Tuesday, 31 January 2012

1 (10.00 am)
2 MR JAY: The first witness today is Sir Christopher Meyer, please.
3 LORD JUSTICE LEVESON: Thank you.
4 SIR CHRISTOPHER JOHN ROME MEYER (sworn)

Questions by MR JAY

5 MR JAY: Your full name, please --
6 A. Christopher Rome Meyer.

7 LORD JUSTICE LEVESON: Thank you.
8 MR JAY: The first witness today is Sir Christopher Meyer, please.
9 MR JAY: Your full name, please --
10 A. Christopher Rome Meyer.

11 Q. Thank you very much. You have provided the Inquiry with a witness statement dated 14 September 2001. If you look in the file directly in front of you under tab 1, you will find it.
12 A. Yes.
13 Q. Subject to the caveat which you give at the top, which I will read out, this is your truthful evidence to the Inquiry; is that right?
14 A. It is.
15 Q. You make it clear that in the short time available, you have drafted much of what follows from memory but you haven't been able to check anything against the archives. It's accurate to the best of your ability but you cannot exclude the possibility of mistakes, and the statement has not been seen by a lawyer.
16 A. Well, Sir Harry Roche was then chairman of the committee at the time, and still do, by "self-regulation" was the system which was on the interview committee?
17 Q. You say that you were interviewed by members of the Press Standard Boards of Finance. Can you remember who was part of the interview committee?
18 A. Yeah.
19 Q. You say that you were interviewed by members of the Press Standard Boards of Finance. Can you remember who was part of the interview committee?
20 A. Well, Sir Harry Roche was then chairman of the committee at the time, and still do, by "self-regulation" was the system which was on the interview committee?
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22 Q. You say that you were interviewed by members of the Press Standard Boards of Finance. Can you remember who was part of the interview committee?
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1 there is a typographical error in the second line of paragraph 2 of the introduction. The date there is 2009 and not 2007. That will be corrected on the version which is put online.
2 First of all, Sir Christopher, may I deal with your background. You had a long and extremely distinguished career in the diplomatic service, culminating as ambassador to the United States of America. Can you tell us, please, a little bit about your career before you went to the PCC in March 2003, the particular highlights. Obviously you were in the US at the end of your career, but tell us a bit about your earlier career and your service between 1994 and 1996?
3 A. I started out in the diplomatic service as a Soviet expert. I was sent away to learn Russian, I did that, and I was posted to Moscow in the late 60s. That was my first posting abroad. I returned to Moscow in the early 80s and I fully expected to end up possibly as ambassador in Moscow and that would be my career. Fate, however, dealt me some unexpected cards, one of which was in the shape of Sir Geoffrey Howe, who arrived in Moscow in 1984 said to me: "Would you like to be my press secretary?" I asked him what this would entail. He said, "You'll find out soon enough", and on that basis, I was hired. I became the Foreign Office spokesman between 1984 and 1988 and press secretary to Howe, and that was when I had my first, as it were, intimate contacts with the press.
4 Q. We'll cover those a little bit later, but between 1994 and 1996, you were also press secretary to the then Prime Minister Mr John Major; is that correct?
5 A. That is absolutely correct. After I had finished with Geoffrey Howe, I went to the United States, my first incarnation there, spent five years at the British embassy in Washington and from there was approached by Downing Street to see whether I'd put my hat in the ring to succeed Gus O'Donnell as the Prime Minister's press secretary. I did, I started that job in 1994, and I left, as you say, two years later in 1996.
6 Q. At the end of your career at the FCO, you moved across with the agreement of the Cabinet Office -- but I'm going to ask you about the process of interview and selection -- to become chairman of the PCC, which was in March 2003. Page 2 of your statement at 00086, towards the bottom of that page.
7 A. Yeah.
8 Q. At the end of your career at the FCO, you moved across with the agreement of the Cabinet Office -- but I'm going to ask you about the process of interview and selection -- to become chairman of the PCC, which was in March 2003. Page 2 of your statement at 00086, towards the bottom of that page.
9 A. Yeah.
10 Q. What do you understand, Sir Christopher, by the term "self-regulation"?
11 A. Yes, I was, and I think I must have stated very categorically, as I always have been, that I was a strong believer in freedom of expression and freedom of the press, even though I had been wrestling with journalists for a number of years in those two jobs to which you've made reference, and I also was very firmly against statutory regulation of the press, and I made that clear as well.
12 Q. Were you asked specifically whether you were a believer in and defender of press freedoms?
13 A. Yes, I was, and I said yes.
14 Q. Were you asked specifically whether you were a believer in and defender of press freedoms?
15 A. Yes, I was, and I said yes.
16 Q. What do you understand, Sir Christopher, by the term "self-regulation of the press"?
17 A. Well, I have said in my witness statement that the actuality in the United Kingdom is that the press is regulated by a hybrid system, which is partly by law and partly through the implementation of the code of practice of the PCC. So what I understood at that time, and still do, by "self-regulation" was the system which worked through the PCC. Page 4
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Now, I gather there has been some discussion over the last few days about whether or not the Press Complaints Commission is a regulator. I believe very firmly that it is a regulator, that there is such a thing as a self-regulation, but it is regulation unlike anything else, for the very reason that it deals with freedom of expression and freedom of the press, and there is no industry, therefore, in the United Kingdom, which is like the press.

