

THE LEVESON INQUIRY INTO THE CULTURE, PRACTICES AND ETHICS OF THE PRESS ('THE INQUIRY')

WITNESS STATEMENT OF LORD O'DONNELL GCB

Introduction

1. I make this statement in response to the questions put to me by the Inquiry. For ease of reference I have set out in the body of this statement all of those questions. Because of the considerable overlap between many of the questions, and in the hope that it will provide a clearer expression of my views in answer to them, I have included at the outset of this statement, after providing details of my career in response to question 1, an opening narrative of my views on the main issues raised by the questions ('my narrative'). I then go on in this statement to deal with each question in turn, where appropriate referring to my narrative to avoid repetition.
2. With this statement is a paginated bundle of documents I produce to the Inquiry marked 'LOD 1'. Where I refer to page numbers in this statement it is to the page numbers of that bundle.

Question 1 - Who you are and a brief summary of your career history.

3. Following completion of my education I was an Economics Lecturer at the University of Glasgow for four years before joining HM Treasury as an economist in 1979. From 1985 to 1989 I was the First Secretary (Economics) at the British Embassy in Washington DC. In 1989 I was appointed Press Secretary to the Chancellor of the Exchequer and, from 1990 to 1994, to the then Prime Minister, John Major. I then held various senior Treasury posts culminating in my appointment as Permanent Secretary of the Treasury in 2002 in succession to Sir Andrew Turnbull. I succeeded Sir Andrew as Cabinet Secretary and Head of the Civil Service in 2005 and remained in that post until my retirement at the end of 2011. I was appointed a life peer in January 2012.

My narrative as introduced above.

The benefits of a Free Press

4. "No substantial famine has ever occurred in any independent and democratic country with a relatively free press." So said the Nobel Laureate Amartya Sen in a 2004 article in which he explained what he felt to be the main benefits of a free press. He wrote that the most elemental benefit of a free press was its contribution to the quality of our lives, allowing us to communicate better and understand the world in which we live. He went on to say that it

also gives a voice to the neglected and the disadvantaged, working against the remove between politicians and the most vulnerable in society. He explained that a free press disseminates knowledge and allows critical scrutiny, drawing the attention of the public to matters which might otherwise have gone unnoticed. Finally, he talked about the importance of a free press in the national discourse which allows informed and unregimented formation of values. I agree with all these points: the larger the government, the greater the capacity for corruption, the more is the need for a free press.

5. I believe that transparency is the key to accountability. The degree of openness and transparency in the UK now, thanks to successive Government policies, has increased quite dramatically. This is partly due to the increasing availability of information through technology, but also because of a culture change. Amartya Sen talked about the importance of a free press in enabling public discourse and the formulation of new national values. Over recent years the public discourse has led to the expectation of openness and transparency from Government, an expectation which I think is appropriate. But good government also requires a safe space for cabinet ministers to be able to disagree and for civil servants to feel free to give fearless advice.
6. In my view governments should be as open as possible, and where appropriate make accurate data available proactively in a timely manner. Where the Freedom of Information Act has had a great effect is in making departments think "If there were a FOI request for this information, would we release it or not?" and to proactively publish as much information as possible where the answer to that question would be "yes". Where there has been a negative impact is when fear of FOI disclosure forces contacts or decision making into the area not covered by FOI. I believe it is extremely important to preserve a safe space for Ministers to be able to disagree and for civil servants to feel free to provide fearless advice. My views on FOI were set out in my evidence to the Justice Committee earlier this year.¹
7. The media have an important role to play in seeking out wrong doing and identifying criminality and fraud. The media have exposed examples of serious wrongdoing: the investigation by Sunday Times and Panorama into corruption at FIFA is an example of the real strength of good investigative journalism we have in this country. However, there is a big difference between exposing wrong doing and invading privacy. I believe certain privacy issues could be resolved by agreement on transparency rules. The recent discussion around tax records is a good example. I believe such records should be private, but if everyone agrees to transparency then we should have clear agreed rules about what should and should not be revealed.
8. Survey results on trust in journalists show differing results, Ipsos Mori² showing a stable but low level of trust, the Committee for Standards in Public Life³ seeing a jump in trust in 2010

¹ <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmjust/uc1849-iv/uc184901.htm>

² <http://www.ipsos-mori.com/Assets/Docs/Polls/Veracity2011.pdf>

³ http://www.public-standards.gov.uk/Library/CSPL_survey_Final_web_version.pdf

and YouGov⁴ most recently showing a drop in trust following the events which are the focus of this Inquiry. I believe high standards of accuracy in reporting, and speedy resolution and restitution for complaints and errors will help restore public confidence in journalists. Corrections must be made quickly and have the same prominence as the original errors. Correcting inaccuracies is a real problem. There must also be agreement on privacy and what methods of investigation are acceptable.

