41:8	83:16	31:1	flagged 30:5	frivolous 78:16
104:8,13,16,21	ensure 47:12	exact 63:21	expressing 83:20	features 22:8	38:20 40:14	95:21
education 50:4	57:2 66:10,13	84:16 90:13	91:17	fee 95:10,15	flanked 6:24	front 30:5 38:20
102:25	entered 5:2	exactly 15:22	expression 42:15	feedback 34:18	flexible 43:6	40:15 98:23
effect 9:17	entertained 74:8	16:14 41:3	42:16,25 50:9	feel 22:11 24:5	flogged 19:15	99:1,4
effective 25:8	enthusiastic 5:4	57:14 65:8,12	50:19,22 66:25	30:6 31:11	fobbed 35:17	Frost 47:25 48:3
33:22	27:6	77:16,17 87:2	67:8,21 91:7	33:3 34:1	focus 71:23	48:8,10,10,17
effectively 34:17	entices 16:21	89:15 94:22	91:22 98:14	37:21 42:10	focused 97:10	48:18,23 49:1
42:4 64:13	entirely 26:17	98:11	expressly 10:6,7	46:10 55:7	follow 3:14	49:5,15,21
effectiveness	27:2 33:24	examine 62:3	72:21	63:19 64:20	54:11,15,24	50:1,13 51:4
38:22	57:24 69:5	examining 61:15	extend 13:18	70:8 73:13,15	59:13 65:5	51:13 53:8,21
effort 42:3	96:24 99:23	example 11:21	extent 12:17	76:18 77:18	88:13	55:7,25 56:18
egregious 42:12	entities 7:13	26:1,18 35:3	14:21 29:22	80:17 97:4,14	following 41:3	57:5,8,25
103:22	90:25 91:3	36:24,25 68:13	31:24	feelings 39:9	102:14	60:10 61:11
eight 13:12	entitled 80:5	74:16 75:2	externally 27:22	feels 28:3 75:18	follows 53:22	65:4 66:18
either 16:12	entity 32:15	76:7,8 82:24	extremely 97:7	97:16 101:17	foolish 80:8	67:10,14 68:5
28:13 57:22	39:22,23,24	93:20 94:14	ex-Parliament...	fees 95:4	forced 95:9	68:8,16 69:5
58:11 61:1	entry 91:2	96:15 103:10	8:3	fellow 5:6	forget 67:21	69:16 70:7,23
64:11 95:18	envisage 93:22	examples 5:3	F	felt 20:25 23:5	forgive 11:3	71:5,24 73:7
elaborate 21:21	95:11	56:19 58:17	face 32:12 61:25	46:24 52:12	form 6:21 11:6	75:5 77:12,25
60:17,20	envisaging 10:21	exceedingly 24:3	84:6 91:10,10	58:25 78:2	19:18 27:25	78:17,24 79:14
element 6:11	equal 38:9	exceptional	41:22	88:3	68:18,24 69:4	81:8 84:20
elements 9:20	equally 23:21	41:22	face-to-face 35:3	fight 88:15	80:24 81:23	86:22 87:18
54:9 86:10	28:8 66:15	exceptions 56:4	fact 8:4 10:18	fighting 84:25	84:10 96:3	91:5 93:4 94:8
91:5	74:20	excesses 103:15	12:1 20:17	figure 6:23 12:25	98:11	94:16 95:12,22
eligible 82:24	equates 70:17	exclude 26:18	27:14 41:13	figures 7:21	formed 101:12	96:6,22 98:17
else's 7:15	eradicate 62:23	91:25	42:13 46:7	12:19 90:13	former 8:8 16:3	99:22 100:9,20
email 34:7	erred 14:6	excluded 55:11	48:14 49:9	filed 58:23	forms 13:3,25	101:13 103:2
embarrassed	error 13:23 37:4	64:4 76:24	55:15 57:22	film 81:16	100:5	104:15
27:14	errors 37:14	excluding 52:23	67:6 72:23	final 59:14 96:10	forward 1:6 2:22	Frost's 49:19,20
embroiled 79:9	62:10	52:24	87:3,24	finally 17:4	16:9 25:5	79:3 102:13
emerges 17:4	escape 1:16 61:9	exemplary 17:11	facts 48:15 94:18	finance 7:6	27:19 30:7	104:3
emphasis 22:10	essence 24:23	exercise 14:11	failed 67:4 88:3	financial 93:10	31:20 36:4	fruitful 34:3
38:10	essential 30:18	exercised 70:21	failing 71:15	find 2:25 6:20	38:8 41:1,12	frustration
employed 62:18	established	74:25	fails 67:2 71:22	7:6 9:21 11:1	41:23 44:11	10:14
employees 27:23	25:23 82:5	exist 10:16 21:7	failure 37:25	23:24 29:16	49:14 59:23	fulfil 89:1
employers	89:17	existence 69:22	60:25 64:21	36:1 58:2	77:7 84:1,19	full 33:14 48:9
102:23	establishes 45:10	82:13	failures 60:18	73:19 91:14	96:19 97:5	48:10 55:22
employment	establishment...	existing 33:21	fair 21:19 23:9	finding 18:20	found 19:22 31:7	fully 67:23
53:11 54:13	30:18	47:5,8	26:15 30:24	fine 93:10 101:11	36:6 53:5	function 33:18
104:11	et 98:7 104:6	expand 3:22	44:15 50:15	finances 98:4	foundation	33:21 81:6
en 44:5,23	ethical 16:6,16	expanded 94:1	55:6 57:22	first 5:2 28:10	30:10	fund 12:20

fundamental 7:8 19:11 45:18	60:15 62:23 63:23 69:15	hacking 98:1	highlight 10:25	22:2,8 66:9	independent	43:3 44:15
fundamentally 3:19	70:24 77:5 89:18 91:3	haded 99:24	highlighted 64:16	69:20 78:9 92:19	6:24 7:12 32:3 32:3,23,24	45:25 46:14
funded 4:9 95:18	93:12 97:16	hallmark 29:21 39:14,16	highlights 51:10	identifying 24:22 24:24	36:21 39:21 41:23 66:11	48:22 49:4,12 51:8 57:20
funding 5:10,12 5:13,20,20,21 69:3,9 95:2 96:4	99:12 101:18 102:15,22,25 103:13,19 104:1,25	hand 1:5 42:16 47:2 94:14	highly 37:9 38:15 65:21	ignorance 103:15	68:1,13	65:1 77:9 84:17 87:9 89:17
funds 95:19	gold 22:17	handful 90:2 94:3	historical 87:15	ignore 66:2	indeterminate 44:22	inquisitorial 9:2
furore 96:24	golden 65:2	handled 39:15 46:25 47:2	history 51:4,7	ignored 64:15	indicate 8:3	insisting 20:7
further 35:7 44:14	good 1:21 16:9 17:17 18:7,20 21:14 22:3,7,7 22:25 27:9 35:20 39:16 56:19 57:17 69:11,13,16,21 69:25 70:3,12 71:10 74:10,12 75:14 77:15 78:9,14 92:24 93:18 97:2,8 97:11 100:25 101:2	handling 23:23 36:17 46:15	hit 46:8	ignoring 95:14	individual 16:14 28:9 33:10 36:8 38:12 39:13 40:7,10 41:16,17 60:6 72:25 91:23 100:4	insignia 20:7 insofar 6:9,10 48:14 49:19 51:11 60:17 instance 63:6,16 69:25 73:13 79:22 91:12 95:6 97:18
future 60:16 78:11 85:16 97:9	goodwill 84:13	hands 7:5	holder 68:19	image 80:24	individualising 60:5	instances 38:9
gain 91:18	governance 6:1,2	Hang 56:7	holding 60:6	imagine 88:19	individuals 31:15 35:13 43:1,5 66:16 74:7 76:24 77:8	instigate 97:15 instinctive 9:14 Institute 28:25 instrumental 51:24
game 73:17	government 9:13	happen 6:1 35:1 47:13 56:15,20 60:7 70:9,13 78:21	home 38:21	immediate 34:4 36:14	industrial 4:25 52:15 53:6	intend 1:5 intent 7:20 intention 86:19 interest 41:22 42:23 43:23 55:17,19 56:3 56:11 59:3 60:1 64:25 67:1 87:7 97:25
gatekeeper's 83:14	governments 27:8	happened 47:12 62:12 65:4,7 74:21 84:23 85:19 87:11 97:6	honour 49:11	important 19:24 31:21 34:12 37:18 50:20 51:15,25 55:8 67:15 68:24 76:14 97:14 103:23 104:7	industry 4:11 5:12,21 6:25 20:2 22:1 27:8 27:11 28:9 29:2,17,20,22 29:24 30:7,23 31:14,20,25 32:1,8,25 33:2 33:5,14,15 38:16 40:13 44:5,16,23 45:21 46:1 76:5 83:8 84:12 88:14,17 90:15,16 95:18 97:8 102:4 103:3,11,18	interested 18:9 49:6 73:17 88:5 96:10 interests 23:12 64:23 68:23 84:6 86:10,25 interference 67:24 interleaving 49:18 internal 25:8,17 34:16 60:21 66:7 81:19 95:8 internally 18:13 Internet 80:12 interrupted 76:12 intervention 7:23 introduce 83:17 introduced 8:5 51:17 62:11,17 introducing 80:8 intruded 63:8 intrusion 101:16 intrusions 10:10 intrusive 41:19 invade 66:22 invaded 18:5,7 invasion 18:23 invented 51:16 invest 12:15