So it is a form of regulation, and the way it works -- and I'm going to say this in just a couple of sentences -- is that as you develop a kind of jurisprudence through the application of the code of practice, the judgments and rulings, you are actually telling journalists what they can do and what they can't do, and in my book, that is a form of regulation.

Q. Fair enough. In relation to that, though, does it follow that the body of jurisprudence and therefore the corpus of standards derives only from the PCC's response to complaints it receives?

A. That is the heart of it. The heart of it is the way in which the PCC responds to complaints. There is a tendency to dismiss this as a cottage industry which the PCC trundles along with while people are thinking great thoughts about new structures for enforcement and punishment. It is, in fact, a moral heart of the Press Complaints Commission, because this body is a public service. It's a public service that exists for the 99 per cent of those who come to the PCC for help who do not lay claim to celebrity of any kind. By definition, we respond to their complaints, but one of the things that I hope we managed to do when I was chairman is being far more proactive, anti-harassment, pre-publication advice.

Q. Would you agree that unlike any other regulator, the sole sanction is the publication of the adverse adjudication, or exceptionally, a letter of admonishment to the editor, but nothing more than that?

A. It is essentially that, yes. The ultimate sanction, I suppose, would have been -- and I never did this -- to have written a letter to an editor to say that his journalist, X, had behaved so lamentably -- or write to a proprietor and say his editor had behaved so lamentably that they did not deserve still to be in office.

I could have written that letter. I never did because the occasion never arose, but the strongest shot on a day-to-day basis was the negative adjudication published prominently in the newspaper.

Now, do you want me to carry on or shall I just stop there?
Q. Is there anything else you would like to say on the issue of state regulation?
A. No, except that -- I suppose this is in the witness statement, really -- I draw very heavily on my experience as a press secretary to make that statement emphatically.
Q. We need to come back to your experience as a press secretary, but can I just test that proposition that any state regulation of the press is, in principle, offensive. Can we agree that if a state were to lay down the principles and standards which the press should apply, that would be or may be regarded by many as impermissible transgression by the state into an area which should be solely the province of the press in a free democracy? Are we agreed with that proposition?
A. Yes, I think we're together there.
Q. But if state regulation means something less than that, namely the creation of an independent structure, where an independent body, for example, chooses the members of the Commission, Code Committee, whatever, and the independent body is itself solely responsible for the standards which the press must apply, why do you continue to say, if you do, that state regulation of the press is, in principle, offensive?
A. I think mainly because that once you allow the state into this area, you are, whether you like it or not -- whatever the best intentions may have been of those who construct the system, this piece of legislation, enabling legislation, you are, by definition, standing on the top of a slippery slope, and once you allow the state into this area, say, I don't know, 20 years later, 25 years later -- things change, politics change -- it is quite conceivable that a less -- how can I put it? -- permissive state, a less liberal state, a state less conscious of the essential freedoms that underpin our democracy might try to take advantage of that very piece of legislation to do things which would be offensive to freedom of expression.
Q. But in the event that the United Kingdom ever were to have a less liberal state, to use your term, we would necessarily be at risk of precisely the vices you're referring to. That less liberal state could enact legislation which intruded directly into the province of the press. I'm not quite sure why, if, as we do have, we have a liberal state, the framework I've referred to creates the risks that you are so concerned about.
A. Yes. I would say two things. First of all, one felt that legislation to do things which would be offensive to democracy might try to take advantage of that very piece of state regulation, and this is one of the key issues which is quite closely hemmed in by both statute and by the code of practice. It is a situation which basically carries with it some risk itself.
Q. But if state regulation means something less than that, that, I did not mean that. I mean, I'm no expert on the judiciary, Sir Christopher, and as I pointed out to Mr Harding the other day, section 3(1) of the Constitution Reform Act identifies the independence of the judiciary and requires everybody to maintain it. Are we at risk in our not-so-liberal country of the 20 years time to suffer at the hands of a state because of that legislation?
A. You could, my Lord. You could. In principle, that is a possibility.
The other thing I would say is comparing the judiciary with the press is a little bit, if I may say so -- a little bit of apples and oranges there.
A. I don't think -- if I have been understood to have said that, I did not mean that. I mean, I'm no expert on the judiciary, and I simply cannot sit here and make a comment on how the judiciary is set up and protected in statute. That is not my area of expertise.
Q. We need to come back to your experience as a press secretary to make that statement, really -- I draw very heavily on my experience as a press secretary to make that statement emphatically.
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MR JAY: We'll come to that.