Ministers, Government and Opposition

9. Transparency is the key to reducing the risks and maximising the benefits of interaction between politicians and the media – transparency in the interactions between senior politicians and the media, transparency in the way that the media industry operates and the willingness to admit when inaccuracies have been made and to correct those inaccuracies urgently and prominently. The trend to publish more information about Ministers' meetings, their financial interests and hospitality and gifts provides the public with a good deal of information so that they can see who is seeking to influence Ministers. The recent decision in July 2011 to extend this disclosure to senior media executives is to be welcomed and my view is that this provides a sufficient level of detail to enable further questions to be asked if necessary.
10. I think it is right there should be greater transparency about what personal relationships exist between politicians and members of the media. This transparency should cover not only the Government of the day, but the Official Opposition as well to deter the kind of unhelpful closeness in opposition which can translate poorly into Government.
11. Prior to July 2011, Ministers' meetings with the media had not been included in the quarterly publications of Ministers' external meetings for the simple reason that these meetings had been viewed as routine Government business. Following the phone hacking allegations, the Prime Minister decided that he wanted to go further in terms of transparency and include such meetings whether they were Governmental, party or personal in nature to ensure there was no gap in the reporting arrangements. Joint attendance at events such as receptions where there may only be brief if any contact would not normally be included on the basis that it would be impractical and disproportionate to require that.
12. The intention of the transparency agenda has been to formalise meetings and relationships, and make them more open and accountable. The risk is of course that increasing transparency will simply push interaction into the non-transparent arena of informal contacts, phone calls etc. However I believe on balance the impact of the increase in transparency has been positive. I believe the effect of releasing information about meetings has been to be more open about relationships and activity.

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http://cdn.yougov.com/cumulus_uploads/document/bw7ty9nl1m/PBS%20Trust%20Report%20UK%20tables%20formatted_HT_Embargoed%20to%20141111.pdf

13. There is now an established downward trend in newspaper circulation. The public are obtaining their information increasingly from broadcasters, bloggers, Twitter and the like. Also the public are accessing this information increasingly through the internet.
14. This has led newspapers to respond by trying ever harder to exploit their advantages over other forms of media. One such advantage is the relationship journalists and other senior media figures have with politicians. This has allowed them to obtain information on policies and Government thinking, and get Opposition reactions, in advance of other media and often in advance of Parliament being informed. I regret the latter trend as very unfortunate. Various attempts to enforce what is now paragraph 9.1 of the Ministerial Code⁵ have run up against the desire of newspapers and broadcasters to 'lead' the news agenda rather than follow it.
15. It is also the case that the coverage of Parliamentary proceedings by newspapers has declined, in part due to the introduction of cameras in 1989.
16. Another risk in an overly close relationship between the media and politicians is the appearance and public perception of an undue influence exerted by media proprietors, even if such an influence does not in fact exist. Newspapers are not covered by the same rules for balance and proportionality as broadcast media. Newspapers can and do actively support political parties, meaning it can be difficult to obtain objective information from them. In addition, politicians actively court the support of newspapers, leading to a co-dependent relationship between politicians and the media.
17. Relationships formed with members of the media when a politician is in Opposition, carry through to Government. In Opposition, senior politicians develop personal and direct relationships with the media, with contacts between them happening on a one to one basis. They will share mobile phone numbers, have informal conversations rather than formal meetings. These relationships can be carried over into Government in the same form, rather than being redefined into a more appropriate and formalised communication. I tried to discourage this sort of relationship in Government, and encouraged contacts with the press to be filtered through Press Offices. I made sure that all members of Cabinet were aware of the risks associated with the use of mobiles for confidential discussions. In addition, I instituted a system whereby mobile phones had to be deposited outside the Cabinet room and could not be taken inside. There needs to be a formal relationship between politicians and the press. It is best for all sides to maintain an appropriate distance. The public will question motives on both sides of a relationship which is perceived to be 'too close'.
18. Such relationships can also develop into what might be described as a feedback loop where a party or politician gains the support of a newspaper, and that support grows as the politician wittingly or unwittingly courts it. The newspaper becomes more and more politicised, and less able to report without bias, and the politician then has to work even harder to maintain that support, which in turns causes the newspaper to become even more politicised.

⁵ <http://www.cabinetoffice.gov.uk/sites/default/files/resources/ministerial-code-may-2010.pdf>
When Parliament is in session, the most important announcements of Government policy should be made in the first instance, in Parliament.

Undesirable behaviours are encouraged, for example a special advisor feeding a story exclusively to a particular newspaper, knowing that it will appeal especially to that newspaper and/or its readership.

19. It is important that major policy announcements should first be made to Parliament, not leaked or pre-briefed to the media. I am very strongly of the view that civil servants should not leak, and we have amended the Civil Service Code to give them better ways of handling information. In the version of the Civil Service Code I issued in June 2006, changes were made to allow civil servants to complain to the independent Civil Service Commissioner in the event that they had concerns about how the Government was operating. Pre-briefing is equally injurious to accountable and transparent Government. To quote the Treasury Select Committee: 'It has been noticeable over many years under successive Governments that measures appear to have been trailed, sometimes accurately, sometimes in a way designed to place them in the most favourable light. Whether particular press reports are leaks or briefings or merely press speculation, we have no view, but we deprecate both leaks, and any advance briefing. Such activities are corrosive of good government.'⁶ I agree.