gather 45:10	grappled 22:25	happening 37:3 46:21 65:12 78:8 81:13	hope 4:24 8:23 9:23 28:9 45:25 46:13 65:10 69:20 71:5 76:1 100:1 101:15 101:19	impose 4:23 41:20 98:10	imposed 2:4 22:17 24:6 47:4,6	
general 22:5 73:2 76:23 77:1,22 81:20 92:5	grasping 10:3	happens 56:12 56:13 65:22 70:16 72:6,7 78:20	hop 89:14	impress 2:4 22:17 24:6 47:4,6	improved 22:2 26:4 36:12 61:23	
generally 41:12 47:8 51:7 69:22 71:16,21	grateful 51:8 87:15	happy 13:13	hopefully 72:13 85:8 94:24 101:23	improve 34:15	improvement 34:11	
genuine 59:20,25 68:22	great 2:8 33:10 37:21 45:12 57:20	harassment 10:9	hoped 18:23	improved 22:2 26:4 36:12 61:23	improving 12:16	
genuinely 1:16 1:17 83:8 103:18	greater 16:24	hard 100:14	horrific 88:14	improvement 34:11	inaccuracy 10:9 36:9 70:11	
getting 34:10 44:23 85:16 100:1	greatest 5:14	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	hostility 83:21	incentive 15:12 15:13	inception 85:23	
give 36:25 51:10 54:22 66:2 76:2 88:8	green 5:8 8:16	harm 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	huge 21:9 24:11 78:6 99:24	inception 85:23	inch 37:1,1	
given 5:7 36:25 37:8 43:3 45:2 48:6,8 50:9 79:9	grey 75:23 77:1 77:16	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	hugely 77:3	incentive 15:12 15:13	include 14:4 30:2 69:12 100:16	
gives 27:16 54:14	gross 101:16	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	Human 50:16	incentive 15:12 15:13	included 46:18 46:19 88:1	
giving 4:21 39:9 61:6	ground 73:1	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	hung 58:21	incentive 15:12 15:13	includes 68:9	
go 4:24 19:14 24:5,21 26:7 27:18 28:11 35:24 38:5 49:16 56:22 62:3,7 65:10 71:6 72:12 74:23 80:4,7 85:18 88:11 95:9 98:16 101:25	grounded 26:17	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	Hunt 1:8,10 2:8 10:2 11:6 12:1 12:11 21:18 25:12 30:23 33:19 37:17 38:25 40:24 41:4 44:4,18 46:6,12 61:3 61:16 62:6,13 64:4,10 71:15 77:4 78:18 83:11 99:18	incentive 15:12 15:13	including 43:2	
going 3:23 9:24 11:3,11,13 19:14 21:12 29:7,8 31:10 32:3 33:16 35:17 49:16,22 54:15 57:4,5	group 29:9 41:2 42:20 43:13 72:17,22,25 73:22,23,25	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	ideal 71:24	incentive 15:12 15:13	inclusive 77:2	
	groupings 63:19	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	ideally 71:13 72:2	incentive 15:12 15:13	increase 38:22	
	groups 42:7,7,8 42:9 63:17 64:17,19 74:8 76:20,23 77:8 102:23	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	ideas 35:8 40:22	incentive 15:12 15:13	increasing 19:25 42:3	
	growing 51:22	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	identical 67:21	incentive 15:12 15:13	incredible 55:11 58:3,3	
	guidance 43:14 75:17,20 76:1 76:3 97:12,17	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	identifiable 73:24	incentive 15:12 15:13	incredibly 51:25 58:25 75:11	
	guide 36:3	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	identification 62:14,21 93:16	incentive 15:12 15:13	indefinite 44:21	
	guidelines 69:21 78:14 97:2	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	identified 33:12 72:21,25	incentive 15:12 15:13	independence 29:17 31:21,22 68:7	
	guiding 97:9	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9	identify 2:12	incentive 15:12 15:13		
	Guy 74:22	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9		incentive 15:12 15:13		
	H	hard-pressed 4:10 79:4,6,9,17 79:20 80:2,12 80:15,19 81:1 81:3,5,9		incentive 15:12 15:13		

13:16	96:2 102:11	12:10 13:21	lack 78:22 83:7	46:10,16 47:19	64:3 66:5 72:7	magazine 21:15
investigate 97:1	104:1 105:2	14:9 18:1 19:1	laid 16:7 31:6	48:1,18,24	74:9 77:19	33:15 45:20
investigates	Jay's 2:9,9	26:13,25 27:18	landscape 52:15	49:3,8 56:16	78:13 79:21	92:3
104:4	Jefferies 31:9	31:17 32:7	53:6	56:22 57:7,19	80:19 87:4	magazines 24:9
investigation	jeopardise 86:17	35:10 36:18,21	language 21:22	59:17 61:10	89:16 91:24	24:19 34:5
30:3 41:18,24	jeopardy 86:19	37:16 40:24	87:13	67:6,11 74:15	looking 6:21	83:1 90:17
96:17	jigsaw 62:14,20	42:5 43:15	large 1:20 52:1	76:7,13 78:15	20:18 28:12,14	magnitude 90:22
investigations	John 49:10 50:2	46:10,16 47:19	52:24 72:13	78:22 82:19	44:8 60:18	Mail 91:12
92:22 97:15	join 4:12 16:20	48:1,18,24	74:2 78:17	84:2 85:10,25	65:13 71:16	main 17:2 31:15
investing 7:2	16:21 92:13,14	49:3,8 56:16	92:4	86:8 87:6	looks 87:13	33:8,12
investment	joint 48:12 49:18	56:22 57:7,19	largely 61:19,20	88:13 89:22	Lord 1:3,8,9,10	maintain 22:21
12:17,22	49:22 53:17	59:17 61:10	61:21,23 64:11	90:4,11,21	2:8,8,15,17 4:3	47:5
involve 73:11	58:17 60:19	67:6,11 74:15	85:5	94:12 95:20,23	8:13,25 9:11	maintained 6:13
involved 34:9	66:7 81:19	76:7,13,24	larger 25:2	100:6,18,21	9:23 10:2 11:6	maintenance
41:17 52:6	journal 71:3	78:15,22 82:19	largest 29:9	103:20 105:5	11:12 12:1,4	43:16
53:2 54:6	journalism	84:2 85:10,25	lately 74:14	levy 96:2	12:10,11,18	major 34:11 68:8
55:13 59:10	27:10 46:5	86:8 87:6	latest 81:13	libel 18:22 100:7	13:21 14:9	82:21 83:3
64:18 68:9,12	47:18 50:2,4	88:13 89:22	lauded 64:10	100:10 101:8	18:1 19:1	majority 24:7
73:10 79:18,20	64:18 90:7,12	90:4,11,21	launch 96:17	101:13	21:18 25:12	30:19 45:12
82:20 100:9	102:24	94:12 95:20,23	law 10:25 11:18	libelled 18:5,6	26:13,15,25	64:2 68:15,18
101:17,23	journalist 54:19	100:6,18,21	19:3,5,8 22:6	liberal 32:11	27:18 28:15	68:24 103:2,6
involvement	56:5,7,10 57:1	103:20 105:5	26:20,20 27:1	licence 50:10,24	29:5,25 30:23	104:9
9:14 84:10	58:10 59:15	justification	28:5 77:14	licensing 2:24	31:17 32:7	making 17:9,15
involves 79:6	60:6	16:11,18	80:5 81:10	9:18	33:4,19 35:10	35:22 74:6
Ireland 82:8	journalists 21:23	justified 15:16	83:24 101:14	lies 56:11 86:15	36:18,21 37:16	84:17
85:14,19,22,24	27:12 28:17,17	26:24	101:18	life 26:9	37:17 40:23,24	malfeasance
90:8,9,10	28:20,25 29:1	justify 7:1 22:19	lawyers 12:6,10	light 5:8 8:16	40:24 41:4	104:5
103:10	29:7,10 30:14	43:24 66:24	lawyer-domin...	lights 8:18	42:5 43:15	maligned 76:18
Irish 11:20 14:14	30:20,22 31:1	keen 35:20 44:16	6:20	liked 44:9	44:4,18,20	mandatory 29:9
14:18 15:9,11	31:1,5,6 33:7,9	keep 33:4	lay 28:18 78:10	likes 38:16	46:6,10,12,16	30:21 70:5