A. Okay.

Q. I'm just exploring your five beliefs. The fourth and fifth beliefs are consequential on the third belief.

A. Yeah, yeah.

Q. Can I deal with the next page and permanent evolution, which was a speech you gave in May 2003, when you announced a series of reforms.

A. Yeah.

Q. You identified the key reforms in your witness statement. I just ask you about the fifth of them, the publication of a code of practice handbook. Do you see that?

A. Yes.

Q. We've heard that that is written by the secretary to the Editors' Code of Practice committee. Does the PCC or did the PCC have any input into the guidance contained in the handbook?

A. Oh, frequently, yes. I can't say it was me personally, but Ian Beales, who was then the secretary of the Code Committee, was the main author of the commentary, and we had quite frequent exchanges with him at the PCC.

Q. -- your experiences elsewhere, reading Pravda and the Frankfurter Allgemeine, if I pronounce it rightly, which --

A. Yes.

Q. Not quite the same free-spirited approach always applied there in comparison with the British press. You say at the bottom of the page:

"Liberty and self-regulation are inextricably linked. Any infringement on self-regulation would not just erode the freedoms of press; far more importantly, it would curtail the freedoms of a citizen, who, in a democratic society, will always depend on an uninhibited media [I paraphrase]."

So you're setting your credo there very high, aren't you?

A. Yes.

Q. On the next page, you make it clear that in your view the term "self-regulation" doesn't quite capture what's involved and you use the term "self-regulation plus", is that right?

A. Yes. All through my six years at the PCC I agonised over what the type of regulation ought to be called, because "self-regulation" didn't capture it because it wasn't journalists sitting in judgment on journalists; it was some journalists sitting in judgment on journalists but always in the minority. It was the lay majority who were, if you like, the beating heart of the judgments made every week about complaints and so forth. I thought for a while of calling it "independent regulation", but that didn't quite capture it either, and I think the fact that there's been a debate in this Inquiry about whether it is regulation or not is actually a kind of tributary of this problem with definition.
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1 Q. If you look level with the upper hole punch on this page, you'll see this:
2 "The last five weeks have been something of a personal odyssey of discovery. I would never in the first place have wished to join the PCC had I not believed in its value and the central importance of self-regulation. What I had not appreciated in full was how good it is. It has a tremendous story of success to tell. It is often unfairly criticised, sometimes by those who should know better."

Now, that, I respectfully suggest, was a somewhat flamboyant remark. You'd only been there for five weeks and you were telling everybody how good it was. Was that entirely wise, do you think, Sir Christopher?

A. I hate to call myself wise, but I think it was very wise. I think it was very wise to place the standard visibly in the field for an organisation which, from its very birth, had been at the centre of controversy and was attacked from all sides. So I wouldn't call it flamboyant, but it was a statement of belief and it was a statement of intent, and that was where I was going to move out from.

Q. I could quite see, Sir Christopher, why you would have certain ideas, perhaps embryonic ideas, when you started out, and you'd certainly have certain credos, as I've said and you have identified, but to go so far as to say after five weeks that this is an extremely good body, perhaps in all respects, is somewhat putting yourself out on a limb, isn't it?

A. I don't think so at all, and in fact if it were on a limb, it was a limb I was happy to be out on.

Q. Okay.

A. I was not a virgin to these matters of the press, having been a press secretary twice, having -- the more senior I became in the diplomatic service, the more I had to appear in front of cameras and microphones and talking to journalists. I did know something about this, and I had prepared for the job.

Q. If you were starting from the position that this was a body which was functioning well, both in terms of its system and its operation, it might be said that your approach would necessarily be conservative throughout your time at the PCC, because by definition there would be little which would require change. Would you accept that?