The Ministerial Code

20. The *Ministerial Code* was introduced in 1997 by the then Prime Minister Tony Blair. It built on its predecessor document *Questions of Procedure for Ministers*, which was first published by Sir John Major when Prime Minister. The Code sets out, in a public document, the standards of conduct expected of Ministers and the lines of accountability. There are high standards of conduct expected of Ministers and rightly so because they are decision takers and it is therefore important that their decisions and actions are beyond reproach. Recent improvements by this Government enabling greater transparency around meetings and hospitality are also to be welcomed. I believe this transparency about standards of conduct increases and helps to ensure accountability.
21. Section 1 of the Ministerial Code, which incorporates a Resolution of both Houses of Parliament, sets out the standards of conduct expected of Ministers. The aspects which I believe to be relevant to the conduct of relationships between the media and Ministers are accountability, collective responsibility, openness and the need to avoid any conflict of interests, including ensuring that decisions are taken on the merits of the case and that no improper influence is brought to bear. These provisions operate on a daily basis through the relationship between Ministers and their Permanent Secretaries. I believe the Code is stringent and provides for a high bar. A recent addition in July 2011 which provides for the publication of information about Ministers' meetings with senior media executives shows how the Code is an evolving document able to react to developments as they arise. However, I also believe we have to be careful to avoid knee jerk reactions to issues of current, short term interest which are not proportionate and could well put good people off coming into public life or adversely affect the need for the media and politicians to be able to discuss important issues.

⁶ <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmtreasy/1910/191009.htm>

Special Advisers

22. I believe good special advisers are to be welcomed. They protect civil servants' impartiality providing political input to Government business which would not be appropriate for the permanent civil service. A risk is that special advisers will push the position of the individual Minister sometimes at the expense of collective agreement and I welcome the recent addition to the Special Advisers' Code of Conduct to make clear that special advisers serve the Government as a whole and not just their appointing Minister.
23. I welcome the Model Contract and Code of Conduct for Special Advisers which provides transparency about the conduct and standards expected of special advisers. Prior to 1997 no such transparency existed. Much of the Code of Conduct is relevant to the managing of relationships between the media and Ministers. In particular I would draw the Inquiry's attention to the fact that where special advisers brief the media it should be with the appointing Minister's express authorisation. This is a very important point and acknowledges the fact that special advisers are appointed to assist Ministers. Where special advisers have had to resign in recent years it has usually been because they became a bigger story than the Minister they were appointed to serve. An area of difficulty is the disciplining of special advisers and I believe there is a need for strong central political control over the appointment and conduct of special advisers.
24. The engagement of special advisers with the media is essentially governed by the Code of Conduct for Special Advisers. There are induction events for new special advisers where engaging with the media and propriety issues are covered.
25. When Alastair Campbell was appointed Director of Communications at Number 10, an Order in Council granted him the power to instruct civil servants. I thought that the power was an inappropriate one for a special adviser to have. I felt it was important to have a good civil servant as the Prime Minister's official spokesperson, without any outré Orders in Council. Civil servants are more able to achieve impartiality in briefing and avoid being drawn into political briefing. They have conducted all press briefings on behalf of the Government since that time - Gordon Brown stuck with that approach and so has his successor.
26. In line with the requirements for Ministers, the Prime Minister introduced new rules for publishing details of special advisers' meeting with senior members of the media and the first batch of such information has recently been published⁷. Special advisers also disclose details of hospitality received. As with Ministers, I do not believe this requirement should be extended to cover other journalists as to do so does not feel practical or proportionate. I think recent events have highlighted a gap in transparency and reporting, which should be closed. Special advisers meetings and any phone calls of substance with lobbyists should be recorded and published.

⁷ <http://www.cabinetoffice.gov.uk/content/special-advisers-transparency-publications>

Civil Servants

27. Government Communications, like all parts of the Civil Service, has evolved to face the various challenges that have presented over the years but its objectives in all these different structures and ways of working have remained constant:

- Explaining the policies and actions of Ministers and Departments;
- Building people's understanding of their rights and responsibilities; and
- Persuading people it can be in their own, or society's interest to do things differently.

Government Communicators are like all civil servants bound by the core values of integrity, objectivity, impartiality and honesty.

28. The context within which they work though has changed immeasurably – the impact of 24 hour news, the proliferation of media channels and the impact of social media are constantly changing the way in which press offices and all government communicators do their job.

29. In recent years the approach to Government Communications has been shaped and influenced by the findings of the Phillis Review (2004). The context for the review was the very public debate about “spin, politicisation and lack of trust” and much public attention was focussed on media relations and the structural separation of the political and civil service roles. In fact Phillis went far beyond this and called for “communications to be redefined across government to encompass a broader range of skills than those associated with media relations.” The aim was to establish a much more strategic approach to communication to help improve policy making and delivery.

30. Phillis set out seven key principles that modern government communications should be based on:

- Openness, not secrecy
- More direct, unmediated communications to the public
- Genuine engagement with the public as part of policy formation and delivery, not communication as an after-thought
- Positive presentation of government policies and achievements, not misleading spin
- Use of all relevant channels of communication, not excessive emphasis on national media press and broadcasters
- Co-ordinated communication of issues that cut across departments, not conflicting or duplicated departmental messages
- Reinforcement of the Civil Service's political neutrality, rather than a blurring of government and party communications.