82:7 85:10,11	33:11 48:21	Kennedy 22:5	82:8 102:25	limited 1:4 5:14	47:19 48:1,18	manned 32:22
isolated 25:24	49:13 50:17	key 10:22 24:25	lead 9:25 85:23	line 54:25 60:9	48:24 49:3,8	mark 17:18
isolation 24:14	51:16 52:9	29:21,22 30:8	leaders 31:12	74:9 75:2,23	56:16,22 57:7	19:18 31:21
25:3	53:11,15,24	30:14 47:11,14	learn 76:3	77:14,15 79:13	57:19 59:17	45:18 92:15
issue 1:6,13 3:10	54:4,5,10,10	51:13 59:5	learning 37:11	79:15,16 80:8	61:3,3,10,16	marker 17:21
4:2 8:15 16:22	54:14,23 55:2	64:16 80:10	leave 23:7 49:22	lines 37:22 74:15	62:6,13 64:4	masse 44:5,23
18:8 19:5	55:3,4,10,11	83:19 91:5	83:5 84:12,23	76:8	64:10 67:6,11	match 85:8
37:18 41:1	55:13,18,21	keys 30:15	lecture 62:20	linking 15:16	71:15 74:15	material 46:17
43:23 55:15	56:2 58:6,18	kind 50:22 52:14	led 60:24 89:19	list 92:24	76:7,13 77:4	64:7 80:15
70:15 72:16	58:23 59:5,9	56:13 62:5,16	left 52:12 101:13	listening 61:16	78:15,18,22	matter 4:15
77:7 78:7,25	68:12,20 70:2	62:24 74:6	legal 44:19 83:22	litigate 74:20	82:19 83:11	16:12 25:14
79:4 81:4	70:2 75:17	75:6,12 76:3,6	legalisation	101:9	84:2,9 85:10	27:3 28:19
85:20 95:1	76:3,4 88:22	86:16 93:23	99:20	litigation 100:8	85:25 86:8	29:23 32:1,8
96:9 97:17	89:24 90:8	101:21,25	legally 61:8	little 4:13 33:23	87:6 88:13	38:14 71:18
98:3,4 99:16	104:12,17,19	102:2,3	legislation 10:5	50:23 57:13	89:22 90:4,11	72:10 102:17
issued 13:6,23	104:20	kinds 62:25	28:1 82:11	65:9,9 74:13	90:21 94:12	104:24
issues 10:19	journalist's 60:4	kite 17:18 19:18	legitimate 74:25	live 88:17	95:20,23 99:18	matters 10:6
25:20 64:2	60:12	92:15	103:4	Liverpool 49:10	99:18 100:6,18	14:5 25:25
77:15 79:6,9	judge 4:1 7:18	know 7:19 27:10	length 7:13	50:2	100:21 103:20	31:10 41:13
81:18 91:7	30:1	31:1 35:21	39:22	lobbied 88:25	105:5	70:11 98:16
101:23 102:6	judged 15:21	36:22 37:9	letter 2:20,20 3:1	local 24:8,18,20	lose 86:11	maximum 50:9
J	judgment 74:24	43:3 46:16	3:4 76:9 83:13	31:16 36:7,10	loss 11:23	mean 1:24 4:7
Jay 1:8,11,12	98:15	49:9 54:18	83:18	62:12,19	lost 76:19	7:10 18:24
2:16 3:15 4:19	judgments 96:19	56:2 58:12	let's 21:13 48:18	London 24:9	lot 21:14 56:1	20:14 31:23
10:2 12:11	judicial 18:21	77:25 81:12	90:4	London-centric	61:14 63:16	35:12 37:12
14:14 19:9	July 1:1	86:14 102:7	level 6:13 100:4	24:15	77:6 86:6,10	51:15 68:14
26:21 27:17,19	jumped 52:21	knowing 94:22	Leveson 1:3,9	long 13:17 14:11	88:4 101:10	69:5 71:13,20
32:6 37:17	June 48:12,14	knowledge 35:14	2:8,15 4:3 8:13	33:6 49:1	lots 95:25	84:8 85:13
41:1 43:16	junior 62:11,18	49:9	8:25 9:11,23	62:19 65:11	lottery 100:8	97:6,17
46:6 47:24	juridically 10:2	known 4:22 33:9	12:10 13:21	89:1	loud 104:14	meaning 41:22
48:2,5,6 49:16	jurisdiction	94:1	14:9 18:1 19:1	longer 52:11	lower 103:12	meaningful
60:15 66:5	81:22	label 102:17	26:13,25 27:18	99:3	lowest 84:21	38:15
67:7,23 68:13	jury 3:25		31:17 32:7	look 1:12 4:19	85:6,8	means 13:22
77:21 78:25	justice 1:3,9 2:8		35:10 36:18,21	17:5 33:18	luncheon 105:8	43:9 49:17
90:24 95:1	2:15 4:3 8:13		37:16 40:24	45:25 51:4	M	58:7,8 80:13
	8:25 9:11,23		42:5 43:15	61:12,24 63:25		82:24

meant 87:7	millions 50:25	71:23 98:2	3:12 5:9 8:17	2:1,11,19,21	84:24	86:12 95:3,3
measure 8:10	mind 9:25 15:10	moved 45:23	11:23 12:15,18	3:2 83:15	occur 37:14	96:6
36:13	17:11,12 21:12	65:9 78:1	12:20 20:2	notable 35:5	46:15	order 49:17 93:8
meat 6:16	31:23 38:8	moving 6:18	27:21 30:10	notably 52:24	occurred 53:15	orders 90:22
mechanism 9:3	69:14	25:5 41:1	32:19,21 33:13	note 46:6	Ofcom 5:13	organisation
25:18 28:10	mindful 46:7,20	79:11 80:24	33:18 34:21	notice 45:2	offence 27:3 64:9	28:10 38:13
42:11 78:15	minds 20:14	MPs 8:10	35:1,6 37:18	notion 42:20	64:11 79:4,6,9	39:13 40:8,10
83:17 100:7	minister 5:15	mustn't 3:14	38:23 42:2,2	NUJ 29:10 49:1	79:17,21 80:3	66:3 82:17,23
media 50:20,24	minority 27:15	26:7	43:13,17 44:5	49:7 50:3 51:6	80:12,15,19	104:24
66:11 68:1	75:7		45:6,9,11	51:11 52:23	81:1,3,9 98:22	organisations
86:13 90:14	minutes 105:3	N	47:12 55:5	53:10,18 64:17	98:25 99:6	43:2 66:1 82:9
97:12 102:9	mismatch 32:6	nail 88:15	61:6 65:14,19	68:21 83:19	offences 62:15	82:25 92:10
mediation 12:16	misrepresented	name 21:11 48:9	66:10 69:18	88:21 89:23,25	offending 80:4	102:4,9,23
13:16,20 17:1	94:18	48:10	70:1 72:12	101:12 102:24	offensive 64:7	organised 96:3
23:17,24 34:24	missed 62:21,22	named 25:9	73:3,18 74:9	number 6:22	80:1	original 38:13
35:3 47:5	missing 75:19	77:11	75:17 76:1,4	7:19,21 9:20	offer 29:13 75:17	39:14 40:8,11
61:22 65:17	misstated 1:3	narrow 97:10	77:5,13 80:18	13:22 14:12	offered 41:21	70:18
Medical 22:5	mistake 60:8	national 28:25	81:17 82:4	15:8 23:3 34:6	offering 16:25	ought 20:25
meet 2:1 26:4	62:22,24	31:5 48:20	83:12 84:14	35:7 37:13	offers 12:16	60:12 78:7
27:12 32:14	mistakes 62:10	49:13 52:8	87:4 89:10,14	50:5 52:24	officer 6:4 72:5	88:8
33:8 52:14	62:23	63:1 88:22	90:14 92:12,20	55:8 63:7,20	oh 32:17 88:14	outcome 3:16
95:10	misunderstand	98:23	93:25 95:9,13	63:23 72:7,13	90:4 100:20	11:8 65:1
meeting 19:21	24:16	nature 24:16	95:18 96:12,16	74:2 75:24	okay 11:3 81:12	98:10
21:3 31:6 89:6	misunderstood	35:8 37:3	96:25 97:14	78:17 86:2	old 20:10 97:6	outline 95:3
meetings 22:16	41:9	73:22	98:22 99:10	87:25 88:5,9	ombudsman	outlined 64:12
31:7 33:7 43:1	mix 95:19	nearly 56:20	100:10,12,17	92:6 94:2 95:3	14:23 71:7,8	outrage 81:13
member 6:24	mixed 88:20	necessarily 4:4	101:16,19	96:23 97:18	75:13 76:2	outrageous 74:3
15:7 24:24	mixture 5:11,20	9:4 18:16	102:11,15	103:22	82:4,7 101:21	outright 83:21
25:9 36:22	Mm 40:17 70:23	31:19 51:20	103:17 104:1	numbering	102:18 104:2	outside 13:9
49:1 50:3	78:24	75:20 77:11	news 58:24 59:11	60:21 66:7	ombudsmen	20:12 24:9
62:18 73:14	model 12:19 15:9	78:5 103:7	72:8 89:16	81:19	72:8	overall 59:12
members 11:10	15:11,14 28:15	necessary 6:12	newspaper 33:14	numbers 13:21	once 87:9	overblown 25:25
19:4 22:20	45:15,16,17	22:24 36:5	34:2,5 35:15	21:9 24:11,12	ones 50:14 56:2	overinfluenced
51:14 52:17	84:16 85:10,11	43:9	38:5 45:20	62:2	59:3 68:10	31:11
64:19 65:25	models 95:25	need 4:24 10:24	56:24 59:6,12	numerous 5:3	97:8	overlapping 55:1
68:17,24 76:17	moment 7:3 11:7	10:24,25 11:2	63:8,11 65:16		ongoing 13:14	55:16