A. You could make that deduction, that I would be conservative in my approach, but there was a little bit of politics also, as well as belief in what I had to say. I had some quite significant changes to make to the way in which the organisation operated. I wanted to be sure that they would meet as least resistance -- as little resistance as possible from the newspaper industry. So it was important, the one hand, to make a powerful statement on behalf of self-regulation, and then to say -- and to say it was good -- and it was good. That it is the point, Mr Jay. It was good. It wasn't perfect, and it needed improving.

So, on the one hand, it is good, and then say over here that it will be even better here if we do the eight things that I set out.

Q. You also said in the speech, page 37954, at the bottom of that page:

"I do want to make one thing clear. I retain a pretty open mind on how we can grow in the future. Only on those things that would fundamentally change for the worse the nature of the system is my mind closed.

In that I include four heresies."

So you set your stall out very clearly here. The first is:

"Any suggestion that the PCC should have the power to levy fines or award compensation."

Then you explain why. I paraphrase: it would cause delay and it would result in the colonisation of the system by lawyers. So you were sticking your neck out very far, weren't you?
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A. Well, "party line" is a little bit harsh as a characterisation of this. I had spent some time studying the PCC before taking on this job -- it would have been only prudent to do so -- and what had become clear to me was that editors just did not like having to admit in their own newspapers that they had screwed up, in terms over which they had no control. That is to say the text of the adjudication, as agreed by the Commission, had to be reproduced verbatim, under a PCC rubric in the newspaper. Now, there was always an argument about where, and I have views on that, but that's, I think, for a later stage.

So it wasn't as if the statement "no editor wants the blemish of a negative adjudication on his or her record" was some rash thing that I pulled from the sky. It was based on my experience, from what I'd read, from the experience of others in the PCC, Lord Black, who had been director for some time, and I have to say to you, Mr Jay, after six years, it was an impression, again, that was strongly reinforced from my own experience.

Q. Because a cynic would say that it is the party line, that the editors put that out, that they don't want the blemish of a negative adjudication, because it saves them from proper regulation, namely a regulatory body with sharp teeth which might really hit them. Do you see that point?

A. Of course I see that point, but I think there's a -- almost -- and I've noticed this in previous discussions during the Inquiry. There is almost a cultural gulf between us on this kind of thing. I may have the chronology wrong, but I think it was put towards the end of 2003 that we ruled against the Guardian on the matter of payments to a prisoner who was publishing his diary in the newspaper, and the newspaper was so shocked by this that they threatened to leave the PCC system altogether, and I think even wrote it in a leader.

Now, that, I think, is one example only. I agree. That does give substance to my point.

Q. Okay. Returning to your lecture -- I'm not going to deal with the second point because it's one you've already really developed for us. The third point, you say:

"The third is any measure that would turn the PCC into a directive body -- initiating complaints at random, intervening in issues which are nothing to do with the code, or establishing any superior service for the rich and famous."

By "directive body", do you mean general regulator?

A. It's a very good question. I am now looking at this paragraph again. I think it was -- it was this: at the

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Mr Jay: That indeed was going to be my observation, that it might be said: well, those who know more about what the PCC does or did were critical, and those perhaps who didn't know were less critical. What conclusions might we draw from that?

A. If I may throw something back at you, Mr Jay, what is the evidence for that? We did poll people. I mean, I find it really -- it's quite difficult to get this point over. There was repeated polling, either by us or by independent organisations, of attitudes to the PCC and of knowledge of the PCC. I think only -- and here I know I'm on oath and I may have this wrong. Only the Advertising Standards Authority was better known than the PCC, I think, in successive polls.

So it's not as if people didn't know who we were, but I did recognise that it was necessary to get out there. That's why we went round the country, went all over the United Kingdom, if I can put it like this, preaching the word.

Q. Okay. May I deal now, please, with the report on subterfuge and news gathering. 00090.

A. Yes.

Q. You recognise that clause 10 of the code covers all forms of subterfuge, including phone hacking, which is an offence under RIPA 2000, and blagging offences under Section 55 of the Data Protection Act?

MR JAY: That indeed was going to be my observation, that it might be said: well, those who know more about what the PCC does or did were critical, and those perhaps who didn't know were less critical. What conclusions might we draw from that?

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A. Yes.