31. These principles guided the implementation of the Report's recommendations, for example daily publication of lobby briefings on the No 10 website and the Prime Minister's monthly televised press briefings which continue today. I believe that this transparency has significantly improved accountability just as it has in other areas of Government. When I was a press secretary the lobby briefings were seen as the "dark arts", but for years now everyone has been able to read them and make their own judgement.
32. The establishment of the Permanent Secretary, Government Communications, post on the recommendation of Phillis created the formal Civil Service reporting structure for the Downing Street communications staff. I think that this was important, reinforcing the political neutrality of government communication for both the public and the Civil Service. I do believe that Alastair Campbell and the civil servants who worked with him adhered to the Codes but the Order in Council gave the perception of politicisation and it is perception that is the critical test in propriety and ethics.
33. The creation of the permanent secretary post also ensured that communication was addressed at the highest levels within the Civil Service and enabled us to establish far more effective central co-ordination across departments. I worked closely with both post holders to ensure that the values and objectives of government communication as well as more general co-ordination issues were addressed throughout the Senior Civil Service.
34. I do believe that since Phillis government communication has improved significantly – both as a profession and in the way that senior civil servants engage with and work with their communication colleagues and vice versa. The structures and processes will always change and evolve. For example, the Permanent Secretary post has now been taken to Director level – as part of our re-adjustment of senior posts across Departments – but the principles and values are firmly embedded within the Civil Service.
35. As Cabinet Secretary, all my meetings with the news media have already been disclosed and are available on the Cabinet office website. Over the last 3 years I had 21 occasions where I interacted with the media, mostly at receptions. I also attended some of the Prime Minister's receptions for the lobby when I had time.
36. I had a strong expectation that all engagement with the media would be in accordance with the Civil Service Code and through press offices. Each new member of the Senior Civil Service (SCS) attends a 'base camp' as a sort of induction into the SCS, where shared values are discussed and promulgated. During the weekly Wednesday morning meetings in Whitehall attended by Permanent Secretaries I emphasised the importance of maintaining our reputation for discretion. The Cabinet Secretary's interaction in the relationship between the press and the Prime Minister is however somewhat removed, as there is a Press Secretary whose function is to manage that relationship.

General Elections

37. During a General Election it is more important than ever that the public are well informed about the choices they are being asked to make. In this country we have a highly regulated broadcast media sector and a print media sector with a discredited form of self-regulation.

During the campaign period, if the broadcast media, such as the BBC, get it even slightly wrong, then there is a general furore over its perceived bias in reporting. No similar constraints operate for print media.

38. Newspapers are free to support political parties and do so very robustly. During these periods I personally would feel happier if our newspapers were more like their US counterparts and were more careful in separating news from opinion.

Police and the media

39. Throughout my career, I have been troubled by the very close relationship between the police and the media. In early 2007 I met with the then Deputy Commissioner of the Metropolitan Police, Sir Paul Stephenson, to raise my concerns regarding unauthorised disclosures around the so called "Cash for Honours" investigation which was then being conducted by Acting Assistant Commissioner Yates. Sir Paul Stephenson asked Robert Quick, the then Chief Constable in Surrey, to look into the position and Mr. Quick has already submitted a statement (dated 13 February 2012) to this Inquiry which sets out (among other matters) his recollections of the review he conducted. As is apparent from paragraph 22 of Mr. Quick's statement, he asked Mr. Yates for his consent to allow Mr. Yates' private and work telephone records to be examined and cross referenced with media reports about the investigation. Mr. Yates refused stating that he was "very well connected". Mr Quick explains in his statement that he raised the matter with Sir Paul Stephenson. I was not made aware of Mr. Yates' refusal to cooperate at the time.
40. I believe that there must be a culture change for the police, both increasing transparency where possible within operational constraints and formalising the relationship between police forces and the press. There are large numbers of senior police officers today who believe that a major part of their job is to get the press to cooperate with police forces. There should be professional press offices to liaise with the media on behalf of the police, in the same way as the civil service routes all communication with the media through their press offices. The media are generally happy to run stories from the police and to cooperate with the police, and greater regulation of the press should encourage them to do so in the public interest. I would suggest that similar levels of reporting and publication that apply to Ministers and the most senior officials (meetings and hospitality) be applied to the most senior police officers. I stress that this is mostly a problem for the Metropolitan Police as they, and most national journalists, are based in London.

Regulation

41. The system of regulation has failed to evolve with the changes in the way people access news and information. We have 24 hour global news, which reaches the public in an essentially unrefined state with the advent of mobile phone cameras, YouTube, Twitter etc.
42. Doing nothing is not an option. We have tried self-regulation and I think it's clear that it has not been satisfactory. Regulation should be independent and compulsory. It should be principles-based regulation designed to protect privacy and ensure accuracy and swift redress and correction, with any corrections having the same prominence as the original

error. Those appointed should have no possible conflict of interest, by which I mean no current involvement in the media and no financial interests in the media. They should be appointed for longish, non-renewable terms. Those appointed should understand the business of media, but should not currently be involved in it.