84:11 88:16,19	11:20 29:5	12:7 26:4	70:6 71:21	O	online 17:19	overlaps 79:2
89:2,25 90:9	31:18 34:12,14	32:15 36:15	78:19 80:3,14	oath 48:7	open 29:12 30:19	overseeing 25:10
90:16 103:1	44:13 54:18	50:17 58:1	81:14 91:11	object 13:7	42:23 76:15	overstated 25:25
membership	56:7 61:25	68:12 73:18	93:11 94:10,17	objection 7:8	77:2	overwhelming
15:17 84:3	62:3 75:19	75:13 82:3	96:15 98:16,23	53:14	operate 86:5	45:12 89:6
mention 58:15	76:16 79:5	91:14,20 92:25	99:6 100:3,12	objective 16:1	93:17	owner 59:2
85:10	80:11 85:14	93:6,7 103:3	newspapers 1:4	32:14	operates 61:13	owners 64:24
mentioned 1:19	100:8	104:19,21,21	13:8 24:18,21	objectively 15:21	61:16,20,21	66:11 68:1,21
50:16 52:5	Monday 21:21	needed 41:14	25:2 56:15	objectives 69:15	operating 35:11	68:25 83:15
55:15 74:1	money 5:22,23	88:23,24	58:18 59:22	obligations	55:22	90:3
78:18	7:6 12:21 95:1	needing 69:11	62:12 63:2	66:16 82:10	operation 32:3	o'clock 105:6
mentioning	101:10	needs 10:23	64:6,9 68:11	obliged 54:11	opinion 18:21	
51:18	monitor 96:14	30:23 32:4	71:17,25 78:20	73:15 80:11	opportunity 5:5	
merely 10:11	97:15	33:23 50:18,25	83:2,15,21	obliging 85:3	7:25 8:22	packs 97:12
22:2,24 26:13	monitoring	69:2 77:19	90:17 91:8	observation	11:16 28:6	page 1:13 12:12
76:7 78:22	92:22 96:12,13	80:17 92:9	92:5 95:13	31:24 98:2	31:3 34:10	14:16 21:18
90:5	months 4:16	negative 21:22	99:11	observed 27:15	41:21 42:5	25:6 30:5 37:2
merit 104:14	87:19	negotiating	newsroom	28:4	46:14 60:13	38:21,21 39:6
met 2:3,3,4 12:8	monumental	41:18	103:11	obtained 9:1	64:15 65:2	40:15 50:8
21:4 45:8	65:2	negotiation	newsrooms	obvious 50:14	99:11	60:21 66:6,7
metaphorically	Moore 2:23 3:25	34:23 35:10	14:12 59:22	60:16 75:8	oppose 70:7	81:18,20 92:20
20:8	Moore's 49:10	net 1:17	103:14,16	obviously 49:5	opposed 20:20	92:20 95:2
method 17:16	50:2	network 20:10	news-gathering	49:24 59:11	53:10	96:10,11 98:5
Michael 26:9	moral 58:5	never 4:22 5:15	100:14	64:25 67:7	opposing 89:10	98:23 99:1,2
Michelle 48:4	motion 89:4	44:8 47:13	Nolan 26:8,9,15	69:22 72:11	Opposition 5:16	102:12,20
54:22	mounted 43:10	62:23 63:3	non-regulated	occasion 56:20	opt 82:16	pages 73:5
middle 85:9	move 2:5 5:8 6:6	87:10,20	15:22 16:15	occasionally	option 34:13	paper 3:18 46:19
86:15	11:3 19:15	nevertheless	normal 56:13,14	97:10	92:12 95:16	62:19,22 72:3
million 5:18	21:13,17 27:19	62:13	normally 56:4,12	occasions 31:3	96:2	papers 21:15
12:19	32:10 65:18	new 1:15 2:5 3:3	Northern 1:17	57:18 75:25	options 13:19	96:23 100:15

paragraph 1:12 2:12 12:11 17:6,21 19:10 19:17 21:17 23:10 25:5 27:20 33:20 34:22 37:20 41:2,3 50:7 53:7 60:22 79:2 92:20 95:2 96:10 97:24 104:3	36:15 37:9 41:12,25 42:11 43:6 46:17 53:9,10 54:3,6 60:18,23 61:13 61:13,24 62:25 63:5,9,23,24 64:3 65:5,19 66:4 67:3 69:7 71:19 74:4,13 75:20,24 76:25 78:1 79:5,12 83:8 84:4,24 87:20 88:2,4,6 88:23,25 89:7 89:10 93:18 94:24 97:9,20 103:8	16:13 17:12 34:7 35:11,23 39:18,19,19 41:19 71:2 75:1 76:19 101:17 personal 92:1 personally 6:20 80:2 99:23 person's 16:15 perspective 29:14 87:15 persuade 7:4 Peter 48:10 philosophical 19:14 phone 97:18 98:1 photographer 34:9 phrase 7:15 pick 19:16 31:18 67:19 100:21 101:23 picked 21:20 picture 55:22 PIDA 27:24 piece 59:16 82:11 99:1 place 10:23 18:24 25:8 31:4 35:9 37:15 63:4 71:3 88:11 98:11 99:7,12 placement 98:8 platform 77:24 plausible 65:21 play 5:24 84:15 85:6 99:7 players 15:14 83:3 playing 84:21,24 plead 12:14 pleading 7:25 please 13:18 17:14 19:19 21:17 31:11 36:10,20 48:9 53:7 pleased 52:1 plus 12:20 32:21 pm 47:23 105:7 pockets 7:5 point 2:24 3:2 8:7 11:4,4,14 13:4 14:18 15:4,21 17:15 19:16 21:20 23:1,6 24:7 28:11 33:22 34:3,5 36:21 37:19 38:25 42:9 48:19 50:8 53:7 56:5 61:4 66:18 67:20,23 69:2	73:6 77:22 79:1,13 81:25 89:3 90:6 92:10,18 93:14 97:21 100:19 100:21 pointed 3:25 13:6 97:20 points 32:18 49:18,20 51:13 53:21 69:23 poised 12:2 47:14 polarise 86:11 police 27:4 policy 41:7 42:3 73:3 88:21 89:9,11,13,19 polite 35:18 political 7:21 politician 67:25 politicians 8:16 66:11 politics 5:2 pond 1:25 poor 99:19 popular 91:20 port 38:6 71:18 71:22 position 1:3 15:1 16:4 23:14 26:14 32:8,11 34:15 41:9 42:1 43:7 44:16 50:21 53:13 54:17,20 55:6 57:25 73:19 88:22 89:9,11,14,19 104:15 positions 77:21 positive 22:10 positively 21:25 possess 61:7 possibility 29:6 42:23 95:12 possible 17:5 21:11 27:13 30:2 32:23 43:21 47:1 57:6,12 60:2 71:12 74:4 79:11 94:15,16 99:17 104:22 possibly 28:20 54:21 76:15 77:3,21 postbox 35:12 postman 13:8 pot 5:20 6:10 potential 85:15 91:8,15 94:4,4 95:25 100:10 potentially 41:19 50:25 74:10 power 38:4	45:18 50:21 59:13 83:7 91:8,8,15 powerful 77:9 powers 9:18 47:9 61:7 96:8 practicalities 57:8 practice 21:25 41:25 55:23 56:9 57:17 69:12,14,16,17 69:19,21,25 70:3,12 74:10 74:11,12 75:15 78:9,12,14 92:24 93:2 97:2,9,16 104:4,7,9,13 practices 25:21 26:3,23 85:21 pragmatic 16:19 84:18 preamble 22:19 precisely 37:8 58:21 84:8 96:4 predict 4:17 24:3 prefer 3:23 21:4 36:7 58:13 preference 37:23 preferred 98:9 premise 9:12 prepared 35:18 88:7,10 95:5 prescription 27:24 prescriptive 38:10 present 20:5 26:12 34:14 37:22 51:12 69:7 79:22 84:4 103:21 presentation 60:1 presented 29:19 presently 45:19 press 2:21,25 3:5 7:7,20,23 8:4,6 9:19,20 10:24 11:20 13:2,11 14:22,23,24 15:7 17:20 19:4 22:20 24:9,9 25:22 26:4,23 28:12 31:16 36:7,10 52:3,7,11,18 52:21,23,25 64:18,21 66:10 66:13,19,20 67:8,20 74:22 76:20 77:10 80:25 82:7,22 83:1,16,17,19	85:21,24 86:10 86:13,17,20,23 87:23 91:6,22 96:13,14 97:6 98:14 102:16 102:22 pressed 42:8 pressure 59:18 pressures 57:6 pretty 1:25 58:23 previous 1:19 pre-investigati... 43:24 pride 19:19 20:7 21:10 primary 10:4 66:9,13,14,15 67:2 principal 42:24 principally 32:9 principle 5:11 8:6 14:18 15:4 16:12 19:12 23:22 28:19 68:6 77:1 93:1 priorities 23:5 privacy 6:21 10:10 18:5,6 18:23 50:15 51:1,23 63:6,7 63:7 64:11 66:22 94:14,20 100:7 101:8,15 101:17,20,22 private 19:3 28:7 66:16 privately 101:22 privilege 33:10 probably 49:9 57:15 75:12 76:1 90:18 105:2 problem 24:15 26:11 28:8 33:12 35:16 37:22 43:8,18 54:12 60:5 63:13 76:8 78:6 80:14 84:20 97:23 99:24 problems 12:5 12:10 25:2,20 36:14 51:22 59:5 64:16 84:7 85:17,20 99:24 procedure 101:25 procedures 25:8 proceed 5:4 11:23 14:6 24:14 41:25 proceeded 88:2 proceedings 15:25 69:1 process 9:9,14	10:20 32:24 33:17 34:23 35:4 55:12 57:16 59:7,10 59:13,21 65:24 68:23 77:23 82:5,15 83:5 83:25 84:14,15 84:18 85:17 89:5,17 102:2 102:5,10 103:9 produced 21:14 51:19 productive 19:21 professing 103:15 profession 27:11 45:13 professional 22:21 27:13 professor 47:25 48:3,8,10,17 48:18,23 49:1 49:5,15,19,20 49:21 50:1,1 50:13 51:4,13 53:8,21 55:7 55:25 56:18 57:5,8,25 60:10 61:11 65:4 66:18 67:10,14 68:5 68:8,16 69:5 69:16 70:7,23 71:5,24 73:7 75:5 77:12,25 78:17,24 79:2 79:14 81:8 84:20 86:22 87:18 91:5 93:4 94:8,16 95:12,22 96:6 96:22 98:17 99:22 100:9,20 101:13 102:13 103:2 104:3,15 progress 7:25 11:24 prominence 37:19,24 38:9 38:11 39:11 40:6 70:15 promote 21:25 promoting 20:1 promulgated 41:11 proper 81:6 properly 78:20 proposal 2:17,18 11:12,25 12:4 12:18 28:15 29:5,25 30:1 40:23 41:4 60:17 61:4 proposals 61:2 64:12