Q. You recognise that clause 10 of the code covers all forms of subterfuge, including phone hacking, which is an offence under RIPA 2000, and blagging offences under Section 55 of the Data Protection Act?
1 A. I do.
2 Q. So by definition, therefore, there's an overlap between
3 the general law, the criminal law, which is contained in
4 statute, and the domestic law of the PCC, which, for
5 these purposes, is contained in clause 10 of the code;
6 is that correct?
7 A. Yes. I make the point explicitly in the third
8 paragraph on this page.
9 Q. Yes. That's the point, really, I wanted to explore,
10 because you say in possibly the fourth paragraph -- it
11 depends on how you number these:
12 "A further complication is that the code of practice
13 overlaps with the law: that is to say that offences
14 under the code can also be offences under the law."
15 Well, we can agree with that. Then you say:
16 "Where this happens, and a matter becomes sub
17 judice, the PCC must always yield to the law."
18 Are you saying that if the criminal law is carrying
19 out an investigation, the PCC must wait until the end of
20 the investigation, on the one hand, or are you saying
21 that as a matter of principle, if a matter falls within
22 the domain of the criminal law or the domain of the ICO,
23 then philosophically, the PCC shouldn't intervene at
24 all?
25 A. No, I'm not making the latter point. I'm making the

22 Q. Whether or not a request for individual documents would
23 in the PCC to interview people, to call for documents.
24 Q. Well, that may be right but there wasn't a lack of power
25 in the PCC to interview people, to call for documents.
26 Whether or not a request for individual documents would
27 have been met by a "yes" or "no" is another matter, but

1 Q. Is this right: that the articles of association of the
2 PCC expressly, in your opinion, permit that very
3 exercise, namely the undertaking of an inquiry or
4 investigation?
5 A. Well, I was certainly confident that the inquiry that we
6 carried out in 2007, immediately after Goodman and
7 Mulcaire were sent to jail and Coulson resigned as
8 editor -- that the inquiry we carried out was fully
9 within the articles of association. I have to say to
10 you, I didn't look at the articles of association.
11 Q. Is it also right that the inquiry or investigation
12 exercise which was conducted into phone hacking could
13 also have been wide enough to have covered what happened
14 at the News of the World at the material time, rather
15 than trying to learn lessons for the future?
16 A. I was strongly of the view that it would not be a useful
17 or possible objective for the PCC to try to duplicate
18 the police inquiry. Two men had gone to jail, an editor
19 had lost his job, and at the time -- and let's not cover
20 this with too much hindsight -- that seemed pretty
21 draconian. So I wasn't going to say let's use the PCC's
22 resources to try to duplicate still further what the
23 police had done --
24 Q. But --
25 A. No, I'm sorry, if I can just finish this point.

1 Q. Yes, of course.
2 A. What I did think was very important was that the new
3 editor should tell us what, in his view, had gone wrong
4 at the News of the World, and that we, in
5 a lessons-learned exercise, which also involved asking
6 every single editor and management of every newspaper in
7 the United Kingdom about their protocols for hiring
8 inquiry agents and subterfuge -- that as a result of
9 that, we could produce a report which would offer
10 guidance to the industry and show -- shed a little more
11 light on what had gone wrong at the News of the World.
12 That's what we did and it was welcomed.
13 Q. But as a matter of principle, you would accept that
14 there was nothing to stop the PCC in terms of its powers
15 from carrying out an investigation into what happened,
16 particularly the dimensions of what happened and whether
17 it extended beyond Messrs Goodman and Mulcaire? I think
18 you'd agreed with that?
19 A. No, I wouldn't agree with that. I think what we would
20 have run up against there is the inability of the PCC,
21 for example, to take statements on oath.
22 Q. Well, that may be right but there wasn't a lack of power
23 in the PCC to interview people, to call for documents.
24 Whether or not a request for individual documents would
25 have been met by a "yes" or "no" is another matter, but