43. The Chair could be appointed following an open competition conducted by a panel itself chaired by someone with an understanding of the issues and a reputation for independence. The relevant Select Committee could have a role in the appointment, but giving them a veto would be problematic. After all you would want the Chair to be able to stand up to Parliament. The expenses example, and the complaints by MPs about the independent body set up to oversee expenses, demonstrates the likely difficulties.
44. It might be worth considering whether the role of a regulator could be undertaken by the Information Commissioner. He is clearly independent, and is rightly perceived as such. This would help as his remit covers all forms of information and there is a great need to require the consistency of treatment between different types of media and whether they are printed or online.
45. I turn now to the remaining questions I have been asked by the Inquiry:

General questions about the relationship between politicians and the media

Question 2 - In your view, what are the specific benefits to the public to be secured from a relationship between senior politicians at a national level and the media? What are the risks to the public interest inherent in such a relationship? In your view, how should the former be maximised, and the latter minimised and managed? Please give examples.

My narrative above states my view that it is important in a democracy for politicians to be able to communicate effectively to the public through the media and that the main risk of relationships between politicians and the media is the exercise of undue influence over either or both parties by the other as a consequence of the relationship not being transparent. As I have also made clear, my view is that transparency is the key to the management of such relationships in the public interest.

Question 3 - Would you distinguish between the position of a senior politician in government and a senior politician in opposition for these purposes? If so, please explain how, and why.

In terms of the required transparency, I would treat them the same. However Government ministers will always need to be more careful because of the decisions they need to make. I would recommend discussing with the Leader of the Opposition a code of conduct and guidance concerning the relationship between the media and opposition politicians.

Question 4 - What are the specific benefits and risks to the public interest of interaction between the media and politicians in the run up to general elections and other national polls? Do you have any concerns about the nature and effect of such interactions, or the legal, regulatory or transparency framework within which they currently take place, and do you have any recommendations or suggestions for the future in this regard?

I refer to paragraphs 37-38 of my narrative. Clearly the run up to general elections and other national polls are the periods in which the potential benefits and risks to the public interest are at their greatest. Unlike the broadcast media, the press is free to express support for particular politicians and issues. It is obviously imperative to avoid a situation where newspapers offer support in return for policies which benefit them commercially. I think the only way to attempt to prevent this is to require a great deal of transparency about any meetings.

Question 5 - What lessons do you think can be learned from the recent history of relations between the politicians and the media, from the perspective of the public interest? What changes, voluntary or otherwise, would you suggest for the future, in relation to the conduct and governance of relationships between politicians and the media, in order that the public interest should be best served?

I refer in particular to paragraphs 40 to 44 of my narrative.

Question 6 - Would you distinguish between the press and other media for these purposes? If so, please explain how, and why.

I refer in particular to paragraphs 13-16 and 37-38 of my narrative and also to my answer to question 4 above. The current regulations were drawn up at a time when the differences between newspapers, broadcasters and online media were greater. BBC Online and the Times Online, for example, are regulated very differently and one has to hope that readers are aware of those differences. I am not an expert on media law, but it seems to me the solution is to have a way of differentiating between mass circulation entities and, at the other extreme, individuals in the Twittersphere. Many aspects of the law should apply equally to both but there should be other requirements imposed on mass circulation entities.

Question 7 - Both the current Prime Minister and the current Leader of the opposition have publicly stated that politicians of all parties had become "too close" to elements of the media. From your perspective as a former Cabinet Secretary, do you agree? Please give full reasons for your answer.

I do agree, and refer to paragraphs 16-18 in particular in my narrative.

Question 8 - In the light of what has now transpired about the culture, practices and ethics of the press, and the conduct of the relationship between the press and the public, the police, and the politicians, are you prepared to offer a view as to the reforms that would be most effective in addressing public concerns and restoring confidence and, if so, what is your view?

I refer to paragraphs 40-44 of my narrative.

General questions about ministerial conduct and the Ministerial Code

Question 9 - The Inquiry would be grateful if you would set out briefly your general perspective on the place of the ministerial code in our current system of government, explaining in particular its role in supporting democratic accountability and the furtherance of the public interest.

I refer to paragraphs 14, 20 and 21 of my narrative. The Ministerial Code is a very important statement of principles about how Ministers should behave. The Code requires Ministers to report to Parliament. It is the key document which allows Ministers to know what the Prime Minister expects of them. The job of enforcing the code is done by the Prime Minister.

Question 10 - Please assist the inquiry with an explanation of the aspects of the Ministerial Code which you consider to be relevant to the conduct of relationships between the media and ministers. How are these provisions operated in practice in that context? How effective do you consider them to be? Examples would be helpful. Are there any improvements you have considered in this respect, or would now encourage the inquiry to consider?

I refer again to paragraphs 14, 20 and 21 of my narrative. It will be important to update the Ministerial Code to ensure it reflects any agreed recommendations put forward by this Inquiry. The key issues are to get the right amount of transparency and to avoid conflicts of interest.

Question 11 - The Ministerial Code's foreword stresses the need for open government and transparency. The Inquiry would be grateful for your assistance in understanding how and the extent to which transparency in the relationship between the press and the politicians promotes the public interest. What if any are the risks to the public interest in transparency and how are they best managed? In your answer, it would be helpful to have your perspective in particular on the following:

- a. **the historical trend in recent years to place more information proactively in the public domain about such matters as minister' meetings – what is the explanation for that trend and what has been its effect? What would be the effect of continuing the trend, with particular reference to interactions with leading media figures?**

I refer to paragraphs 5, 6 and 9-12 of my narrative.