---	---	---	--	--	--	--

propose 32:19 45:15	26:4 34:3 39:1 53:25 54:4	radical 89:2	received 13:5,24 42:19 44:20	15:23,24 16:2 16:3 18:16	remarkable 87:19	62:6 63:1,2 65:18 101:8
proposed 12:18 19:24 33:4	55:1 82:15,21 83:12	radio 80:11	86:2 87:16	25:7 27:20	remedial 61:22	resolve 31:10 62:4 75:21
proposing 3:20 30:11 66:6	publishes 39:4	raise 49:8 77:21 85:7 96:6	recklessly 94:17	39:18,19,19,22 39:23,24 40:4	remedy 41:19	85:20 100:7
83:9 86:17	publishing 43:14 80:16 90:17	raised 1:7 10:19 18:2 19:16	recklessness 94:10 98:7	45:19 46:3	remember 26:9 57:9 63:21	resolved 12:24 14:8 37:18
proprietors 30:12 52:22	punish 18:2	58:18 96:23	recognisable 51:20	regulating 87:23	99:10	resolving 9:3,5 102:6
55:9 68:3,10 104:10	purely 16:19	raises 58:4 87:6 91:7	recognise 9:15 19:6 32:18	regulation 7:7 39:16 80:25	remembering 57:15	resort 7:24
proud 88:21	purpose 18:3 33:24 83:25	raising 18:8	40:21 42:9	81:1,24 82:2	reminded 24:20 26:10	respect 2:8,23 10:14,16 42:18
provide 8:18 25:16 27:22	88:24	range 29:19 69:16,19	43:7	83:6 84:11	remit 13:9	respectability 21:5
provided 10:7 28:9 54:13	purposes 18:11 92:1	rapid 4:13	recognised 15:17 19:8 32:24	85:2 86:4 87:8	removed 58:6	respected 31:13
providing 75:14 80:5	pursue 64:6 91:18	rare 31:3 35:4	recognising 18:20	87:11,14 92:21	reneges 38:2	respectful 8:5
proving 13:14	pursuing 41:18 100:1	rarely 41:25	recognising 15:19 16:17	regulator 10:5 12:15,21 20:3	repair 89:7	responded 29:3
provisions 28:18 45:5	put 5:3 20:7 23:9 25:1,7 49:13	reach 41:14 63:5	19:10,12	21:24 23:13	repeated 43:12 94:11	response 29:18 91:14
proxy 34:23 35:10	54:3 56:24	reaches 65:6	recollection 3:5	25:15 27:22	repeating 33:4	responsibilities 9:19 82:10
public 5:23 6:3,7 6:8,11,11,24	58:9 78:12	reaction 9:15 23:2	recommend 11:5 8:19	28:1,8,22,23 33:19 34:13,21	replace 89:11	responsibility 26:8 59:21
7:3,4 20:1,18	80:14 92:18	read 15:15 17:3 20:11,19,19	recommendati... 97:3	37:24 38:3	reply 69:13,18 70:5,10,16,20	responsible 9:5 15:5 25:9
20:19,25 24:24	96:4 98:14	21:4 57:21	recommended 21:25	39:3,4,8,21	70:20 71:11	31:15 96:16,20
26:9 31:6	putting 32:7 53:10 60:3	67:11 102:12	recruitment 90:24	42:2 43:22	report 8:18 11:9 57:3	restore 46:4 47:15
32:14 36:15,22	86:1,20 96:19	readers 34:16,19 38:17 72:4,8	rectify 36:13	45:19 47:16,16	reporter 34:8 57:10	restoring 20:1
40:3,15 41:15	Q	80:4 91:20	redress 42:11 100:5	55:5 61:6	reporters 59:8	restrict 42:25
41:22 42:22	qualified 37:10	ready 1:23 3:3 12:2 26:2	reduce 71:19	66:14,19,21	reporting 25:17 79:23 96:15	result 21:2 44:15 84:17
43:23 47:17	question 2:9,10 3:20 4:7 10:18	real 64:14 82:18	reduction 18:25 37:13	70:19,24 71:20	reports 97:7 103:22	retain 29:17
49:9 52:24	10:19 14:7	realise 29:24 40:12	refer 27:15 36:4 86:8 102:2	71:23 73:4	represent 24:8 33:1 90:16	retribution 63:9
55:9,17,19	17:7 18:2	realised 97:20	reference 28:16 82:9 86:6	79:8,12 80:19	representation 28:13,20 29:1 30:21	returned 13:3,25
56:3,10 59:25	29:16 47:11,14	reality 76:16 88:18	referred 24:14 83:13	81:6 87:21	representations 28:18,24	revealing 9:25
64:19 67:1	57:19 58:4	really 5:21 6:15 7:17 10:24	referring 12:22 17:10 21:15	95:9 96:18	representative 89:24 90:2	revert 8:15
68:12,24 91:9	80:10 83:4	14:18 16:10	26:21	98:9	representatives 19:22 32:25	review 88:4
92:5 97:25	87:6 98:7	17:15,21 19:7	refers 58:17	regulatory 10:20 15:1,18 16:25 38:23	103:11	revisited 45:4
102:1 103:1,3	questions 1:11 15:8,10 46:7	20:3 25:25	reflect 57:14	regulator's 102:5	reported 29:7 29:11,23 31:25 68:20	Reynolds-style 15:17
publication 17:8 20:20,21 21:5	46:24 48:5	30:12,17,22	reflected 40:22	reiterated 3:2	represent 24:8 33:1 90:16	Reynolds-type 100:15
36:5,17,24	49:23	32:1 43:16	reflects 57:3 78:22	rejected 63:25 88:6	representation 28:13,20 29:1 30:21	Richard 2:3
38:2,21 43:11	quickly 36:11 70:22 71:12	44:8 47:3 51:9	refers 58:17	rejoins 52:18	representations 28:18,24	right 2:22 4:3 8:13 14:9 15:2
71:1,4,9,14	quit 84:23	55:25 58:1	reflect 57:14	related 28:11 78:25	representative 89:24 90:2	15:19 29:18
72:21	quite 5:22,24 19:2 23:9	61:2 66:6	reflected 40:22	relates 16:7 43:5	representatives 19:22 32:25	31:1 32:18
publications 17:19 20:6	36:19 45:7	70:14 76:14,19	reflected 40:22	relating 15:8 47:3	103:11	33:25 37:24
21:10 31:13	51:22 52:24	86:9 87:12,19	reflected 40:22	relation 1:4 15:24 19:16	reported 29:7 29:11,23 31:25 68:20	45:7 46:10
34:15,19	54:21 55:10,13	91:2 93:14	reflects 57:3 78:22	25:21 26:14	representing 29:20 63:18	47:19 48:22,23
publicise 38:17	56:1 59:14	98:20 101:6	refers 58:17	27:1,19 35:25	representations 28:18,24	50:18 54:14
publicising 34:17	62:9 64:5 67:9	realm 81:5	reflect 57:14	55:2 70:20	representative 89:24 90:2	59:14 63:13,14
publish 18:14 39:5 71:1,10	73:9,16 74:3	reason 11:22 49:8 67:3 69:8	reflected 40:22	73:3 80:20	representatives 19:22 32:25	63:15 66:18
published 63:10 71:12,25 98:18	78:25 82:25	71:10 73:14	reflects 57:3 78:22	92:19 93:2	103:11	67:17 69:13,18
98:21 99:7,8	83:10,24 87:18	94:25	refers 58:17	Relations 5:1	reported 29:7 29:11,23 31:25 68:20	70:5,10,16,20
publisher 1:20 15:5 16:8 18:7	87:21 91:21	reasonable 38:11 39:11 40:6	refers 58:17	relationship 58:1 34:20	reporter 34:8 57:10	70:20 71:11
18:8,12 25:10	96:9,23 100:18	63:6 92:11	reflected 40:22	relationships 34:20	reporters 59:8	73:9 78:11