8 (Pages 29 to 32)
the PCC had power to go down that road, didn't it?
A. No, I think now we part company here, if we're talking
about the articles of association. The idea that we
should work on the assumption -- because this is what
you're saying -- that the police inquiry was inadequate
and we needed to add to the efforts that they had made
by sending some kind of quasi-police investigative force
into the News of the World, I have to say, Mr Jay, is
entirely fanciful.
Q. You say in terms that presentationally -- this is later
in your statement, at 00093 -- it would have been better
to have interviewed Andy Coulson, which implies that in
your view there was a power to do so, presentationally
it might have been better to do so, but as a matter of
practice, it would not have been desirable to do so.
That's what you're saying, isn't it?
A. I think we're splitting hairs a bit here. Maybe what
I should have written here was that -- instead of using
the word "interviewed", "asked him to come in for
interview".
Q. Mm.
A. I believed at the time -- I do now -- that the decision
to not to interview Coulson, who by that time was no longer
editor of the News of the World, and actually we had no
powers over him at all -- was exactly the right one to
take, although presentationally it has -- it's made
things difficult for me. You asking me the question
right now, for example.
LORD JUSTICE LEVESON: But why do you think it was the right
decision to make?
A. Well, I'm going to explain that, my Lord, if I may.
The main reason is I don't think he would have had
anything of value to add to the reports that we
published.
MR JAY: That's speculation, isn't it?
A. Well, it's --
Q. There are a number of possibilities, and I don't think
it's right for me to go through them, given the present
circumstances, but we do know that he was about to be
appointed as director of communications to the then
leader of the opposition. It might have played out
rather oddly if it had come out into the public domain
that he had refused to cooperate with the PCC, pursuant
to the PCC's reasonable request for an interview. Don't
you agree with that?
A. I do agree with that, and you can certainly argue the
opposite case. I accept that. But I believe -- if
23 I may also use the advantage of hindsight. Now that he
24 has been arrested, it seems to me wholly improbable that
25 at that time he would have told us more than Colin Myler