- b. the impact of the Freedom of Information Act, with particular reference to relevant examples relating to ministers' relationships with the media;**

I refer to paragraph 6 of my narrative where I mention the potential negative impact of the Freedom of Information Act. Giving examples of this is, almost by definition, extremely difficult as mobile phone calls are not monitored.

- c. the decision on 15th July 2011 in the wake of renewed concerns about the phone hacking scandal, to amend the Ministerial Code to provide: "The Government will be open about its links with the media. All meetings with newspaper and other media proprietors, editors and senior executives will be published quarterly regardless of the purpose of the meeting." Please provide the inquiry with full details, including relevant documentation, of why and how that policy decision was taken and its intended and actual effects; the Inquiry is interested to understand in particular the extent to which this provision is intended to include informal or personal meetings, and if not why not.**

You will of course be aware of the Prime Minister's statement to the House of Commons on 13 July 2011, in which he said

"...if we are calling for greater transparency from the police, I think it is only right that we provide it in Government, too. After all, as I have said, one of the reasons why we got into this situation is because, over the decades, politicians and the press have spent time courting support, not confronting the problems. So I will be consulting the Cabinet Secretary on an amendment to the ministerial code to require Ministers to record all meetings with newspaper and other media proprietors, senior editors and executives, regardless of the nature of the meeting. Permanent secretaries and special advisers will also be required to record such meetings. This information should be published quarterly. "

I refer to my Minute of 15 July 2011 to the Prime Minister (pages 3-6) which provided the advice he requested regarding an amendment to the Ministerial Code. Prior to providing this advice, I had met at their request with two representatives of the press to discuss the position (page 7). The provision was not intended to cover meetings where Ministers, Permanent Secretaries or special advisers were meeting individuals who were very clearly longstanding personal friends, and not discussing anything to do with their official roles. However, where there could be any overlap with that official role, we would advise them to record the interaction.

Question 12 - To what extent would or might your answers to the above questions be different, or different in approach, in the case of Prime Ministers and why?

The Prime Minister has a unique role, not least because he is responsible for enforcing the Ministerial Code. It is therefore not surprising that Prime Ministers need to be the most transparent about their dealings with the media.

Question 13 - In your experience, to what extent does it fall to the leadership and personality of a particular Prime Minister to set the tone for the way in which a particular government interacts with the media? Please give details.

The Prime Minister can set the tone for interaction with the media by the Government to a certain extent by personal example, but it is difficult to police or enforce this tone. Politicians are after all human, and care about their personal profile. Politics is personal. Prime Ministers do their best to maintain collective responsibility but this is under constant pressure from the media. The media are not interested in reporting a stable, well functioning Cabinet system; they seek to expose the disagreements, to show 'cracks' in the Government. This is part of their desire to 'lead' the news, and ties in with the problem of leaking and pre-briefing.

General questions about special adviser conduct and the Special Advisers Code

Question 14 - What do you see as the role of the special adviser in facilitating or regulating the relationship between politicians and the press? How has that role changed over the last 20-25 years? What do you see as its strengths and weaknesses?

I refer to paragraphs 22-26 of my narrative. What I have noticed over the last 20-25 years is firstly, a growth in the numbers of special advisers and secondly, a shift towards special advisers with a media or PR background, rather than a strong policy background, which is to be regretted in my opinion.

Question 15 - Please assist the inquiry with an explanation of the aspects of the Special Advisers Code which you consider to be relevant to the conduct of relationships between the media and ministers. How are these provisions operated in practice in that context? How effective do you consider them to be? Examples would be helpful. Are there any improvements you have considered in this respect, or would now encourage the Inquiry to consider?

Paragraphs 22-26 of my narrative are relevant to this question also. Recent events have demonstrated the need to keep special advisers out of areas where Ministers are operating in a quasi-judicial capacity. As I have explained, I think too many special advisers see their role as boosting the media profile of their Minister. I think we do need to find better ways of policing the compliance of special advisers with their Code, perhaps by making it clearer that the Prime Minister's Chief of Staff has a very important role to play in this area.

Question 16 - Please describe any specific guidance which may from time to time have been issued to Special Advisers with a view to affecting their dealings with the media. Your answer should include all relevant documentation, together with an explanation of the reasons for and effect of such guidance.

All special advisers are issued with the Special Advisers' Code of Conduct and are given guidance in their induction training.

Question 17 - The Inquiry is aware of concerns that one of the risks of increasing transparency in the conduct of ministerial relations with leading figures in the media is to displace that activity from ministers to special advisers and others acting on their behalf. The Inquiry would be grateful for your perspective on that. To what extent, in your view, would it be in the public interest to place into the public domain details of interactions between special advisers and media representatives?

I refer to paragraphs 12 and 26 of my narrative. In my opinion, the greater transparency we now require is both in the public interest and also in the interest of both parties to any such interactions.

General questions about civil service conduct and the Civil Service Code

Question 18 - What do you see as the role of the civil service in facilitating or regulating the relationship between politicians and the press? How has that role changed over the last 20-25 years? What do you see as its strengths and weaknesses?