27:21 38:2	100:19	101:5	reflects 57:3 78:22	relevant 15:7 18:10 51:12	reporting 25:17 79:23 96:15	79:12,14 81:11
39:4,10 40:9	quixotically 10:17	reasonably 43:20 101:22	refers 58:17	71:1	reporting 25:17 79:23 96:15	81:22 82:12
95:7 98:10	quo 43:17 64:25	reasons 60:16 84:3 101:1,2	reflected 40:22	reluctantly 7:24 88:10	reporting 25:17 79:23 96:15	85:12,13 87:18
100:13	R	recalled 48:4	reflects 57:3 78:22	rely 17:14	reporting 25:17 79:23 96:15	87:21 90:16
publishers 11:7 12:2,8 25:7,19	racist 58:25	receive 5:8 8:16 18:9 24:18	refers 58:17	relying 84:13 87:7	reporting 25:17 79:23 96:15	103:1 104:17
		62:1 94:23,23	reflected 40:22	remain 31:14 85:4	reporting 25:17 79:23 96:15	105:6
			reflects 57:3 78:22		reporting 25:17 79:23 96:15	rightly 5:24

16:20 62:10 rights 50:16,19 51:1 58:5 66:15,16 67:13 rigour 6:13 riot 87:1 rip 66:1 rise 27:16 risk 20:13 54:20 54:21 77:25 99:25 risks 101:25 rivals 38:17 road 24:21 27:18 role 10:6 43:13 43:18 55:5,19 68:2 70:19 96:12 rolling 44:12 roof 63:24 room 74:24 93:1 rose 63:22 roudest 60:2 route 3:24 18:19 routine 59:23 routinely 65:24 Royal 51:6,25 73:12,14 75:2 rubric 81:20 rule 41:10 69:9 rules 41:11 76:10 ruling 1:5 68:4 69:3 rulings 13:6,23 14:3 run 27:22 68:10 68:11 86:25 running 4:15 5:6 run-of-the-mill 58:23 72:14	99:1,19 says 39:5 57:15 66:22 77:6 79:16 97:25 100:24 scale 92:4 scandal 89:16 scared 84:22 scheme 7:2 71:6 School 21:14 scoop 69:12 screams 57:23 scrutinising 5:25 scrutiny 6:5 second 60:21 69:2 78:25 92:20 96:2,8 secondary 27:25 secondly 53:17 91:3 sectional 23:12 sections 29:22 31:25 43:2 102:17 see 6:16 7:3 9:22 10:13,14 13:14 15:18 19:2,8 19:10 22:10 27:6 29:5,9,15 30:3 34:24 35:8 37:17 42:6 45:9,13 45:25 47:1 55:22 65:4,20 68:2 69:6 70:12 71:4,7 75:22 78:5 81:12,23 84:10 84:16 85:14 89:2 93:6 98:17,22 99:2 99:23 104:11 seeing 31:8 103:8 seek 1:16 2:12 15:9 23:4 33:13 seekers 58:21 63:21 74:1,3 76:23 seeking 1:24 18:2,24 22:8 29:17 45:3 seeks 4:23 70:10 seen 2:20,20 32:20,25 42:17 47:7 73:1 75:16 86:3 sees 35:21,23 66:19 76:6 self-defining 30:17 self-limiting 30:17 self-regulation 15:12 61:5 87:10,17 93:2	self-regulator 87:22 self-regulatory 60:24 selling 92:4 senior 6:23 7:21 25:9 sense 49:24 60:2 75:9 90:15 sensible 9:13 38:8 42:1 44:11 49:17 84:18 85:1 95:17 sensibly 10:13 sent 83:13 sentence 60:19 separating 82:24 serious 43:23 81:3,3,5,9 83:23 93:9 94:7,9 98:6,24 99:14 seriously 45:14 63:8 65:16 95:6 seriousness 98:21 99:5 service 12:16 27:23 set 4:11 5:9 8:17 8:22 11:21,23 18:24 22:17,18 29:18 30:8,9 41:9 45:6 46:1 46:7 48:15 52:1,7,13,22 53:1 65:6 67:5 78:1 84:4,5,12 87:22,23 setting 9:17 26:8 37:12 92:23 104:2 sexual 62:14 sexual-oriented 24:22 shake 30:22 68:19 shaped 76:6 share 28:8 46:14 99:21 sharing 59:21 Shell 1:17 2:1,11 2:19,21 3:2 83:15 shift 45:18 shifted 89:9 short 47:22 100:7 shot 63:24 show 81:12,16 81:16 94:17 100:13 shown 89:8 shows 81:11 Shrewsbury	21:14 side 9:1 27:18 68:11 75:2 101:13 sight 46:18 sign 1:23 3:3,11 11:11,13 12:3 12:6 16:9 55:3 104:23 signed 11:7 14:25 15:14 16:13 17:8 20:9 signed-up 17:12 significant 12:22 50:5 53:24 54:3 61:7,17 65:14 70:11 79:19,23 91:21 98:13 104:8 significantly 5:19 12:15 16:24 69:7 similar 97:11 simply 4:5 10:15 19:3 27:2 35:12 36:22 38:10 42:10,16 60:3 63:5 64:3 66:2 75:25 sir 1:8 8:21 22:5 36:1 46:13,24 47:24 sit 36:1 77:4 sites 80:13 situation 87:1 size 92:11 99:9 slander 18:22 slight 10:14 26:25 72:17 slightly 58:3 61:23 70:13 89:13 98:14 smacked 63:11 small 5:22 27:15 83:1,1,2 99:1 smaller 82:25 90:25 91:3 snag 19:1 snook 20:9 soaking 32:19 social 4:13 society 22:6 33:2 68:18 102:24 softer 11:13 sole 42:25 solicitor 22:7,9 solution 2:22 11:6 16:10 35:18 59:19 83:9,25 solutions 87:5 somebody 18:4 35:19 37:8 74:17,19,21 75:3 76:17	83:5 89:22 91:13 100:24 somewhat 96:21 sooner 71:12 sorry 27:18 65:20 76:11 80:22 99:2 100:20 sort 35:16 36:11 36:11 37:8 69:7 72:4,13 87:3 88:11 92:15 93:8 94:13,20 97:13 100:6,16 101:9 sorts 52:5 sought 49:13 source 81:21 spark 79:25 speak 6:16 8:8 33:11 49:21 speaking 47:8 51:7 71:21 99:23 special 23:12 specific 99:22 specifically 10:8 62:13 64:5 67:4 97:24 103:21 speedily 102:7 spend 60:15 spending 6:14 spent 5:23 61:14 spoken 11:1 30:12 sports 92:2 spread 24:10 stack 78:14 staff 13:12 25:9 37:10 58:9 62:11,18 staffed 32:22 stage 20:25 39:10 59:14 81:9 99:15 stakeholder 102:21 stakeholders 55:8 68:9 85:5 stamp 92:3 standard 16:16 22:18 32:14 standards 14:22 22:21 25:10 27:13,14 30:3 30:8 37:11,12 43:13,17,22,24 44:1 85:7,8 92:24 102:16 104:6,10,10 standing 41:11 standpoint 101:5 Stanistreet 47:25 48:4,6,13 58:16 59:20	64:12 65:21 68:17 70:15 76:11,14 81:25 82:3,21 84:9 85:13 86:6,9 88:16,17 90:1 90:5,7,13 102:2 103:7,24 start 2:6 27:9 29:18 32:20 61:12 starting 33:22 38:25 69:17 starts 66:6 state 5:11,13,20 53:9 66:11 67:24 69:4 77:4 86:13 95:19 96:4 statement 1:12 2:13 8:1 12:11 14:16 17:7 19:18 21:18 25:5 33:20 37:21 48:11 49:20 50:7 51:3 53:8 58:17 60:20 66:8 73:5 79:3 81:19 98:5 102:13 104:3 statements 22:22 48:15 statistics 90:19 status 43:17 64:25 statute 3:21 4:6 4:8,22 5:1 8:4 10:24 11:18,18 14:19 19:11 32:16,17 82:6 82:13 statutes 10:4 statute-backed 3:15 statutory 4:16 7:9,23 27:25 81:23,24 82:1 82:1 84:10 85:1 86:3,15 88:11 89:20 92:19,25 93:7 93:15 104:25 step 25:13 59:23 82:19 stick 17:5 sticking 60:3 69:17,18 sticks 84:12 stipulation 55:4 stop 44:4,23 stories 18:14 42:13 54:22 56:24 58:22,24 73:11,12 74:2 74:12 77:10	80:16 96:16,20 96:22 100:25 story 34:8 38:13 39:14 40:8,11 56:6 57:15 60:1 63:10 69:24 70:18 73:10,15,16,19 73:23,25 74:5 74:19 75:14 77:17,17 straight 34:10 36:14 58:24 straightforward 2:10 strength 45:10 strengthen 47:17 strengthened 45:11 strict 76:9 strictly 28:7 strikes 101:5 stringent 44:6,24 strong 16:23 stronger 100:15 strongly 27:6 34:1 70:8 structure 15:18 16:25 30:10 60:23 93:17 102:11,14 structured 63:14 structures 89:18 struggling 52:17 student 70:2 subbing 59:10 subedited 56:25 subeditor 57:10 subject 6:11 7:18 45:4 50:6 67:11 69:23 73:16,19,24 74:5 subjected 6:4 59:16 subjective 79:10 96:21,22 submission 41:10 48:13 49:18,22 53:17 submissions 42:18 86:2 submitted 46:23 subscribe 16:6 17:20 20:17 22:18 27:12 subsequent 54:7 subsidy 6:7,8,9 substantial 18:25 37:13 substantially 22:12 41:10 61:5,12 substantive 64:14 subvention 69:4