was able to dig out of the system. And we produced
a report -- let me remind you -- which was widely
welcomed for what it had to say about how newspapers
from now on should conduct themselves, both with regard
to subterfuge and the Data Protection Act. Let us not
forget that. It was widely welcomed.
Of course it wasn't adequate, because the police and
newspapers, God bless them, dug out far more from the
News of the World than at that time was available, but --
Q. You describe the investigation as a monumental task,
don't you, in 00092?
A. Yes.
Q. It's your language. But a monumental task which, if
I may say so, was limited to getting an explanation from
Mr Myler, not seeking any documents from him and writing
to other editors to find out what they were doing. The
epithet "monumental" is possibly an overstatement, isn't
it?
A. No, no, Mr Jay. No, you should have been there when we
were doing it. It was monumental and it was done
swiftly and people recognised it as being of real value
at the time. So I think you're being a little
mean-spirited about this.
Q. Okay. What, out of interest, is the sanction under the
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code for failing on co-operate with or, still worse,
measuring the PCC?
A. Well, in the core business of the PCC, when we were
dealing with complaints, when there would be a complaint
from somebody, and the editor would reply in what we
were able to ascertain was a misleading way, of course
there would weigh the scales of justice against that
editor, and the ruling would so reflect it.
Q. That would be, on my understanding, therefore, evidence
which you take into account in ruling or adjudicating on
a particular complaint. I think my question was more
directed to whether there's a separate article of the
code which says that if you fail to co-operate with the
PCC or you mislead the PCC, that in itself is a breach
of the code. That's not the position, is it?
A. Well, there's no such article in there, but the system
is flexible enough, in most circumstances, to be able to
absorb and draw the appropriate conclusion from an
editor who is not effectively telling the truth.
Q. But if you're carrying out an investigation, as you were
here in relation to phone hacking, which wasn't directly
targeted to a particular complaint but was more
wide-ranging under your powers, which we see in article
53(a)(1) of the articles of association, and an editor
misleads you -- I'm speaking hypothetically now --
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<td>1 there's no sanction, is there, no comeback against the</td>
<td>1 go to law, then it necessary follows that the PCC has no</td>
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<td>editor?</td>
<td>role?</td>
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<td>2 A. Well, I hate hypothetical questions because I don't</td>
<td>3 A. In a word, yes.</td>
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<td>3 think they're fair. They're not fair in this</td>
<td>4 Q. Even if, does this follow, there is an overlapping</td>
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<td>4 circumstance. If what you're actually saying to me,</td>
<td>5 offence or breach under the code, maybe an extremely</td>
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<td>5 Mr Jay, is that we should have known at the time that</td>
<td>6 serious and egregious breach under the code, which the</td>
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<td>6 either wittingly or unwittingly Mr Myler was not telling</td>
<td>7 PCC should have an interest in seeking to address, and,</td>
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<td>7 the truth --</td>
<td>8 if necessary, comment on? Would you accept?</td>
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<td>8 Q. No, that wasn't my question.</td>
<td>9 A. Put like that, hypothetically, possibly so. But our</td>
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<td>9 A. -- how could we possibly know?</td>
<td>10 rule of thumb was that people who decided to go to law</td>
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<td>10 Q. That wasn't my question at all. I was not directing the</td>
<td>11 could not also go to the PCC. They had to make</td>
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<td>11 question to the PCC. I was directing the question to</td>
<td>12 a decision.</td>
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<td>12 the hypothetical editor, but you're right that I was</td>
<td>13 Now, it may be -- I cannot think of an instance but</td>
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<td>13 seeking to wrap it up hypothetically and not target the</td>
<td>14 there may be, lurking in the archives of the PCC or in</td>
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<td>14 question directly in the context Mr Myler for obvious</td>
<td>15 Mr Abell's witness statement, a case where something was</td>
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<td>15 reasons, not least that the Inquiry hasn't formed</td>
<td>16 heard in court and there were ramifications, some kind</td>
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<td>16 a conclusion as to whether or not he misled the PCC.</td>
<td>17 of fallout from the court hearing, which it would be</td>
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<td>17 I put it to him that he had, but it's for Lord Justice</td>
<td>18 right and proper for the PCC to address, but I can give</td>
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<td>18 Leveson to decide.</td>
<td>19 you no hard example.</td>
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<td>19 LORD JUSTICE LEVESON: In any event, he'd just arrived in</td>
<td>20 Q. But this puts the PCC in a different position from any</td>
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<td>20 the job and therefore he was entirely dependent on what</td>
<td>21 other regulator, because all other regulators, to my</td>
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<td>21 others might say to him.</td>
<td>22 knowledge, would say, &quot;Well, if there is an aspect of</td>
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<td>22 A. I mean, he also was no virgin, my Lord. He'd been an</td>
<td>23 the criminal law which is engaged or an aspect of the</td>
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<td>23 editor before. He knew his way around. And the virtue</td>
<td>24 civil law, we'll usually wait and see what happens, but</td>
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<td>24 for us in Colin Myler was that he was a fresh pair of</td>
<td>25 that doesn't mean we don't have jurisdiction; we will</td>
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<td>1 eyes who knew his industry extremely well.</td>
<td>1 weigh in once the courts have ruled and carry out our</td>
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<td>2 And again -- there's so much hindsight in this -- at</td>
<td>2 own investigation pursuant to our regulatory function.&quot;</td>
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<td>3 the time people said, &quot;We are quite surprised by the</td>
<td>3 The position of the PCC is, therefore, fundamentally</td>
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<td>4 amount of detail that the PCC has been able to dig out</td>
<td>4 different, isn't it?</td>
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<td>5 of the News of the World on what went wrong&quot;, and it</td>
<td>5 A. Yes, it is fundamentally different, first of all from</td>
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<td>6 informed the set of -- I think it was, yes, six</td>
<td>6 a philosophical point of view. I made the point at the</td>
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<td>7 recommendations that we made to ensure, we thought at</td>
<td>7 very beginning that it is a regulator unlike any other,</td>
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<td>8 the time, this would not happen again.</td>
<td>8 of necessity, and also, Mr Jay, you forget the wishes of</td>
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<td>9 The fact that there may have been -- we'll have to</td>
<td>9 the first party. Now, Max Mosley had a choice of either</td>
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<td>10 await the police enquiries -- a giant criminal</td>
<td>10 coming to the PCC or going to law. He went to the law.</td>
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<td>11 conspiracy in the belly of the beast is another matter.</td>
<td>11 He never showed the slightest inclination in coming to</td>
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<td>12 MR JAY: May I go back, please, to 00090, Sir Christopher,</td>
<td>12 the PCC.</td>
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<td>13 and a point you make after your sub judice point, five</td>
<td>13 Q. But if --</td>
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<td>14 lines into that self-same paragraph.</td>
<td>14 A. So we can hardly start launching an investigation into</td>
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<td>15 A. Oh yeah.</td>
<td>15 the sort of -- I won't go into lurid detail. We can</td>
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<td>16 Q. &quot;Furthermore, on matters of reputation and accuracy ...&quot;</td>
<td>16 hardly do that if he doesn't want it, for Pete's sake.</td>
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<td>17 You'd also include within that privacy, I imagine.</td>
<td>17 Q. As was his right, he chose to go to the courts for the</td>
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<td>18 &quot;... a complainant will often have a choice between</td>
<td>18 obvious reason that he needed to try and get an</td>
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<td>19 going to law and going to the PCC.&quot;</td>
<td>19 injunction. We know that he failed, and then there was</td>
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<td>20 Then you say Max Mosley chose the court, while the</td>
<td>20 a full-blown High Court action. But had he come to the</td>
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<td>21 McCanns used both the courts and the PCC:</td>
<td>21 PCC after Mr Justice Eady had ruled and it was known</td>
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<td>22 &quot;This leads to a wider point of very great</td>
<td>22 there was going to be no appeal, would the PCC have said</td>
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<td>23 importance.&quot;</td>
<td>23 to him: &quot;It's too late&quot;?</td>
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<td>24 Can I seek to capture the point in this way. Are</td>
<td>24 A. Quite possibly so, but again you've got me on</td>
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<td>25 you saying that if a complainant exercises the choice to</td>
<td>25 a hypothetical here. I would judge -- I mean, this is</td>
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**Notes:**
- There are some dividers and page numbers that are not relevant to the text. They are not included in the natural text representation.
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1. Q. Of course you might, and you might not have done, but that wasn't really the question either.
2. A. I'm not sure where you're going with this.
3. Q. It is quite important, because Mr Justice Eady rules against the News of the World.
4. A. Yes.
5. Q. There is a breach of clause 3 of the code. Would you agree?
6. A. Mm-hm.
7. Q. And there's also a finding by Mr Justice Eady that at least one journalist, the chief news reporter, had been guilty of behaviour close to blackmail. He put it arguably even higher than that. Wouldn't those matters have been of concern to the PCC?
8. A. Yeah, they would have been of concern to the PCC, but I do think we have to try and get ourselves a little bit anchored here. If somebody choose to go to law and chooses explicitly not to go to the PCC, I don't think the PCC's competence is engaged, although we will take note of what has emerged from court. I think this is the only thing I can say to you.
9. Q. Did you read Mr Justice Eady's judgment?
10. A. Bits of it, to be honest.
11. Q. Mm. What was your reaction to it?
12. A. I thought he rendered the correct judgment. And this is a personal view. This is not Christopher Meyer, chairman of the Press Complaints Commission; it's just me. I thought that the judgment was correct. Of course, most of the newspapers thought to the contrary, and I had some quite vigorous exchanges with editors on an informal basis about whether this was right or wrong, but I found it very difficult to see how the public interest was engaged.
13. Q. Yes. But it's not just clause 3; it's the blackmail point. If the PCC has any sort of regulatory function, it would surely have been concerned by the findings of a High Court judge that a senior journalist was arguably guilty of blackmail and the then editor was giving evidence which Mr Justice Eady spoke somewhat disparagingly of. Weren't these matters which you perhaps should have taken up with Mr Thurlbeck and with Mr Myler directly?
14. A. I think no. I'll say to you no. It's something to take account of, to be aware of, but, as I say time and time again, there is a time for the law and there is a time for the PCC, and that has been one of my credos.
15. Q. Another structural weakness in the PCC -- and this does go to its --
16. A. What's the first structural weakness, Mr Jay?
17. Q. Well, fair enough. We'll address those in a moment.
wrong to have their backs put up by that. I'm not saying this is the right thing or the wrong thing, but once you go to law, the game changes. It is possible that had he come to us, hypothetically -- you look terribly sceptical about what I'm saying. It is possible that the whole thing might have taken a different course. Possible.