I refer to paragraphs 27 to 36 of my narrative. In the past politicians and the press would discuss government and party issues together. It is now more likely that these issues will be separated, with special advisers being present at both discussions and civil servants only there for the policy part. In my experience as press secretary to the Chancellor and to the Prime Minister, the interaction between Civil Servants and the media worked well, to mutual benefit and is strongly in the public interest.

Question 19 - Please assist the inquiry with an explanation of the aspects of the Civil Service Code which you consider to be relevant to the conduct of relationships between Government and the media. How are these provisions operated in practice in that context? How effective do you consider them to be? Examples would be helpful. Are there any improvements you have considered in this respect, or would now encourage the Inquiry to consider?

Overall the Civil Service Code works well in setting standards for how civil servants interact with the media. As far as 'Government' is concerned, this is covered by the codes of conduct for Ministers and for Special Advisers, which I have discussed already.

Question 20 - Please explain the approach you personally took too engaging with media proprietors and senior editorial and executive staff within the media when you were Cabinet Secretary. Your answer should cover at least the following:

- a. the nature and frequency of contacts of this nature, whether formal or informal; please provide all available records of meetings and conversations, indicating where possible who initiated them and the purpose and content of these occasions;'
- b. details of any relevant hospitality you gave, received or participated in;
- c. the value of these interactions to you and to the government of the day;
- d. the extent to which government policy (both specific and general) was discussed at such interactions;
- e. the extent to which the existence and nature of such interactions are or are not placed within the public domain and the reasons for that.

As Cabinet Secretary, all my external meetings and hospitality received have already been disclosed and are available on the Cabinet office website. Over the last 3 years I had 21 occasions where I interacted with the media, mostly at receptions. I also attended some of the Prime Minister's receptions for the lobby when I had time. I did not provide any hospitality. Most conversations at such events were simply about the policies of the day. Generally this would be the state of the economy or the current major foreign policy issues.

Question 21 - Please describe any specific guidance which may from time to time have been issued within the Civil Service with a view to affecting officials' dealings with the media. Your answer should include all relevant documentation, together with an explanation of the reasons for and effect of such guidance.

The Civil Service Code contains guidance regarding standards of behaviour relevant to officials' interaction with the media. Civil servants are taught from their first day in post that interactions with the media should go through press offices unless otherwise specifically authorised. Some guidance has been issued from time to time on specific issues, such as the use of social media, which is publicly available⁸. I refer also to my answer to question 23.

Question 22 - What expectations did you have of the approach of other senior civil servants (other than press officers) to engagement with the media? How did you communicate those expectations? What do you consider to have been the benefits and risks to the public interest in the conduct of the senior civil service in relation to interaction with the media in recent years? Please give examples.

This is covered in my narrative at 27 to 36. It is important for the Senior Civil Service to understand how the media operates, and the interactions between Ministers, special advisers and the media. In

⁸ http://hmtcollab/cabweb-r/Documents/Engaging_through_social_media.pdf

general, civil servants are required to interact indirectly via their Press Offices. A little direct interaction takes place, and needs to be governed by rules on transparency.

General questions about government communications

Question 23 - The Inquiry is interested in the role of government press officers and media specialists in mediating the relationship between the press and politicians in government. Please set out for the Inquiry your understanding of the way in which governments in recent years have developed their thinking and approach to the purpose, functions, management and staffing of departmental press offices. What guidance or other expectations have been promulgated from the centre about this, and how has the centre conducted its own press operations? The Inquiry would also be interested in any perspective you have on the similarities and differences of approach of the UK government on the one hand, and the devolved administrations in Scotland, Wales and Northern Ireland on the other, in these matters.

I refer to paragraphs 27-36 of my narrative. As a profession a great deal of work goes on within the Government Communication Network, about which I am not best qualified to comment. You may wish to direct your questions to the Executive Director for Government Communication. The Government's Propriety Guidance (pages 8-32) contains a section specifically on the role of press officers and refers to the Civil Service Code. I have no particular perspective on a comparison between the approaches of the UK government as compared to the devolved administrations.

Question 24 - Please describe, and provide your perspective on, the changing nature of the relationship between the press and Downing Street during your time as Cabinet Secretary.

I refer to paragraphs 25 and 27-36 of my narrative.

Question 25 - In 2004, the Phillis Review found there to have been 'a three-way breakdown in trust between government and politicians, the media and the general public' and made recommendations for improving government communications to address this. During your time as Cabinet Secretary, to what extent did the government seek to implement the recommendations of the Phillis Review and to what extent do you consider that the measures taken were effective in addressing the breakdown of trust identified?

I refer to paragraphs 27-36 of my narrative and in particular 30 to 36.

Question 26 - When Alastair Campbell was appointed Director of Communications at Number 10, an Order in Council granted him the power to instruct civil servants. What is your perspective on

the advantages and disadvantages of placing a special adviser with a media background in this relationship to civil servants? What lessons did you draw from this particular example?

I refer to paragraphs 22 to 26 of my narrative and in particular paragraph 25.

Question 27 - The inquiry understands that throughout your time as Cabinet Secretary, civil servants conducted all press briefings on behalf of the government. Please confirm whether this is correct. What do you consider to be the advantages and disadvantages of civil servants as opposed to political appointees conducting press briefings on behalf of the government?