---	--	---	---	--	--	--

<p>success 52:14</p> <p>successes 35:5</p> <p>successful 13:15</p> <p>successfully 95:23</p> <p>successor 71:20</p> <p>suddenly 45:8</p> <p>88:7</p> <p>sue 65:19</p> <p>sufficient 15:11</p> <p>15:13 37:2</p> <p>47:9 75:25</p> <p>93:19</p> <p>sufficiently 43:23</p> <p>suggest 45:17</p> <p>64:8 76:10</p> <p>suggested 18:1</p> <p>19:2 92:5,8</p> <p>suggesting 9:8</p> <p>30:20 40:13,19</p> <p>42:4 43:11</p> <p>60:10 65:14,16</p> <p>94:8 101:21</p> <p>suggestion 17:25</p> <p>52:21</p> <p>suggestions 24:13 52:2,3</p> <p>suggests 26:16</p> <p>suicide 64:10</p> <p>79:22,24,25</p> <p>81:4</p> <p>suitable 54:9</p> <p>summarise 16:22</p> <p>summarised 23:8</p> <p>summation 55:6</p> <p>summer 46:22</p> <p>support 7:23</p> <p>33:3</p> <p>supporting 86:16</p> <p>suppose 1:17</p> <p>4:21 15:4,21</p> <p>16:11,17 19:18</p> <p>33:22 45:3,14</p> <p>49:5 59:20</p> <p>supposed 61:18</p> <p>sure 1:21 4:9</p> <p>8:20 13:9</p> <p>20:23 21:7,10</p> <p>35:22 40:22</p> <p>42:5 45:7 54:8</p> <p>72:5 84:8 86:2</p> <p>94:16 99:16</p> <p>surprised 83:11</p> <p>surrounds 64:11</p> <p>suspect 93:5</p> <p>sword 32:12</p> <p>sympathy 64:5</p> <p>system 1:15 2:24</p> <p>3:13,16,17,21</p> <p>4:4,8,14,23 5:6</p> <p>5:11,17,24 6:5</p> <p>6:18,22 7:9</p> <p>8:17 9:2,8</p> <p>10:12 11:7</p> <p>14:14 15:1</p> <p>16:20 18:3,12</p> <p>18:15,23 19:1</p> <p>19:17,25 20:9</p> <p>20:12,15 30:16</p> <p>32:9,13 33:24</p> <p>35:2 36:16</p> <p>37:19,22 38:24</p> <p>39:2,21,24</p> <p>40:18,20 46:2</p> <p>47:5,9 62:6</p> <p>63:2 66:5 68:2</p> <p>68:4 70:24</p> <p>71:16 81:17</p> <p>83:6,8 85:1,1</p> <p>87:2 90:24</p> <p>91:4 92:9 98:9</p> <p>99:20 101:1,7</p> <p>101:21</p> <p>systematic 43:12</p> <p>systematically 42:24</p> <p>systemic 43:18</p> <p>43:21</p> <p>systems 34:16</p> <p>61:22 86:5</p> <hr/> <p>T</p> <p>tab 48:1</p> <p>table 64:15</p> <p>Tables 48:2</p> <p>tackled 26:24</p> <p>take 4:12,16</p> <p>10:23 11:20</p> <p>14:20 19:3</p> <p>21:10 24:14</p> <p>26:25 35:8,15</p> <p>41:12,23 44:10</p> <p>44:16 47:20</p> <p>52:13 54:19</p> <p>64:9 67:4 72:9</p> <p>73:8 78:8,13</p> <p>88:7 91:20</p> <p>92:14 101:2,4</p> <p>taken 17:9 25:13</p> <p>31:4 43:6,21</p> <p>99:22</p> <p>takes 63:15</p> <p>79:22</p> <p>talk 25:6 31:3</p> <p>54:1 71:7 86:3</p> <p>talked 62:13</p> <p>63:18 69:9</p> <p>82:22</p> <p>talking 5:17 14:2</p> <p>23:16,17 31:9</p> <p>50:23,25 62:6</p> <p>74:11 81:2</p> <p>94:3 97:2</p> <p>102:18 104:6</p> <p>104:18</p> <p>tangent 27:1</p> <p>tapping 97:18</p> <p>taste 10:6,20</p>	<p>64:4 79:17,18</p> <p>tax 96:3</p> <p>taxpayer 4:10</p> <p>6:16,18 7:2,4</p> <p>teach 76:4</p> <p>team 36:2 103:24</p> <p>technological 4:13</p> <p>teeth 66:3</p> <p>telephone 34:6</p> <p>36:2</p> <p>telephoned 36:8</p> <p>television 80:11</p> <p>tell 36:10 46:21</p> <p>ten 63:22</p> <p>tend 103:11</p> <p>tension 7:14</p> <p>term 20:11 35:12</p> <p>49:1</p> <p>terms 1:24 2:12</p> <p>5:10 10:5 20:8</p> <p>27:24 30:13</p> <p>34:21 39:25</p> <p>40:23,24 44:8</p> <p>51:5,6 58:11</p> <p>68:18 69:3,14</p> <p>73:2 75:14</p> <p>80:25 82:9</p> <p>83:1,9 84:13</p> <p>85:16 89:14</p> <p>90:24 96:4</p> <p>104:1</p> <p>terrorist 81:13</p> <p>testified 8:2</p> <p>testify 23:24</p> <p>testing 33:9</p> <p>Thank 1:9 2:15</p> <p>14:13 25:4</p> <p>41:1 47:19</p> <p>48:1 49:15</p> <p>51:3 90:22</p> <p>92:17</p> <p>theirs 100:25</p> <p>theme 28:11</p> <p>thing 15:19</p> <p>20:24 47:3,6</p> <p>85:25 102:4</p> <p>things 14:21</p> <p>16:11 47:10</p> <p>52:2,5 53:15</p> <p>54:1 66:25</p> <p>76:6,22 85:4</p> <p>91:1 97:12,16</p> <p>think 1:19 2:10</p> <p>5:5 7:1,17 8:21</p> <p>10:1,18 12:1</p> <p>14:12 15:8,16</p> <p>16:22,23 17:14</p> <p>17:16,22 19:20</p> <p>23:23 26:2,11</p> <p>26:18,23 27:8</p> <p>27:16 28:17</p> <p>29:21,23 30:8</p> <p>30:9,25 32:4</p> <p>32:17 34:10</p> <p>35:1,4,5,7 36:1</p>	<p>37:5 38:8,15</p> <p>38:16,18,21</p> <p>40:15,18,24</p> <p>41:8 42:1,2</p> <p>43:5 45:15,16</p> <p>46:6 47:14</p> <p>48:14,20 51:11</p> <p>51:13 55:10</p> <p>57:5 58:4</p> <p>63:11,22 67:2</p> <p>67:14 68:8</p> <p>73:7,18 75:11</p> <p>77:6,12 79:14</p> <p>79:18 80:8</p> <p>81:7,15,22</p> <p>82:21 83:2</p> <p>84:2 85:11,17</p> <p>88:9 89:22</p> <p>90:24 91:19</p> <p>93:4,14 94:19</p> <p>95:16 98:18</p> <p>99:5,18,22,25</p> <p>103:2,7,20</p> <p>104:17 105:5</p> <p>thinking 53:20</p> <p>thinks 39:4</p> <p>43:18</p> <p>third 95:4</p> <p>third-party 41:2</p> <p>41:5,7 61:21</p> <p>63:16 72:17,18</p> <p>78:2 79:1</p> <p>thought 14:7</p> <p>39:11 45:1</p> <p>threatened 1:20</p> <p>threatening 83:22</p> <p>threats 96:13</p> <p>three 65:7 73:4</p> <p>81:18 93:23</p> <p>94:2</p> <p>three-fifths 102:25</p> <p>threshold 94:6</p> <p>tie 89:18</p> <p>tilting 10:15</p> <p>time 7:6 9:21</p> <p>11:17 14:11</p> <p>20:5 31:8 33:9</p> <p>41:8 45:22,24</p> <p>46:9 47:17</p> <p>51:19,20 52:4</p> <p>52:4,15,20,25</p> <p>57:6 59:2,15</p> <p>59:18 60:15</p> <p>61:14 65:3,6</p> <p>65:22 71:2</p> <p>78:20 88:5</p> <p>89:1 90:15</p> <p>times 10:1 94:2</p> <p>103:23</p> <p>timetable 46:8</p> <p>tinge 39:24</p> <p>tiny 65:9</p> <p>today 26:12 46:8</p> <p>46:15,22 53:23</p>	<p>61:3,16 64:4</p> <p>64:13 77:4</p> <p>told 1:22 13:2</p> <p>39:20 44:10</p> <p>tomorrow 12:3</p> <p>49:10</p> <p>tooth 88:15</p> <p>top 102:20</p> <p>topic 72:15 94:13</p> <p>topics 105:2</p> <p>touch 14:15</p> <p>99:16 103:13</p> <p>103:18</p> <p>touched 28:12</p> <p>72:15 79:3</p> <p>touchstone 19:5</p> <p>19:8</p> <p>toughened-up 61:5</p> <p>trade 27:11</p> <p>68:20</p> <p>traded 74:22</p> <p>91:13</p> <p>tragic 76:18</p> <p>training 52:3,8,8</p> <p>62:20</p> <p>transgender 42:7</p> <p>transparency 48:19</p> <p>Treasury 5:16</p> <p>treat 95:5</p> <p>treated 15:6</p> <p>54:24 76:19</p> <p>101:3</p> <p>trends 96:14</p> <p>trial 50:15</p> <p>tribunals 41:12</p> <p>tribunal-based 6:22</p> <p>tricky 42:20</p> <p>tried 53:2 86:11</p> <p>87:10 88:25</p> <p>91:24 96:6</p> <p>trigger 30:2</p> <p>truck 9:24</p> <p>true 41:8 91:11</p> <p>truly 39:20</p> <p>trust 28:13 29:11</p> <p>46:4 47:17</p> <p>truth 48:16</p> <p>86:15</p> <p>try 1:21 25:1</p> <p>33:15 36:13</p> <p>42:22 52:13</p> <p>trying 36:19</p> <p>40:19 63:21</p> <p>85:19</p> <p>Tuesday 1:1</p> <p>turn 3:20</p> <p>turned 77:24</p> <p>turnover 82:23</p> <p>92:7</p> <p>TV 81:14</p> <p>two 16:11 21:11</p> <p>53:15 57:18</p>	<p>72:18 73:2</p> <p>77:21 78:3</p> <p>80:18 89:3</p> <p>91:1,5,21</p> <p>93:22 95:19</p> <p>97:7 102:17,21</p> <p>104:16</p> <p>two-fifths 102:22</p> <p>type 42:17 63:15</p> <p>73:20 94:13,22</p> <p>types 74:12</p> <p>typical 62:4</p> <p>typically 62:8</p> <hr/> <p>U</p> <p>UK 76:5 83:23</p> <p>85:18,21 86:18</p> <p>90:8,9,12</p> <p>ultimately 8:11</p> <p>8:14,15</p> <p>unanimity 83:24</p> <p>unbadged 20:20</p> <p>unbalanced 42:13</p> <p>uncertain 57:13</p> <p>unclear 6:17</p> <p>undated 48:13</p> <p>underestimate 4:22</p> <p>underlying 67:7</p> <p>undermined 1:16 3:13</p> <p>underpin 82:12</p> <p>underpinned 4:5</p> <p>82:6</p> <p>underpinning 4:7,16 27:25</p> <p>81:23 82:1</p> <p>84:11 86:16</p> <p>88:12 89:20</p> <p>92:19,25 93:7</p> <p>93:15</p> <p>understand 8:25</p> <p>11:24 13:21</p> <p>15:9 29:10</p> <p>31:17 32:10</p> <p>37:7,17 44:13</p> <p>44:25 53:13</p> <p>56:15,23 57:7</p> <p>59:17,18 65:15</p> <p>67:23 75:22</p> <p>84:8 86:22</p> <p>92:17</p> <p>understanding 12:4 13:10</p> <p>35:14 78:23</p> <p>104:22</p> <p>understands 37:3</p> <p>understood 28:2</p> <p>35:19 46:25</p> <p>51:8 53:20</p> <p>102:15</p> <p>undertake 23:11</p> <p>undertaken 9:7</p> <p>undesirable 7:16</p>	<p>unethical 54:15</p> <p>unethically 100:3</p> <p>unfair 23:4</p> <p>unfairly 76:20</p> <p>unfairness 15:18</p> <p>union 28:25 31:5</p> <p>48:20 49:13</p> <p>88:22 89:12</p> <p>100:6</p> <p>union's 89:9</p> <p>united 13:18</p> <p>universal 1:14</p> <p>University 49:10</p> <p>50:3</p> <p>unjustified 18:22</p> <p>unnecessary 8:12,14</p> <p>unrivalled 8:22</p> <p>untested 40:20</p> <p>untried 40:20</p> <p>upheld 62:9,9,10</p> <p>64:2</p> <p>uphold 93:22</p> <p>upholding 22:25</p> <p>upset 73:13</p> <p>upshot 39:17</p> <p>use 7:14 58:21</p> <p>83:16 87:13</p> <p>93:18,20</p> <p>useful 31:7 75:11</p> <p>97:8</p> <p>users 69:2</p> <p>usual 65:12</p> <p>73:21</p> <p>usually 5:14 81:9</p> <p>utopian 1:14</p> <hr/> <p>V</p> <p>validity 5:25</p> <p>valuable 13:10</p> <p>24:3 35:6</p> <p>70:21</p> <p>value 9:1</p> <p>various 63:18</p> <p>75:13</p> <p>vary 55:25</p> <p>VAT 82:24 92:7</p> <p>Venn 73:1</p> <p>version 11:13,13</p> <p>12:3 61:5</p> <p>versions 60:11</p> <p>vested 9:19</p> <p>64:23 86:9</p> <p>victims 24:22</p> <p>47:7,11 62:14</p> <p>video 80:10,20</p> <p>81:11,13</p> <p>view 5:17 15:12</p> <p>20:18 33:20</p> <p>38:19 39:10</p> <p>47:16 50:11</p> <p>53:14 55:17</p> <p>64:6 71:20</p> <p>73:2 80:2</p> <p>87:23 88:16,19</p>
---	--	--	---	---	--

99:21,22 100:6 101:10,12 viewpoint 71:1 91:19 103:4 views 88:20 91:17 vilification 43:12 virtue 6:9 visibility 19:25 20:4 visible 38:15 visibly 20:4 visit 13:13 14:10 14:12 visits 36:6 visual 46:18 visualise 33:13 visualised 72:19 vis-a-vis 10:22 vital 89:21 vivid 80:23 voice 68:15 90:7 104:8,9,13 volition 41:23 volume 46:17 voluntarily 4:12 65:23 voluntary 3:16 6:5 82:14 84:14,21 87:2 100:23 voting 8:10 vulnerable 43:12 63:18	6:20 8:7 9:22 13:19 16:9 18:13,15,17,17 18:20 33:6 36:3 38:8 39:14 42:15 44:11 45:14 47:1 50:11 52:12 54:23 57:8,11 58:13 60:5 61:13,15 61:20,24 63:14 63:14 66:4 68:22 73:5 75:17 76:5 77:6 82:6,18 83:25 84:4,5 84:18 85:23 86:24 87:8 88:2 91:14 97:5,10,11 102:6 ways 80:6 91:24 92:6 102:9 weaker 11:13 weakness 85:15 wear 19:19 20:6 weasel 67:13,14 67:16 web 61:8 website 81:14,14 websites 80:14 80:16,20 83:2 wedded 92:8 96:7 week 3:8 83:14 weeks 48:24 weight 39:9 70:18 welcome 100:11 went 15:10 weren't 48:21 74:5 103:21 we'll 8:17 36:11 36:11 47:20 72:16 105:5 we're 1:8 5:17 11:11,12 19:14 23:16,17 32:16 32:17 51:8 52:1 58:9 60:10,15,17 62:23 67:18 70:7 73:21 85:19 87:4 88:20 92:8 93:12 94:3,8 96:7 98:17,19 99:2 101:21 102:18 103:8 104:2,6,15,18 we've 7:20 19:15 43:6 53:2,3,23 61:2 69:9 82:22 85:18 87:10,18 91:24	92:5,7 96:8 97:18 99:22 100:9 101:13 101:14 103:14 wheel 38:18 whereabouts 98:20 whilst 64:5 75:7 whip 8:8 whistle-blowing 27:20,22 30:2 whole-hearted 46:3 wholly 7:12,12 39:22 widely 31:12 32:24 wider 26:22 76:8 widespread 33:3 widest 104:22 wilfully 95:14 willing 1:23 3:3 12:2 45:21 willingness 36:13 windmill 10:15 wing 28:21,22 29:13 wings 7:20 8:4 WIRRELL 1:10 wish 13:17 20:16 49:21 60:17 72:22 84:16 92:14 wished 13:13 wishes 16:5 72:19 89:1 withdraw 1:20 45:3 witness 48:11 49:14 witnesses 47:24 wonderful 5:5 wondering 59:19 word 18:18 44:12 67:13 87:14 words 9:2 14:25 40:5 67:14,16 81:21 work 9:11 13:10 13:14 15:11,14 22:4 23:13 24:25 32:1 35:7 44:14 52:14 59:9,10 60:14 66:4 71:19 90:9,12 worked 32:22 57:9 87:3,8 100:14 working 46:19 52:11 71:4 95:11 workings 46:15 workplace 52:18	world 26:10 89:16 worst 103:15 worth 51:18 105:3 wouldn't 4:20 8:3 10:10 18:19 20:6 25:1 29:3,15 42:22 51:20 66:2 69:9 70:7 75:9 82:10 87:1 90:25 92:12,12 96:4 wrist 63:11 write 78:18 writing 2:7,16 57:2 61:15 91:25 written 50:5 58:9,12,13 59:2,9 73:15 76:22 77:17,18 98:5 wrong 5:10 7:11 8:11 21:1 58:12 61:4 62:1 64:8 79:20 82:14 wrongly 16:20	102:12 <hr/> 1 <hr/> 1 43:9 48:12 1,000 14:1 1,011 13:6,23 14:3 1.00 105:7 1.95 12:19 10 1:1 5:18 58:6 96:10 97:24 10.00 1:2 101 33:20 104 34:22 11 98:5 102:12 11.25 47:21 11.36 47:23 110 37:20 115 41:2 117 41:3 12 43:4 102:20 15 58:6 105:3 1930s 51:4 1936 51:13,18 1947 51:24 1980s 52:10,10 1989 52:19 65:6 88:1	<hr/> 2 <hr/> 2 60:21 105:6 2,900 13:5,24 2.25 12:20 20 55:12 57:10 93:22 105:3 200 74:21 2001 58:19 2004 58:19 2005 58:19 2009 14:19 2010 88:4 2012 1:1 48:12 21 53:7 22 51:3 260 12:25 13:22 14:3 27 48:2	<hr/> 3 <hr/> 3,000 14:2 30 86:23 30s 51:23 35,000 90:1 350 62:5 36 4:21	<hr/> 4 <hr/> 4 66:7 40 50:4 62:7 93:21 40s 51:23 40-year 57:11 41 102:13 42 1:12 2:12 44 104:3 45 24:17	46 12:11 47 14:15 49 14:15 19:10 <hr/> 5 <hr/> 5 50:7 50 17:6,23,24 24:16,17 29:20 62:8,8 79:2 51 17:21,23 53 19:17 56 48:2 <hr/> 6 <hr/> 62 21:17 65 90:19 68 23:10 <hr/> 7 <hr/> 7 51:3 81:18 7,000 62:2 77 13:3,24 14:1,1 14:3 25:5 <hr/> 9 <hr/> 9 92:20 95:2 92 27:20
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