I believe I have dealt with relative merits of civil servants and special advisers conducting press briefings in paragraphs 22 to 36 of my narrative and I refer in particular to paragraph 32.

Specific questions

Question 28 - Please set out for the Inquiry a full chronological account, together with all relevant documentation, of your awareness of allegations of phone hacking and other improper conduct within News International, and the steps you took in response. Was your advice actively sought at any stage in relation to these matters?

I was of course aware of the conviction of Clive Goodman and Glenn Mulcaire, and also the statement at the time by Rupert Murdoch that phone hacking was not widespread. I was also aware of the Guardian investigation in July 2009 and the resulting review of the original criminal investigation.

My personal involvement began with the publication of the Culture, Media and Sport Select Committee report in February 2010, at which point my advice was sought by the Prime Minister on whether a judicial inquiry was appropriate to explore the findings of the Committee, specifically those relating to phone-hacking and blagging. My advice to the then Prime Minister has been published (pages 39-45). On the basis of the evidence available then, I recommended against an inquiry, but the final decision was of course for the Prime Minister to make.

In September 2010, the Metropolitan Police announced that they would review the original investigation into phone hacking, following allegations made by former employees of the News of the World of widespread phone hacking. The former Prime Minister Gordon Brown wrote to me to say that he believed an inquiry into phone hacking was now unavoidable (page 46), and I replied to him on 10 September 2010 stating that it would not be appropriate for me to comment given that the issue was then the subject of both a police review and an inquiry by the Standards and Privileges Committee.

In December 2010, I was aware of the allegations made by lawyers acting for Sienna Miller, that there was evidence pointing towards the hacking of her voicemail contained in material seized as part of the 2006 investigation.

In July 2011 I actively participated in setting up the Leveson Inquiry.

Question 29 - The Inquiry understands that in March 2010, you were asked to advise the then Prime Minister Gordon Brown on the merits of holding a judicial inquiry to explore the findings of the CMS Select Committee Report into Press Standards⁹. Please provide full details, together with relevant documentation, of the circumstances in which you were asked to provide this advice, and the material you took into account when reaching your views. Your advice records that the Select Committee's report was "essentially concerned with a localised issue involving the actions of a small number of people within the News of the World." On what basis did you express that view? Your advice noted a concern that any decision to set up a public inquiry could be challenged by way of judicial review and "it is not inconceivable that such a challenge might succeed". Did you seek legal advice on that point? If so, please give full details.

I refer to pages 33 to 45. My recollection is that, following the publication of the report by the Culture, Media and Sport Select Committee in February 2010, Jeremy Heywood, the Prime Minister's Principal Private Secretary, informed me orally that the Prime Minister would be grateful for advice on the merits of establishing a judicial inquiry to explore the findings of the CMS committee report, specifically those relating to phone hacking and blagging. Through my Private Secretary, I sought advice from the Treasury Solicitor about this. The Treasury Solicitor provided a note of advice (pages 34-37) under cover of an email to my Private Secretary (page 33). The email referred to the risk of a judicial review challenge to a decision to establish an inquiry. This was not something that my Private Secretary or I had specifically sought advice on but was raised by the Treasury Solicitor of his own volition. I then sent a Minute of my advice to the Prime Minister's Principal Private Secretary, by way of an email from my Private Secretary (pages 38 and pages 39-45) setting out my advice, including the advice from the Treasury Solicitor. The advice, as is clearly stated in the Minute, is based only on the report itself. The Minute was made public in July 2011, following consultation with Gordon Brown MP.

My advice was given on the basis of the evidence that was available at the time. Whilst I set out the options, it was for the Prime Minister to decide on a course of action. I believe my advice was appropriate and robust, given the information available at the time.

Question 30 - Please set out in full for the inquiry details of your role, if any, in relation to the appointment by the Prime Minister of Andy Coulson to a post in No.10. Your account should include a full explanation of the basis on which you were asked to advise.

Mr Coulson was brought in as a special adviser to the Prime Minister. I was not involved in the process of appointing Mr Coulson. Mr Coulson was cleared to SC (security clearance) level and was undergoing DV (developed vetting) clearance at the time of his resignation.

⁹ <http://www.cabinetoffice.gov.uk/sites/default/files/resources/cabinet-secretary-advice-judicial.pdf>

Question 31 - In a speech to Parliament on 13 July 2011, Mr Brown said that he wrote to you in the summer of 2010 and suggested that your previous advice against a judicial inquiry had been overtaken by events. Please give full details of the nature of that correspondence and your response. Did you provide further advice to the Prime Minister at this stage? On what basis were you asked to provide that advice?

I refer to pages 46 to 47. Gordon Brown wrote to me on 7 September 2010 referring to the advice I had given and suggesting that the further evidence of phone hacking which had emerged strengthened the case for an inquiry. I replied on 10 September 2010 stating that it would not be appropriate for me to comment given that the issue was then the subject of both a police review and an inquiry by the Standards and Privileges Committee. I gave no further advice to the Prime Minister at that stage.

I believe the facts contained in this statement are true.



Signed

Lord O'Donnell GCB

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4 May 2012
Dated