Q. But the News of the World had the video. They had evidence which they thought was good evidence. They were absolutely intent on publishing this story. We know that they didn't go to Mr Mosley for comment; they were going to publish regardless. Is it really plausible that had Mr Mosley come to you for help, you would have been able to persuade the News of the World not to publish?

A. Had it come that way, I think -- and we have discussed it in the PCC -- I think I would have said to my director: "The one thing to say to the News of the World is: are you sure you've got the public interest argument right? Are you sure?" Because that's where they went down in court, effectively. And had it come to the PCC and we'd had a discussion and we had ruled in favour of Max Mosley, it would almost certainly have pivoted on the issue of public interest. That's what I would have said.

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We've said it to lots of other newspapers sitting on all kinds of gruesome stuff, and have said in the past: "Are you sure you've got this right?" We don't say to them "don't publish" or "green light to publish". We don't do that.

Q. But you would have solemnly asked the question, "Are you sure?" The News of the World would have said, "Of course we're sure", and they would have published.

A. How do you know they would have said, "Of course we're sure?" How do you know?

Q. Because we --

A. You don't know.

Q. We can't be 100 per cent sure, but what we do know is that they defended the injunction application, which suggests that unless they did it in bad faith, they believed that they had public interest grounds for going ahead and publishing.

A. With respect, it didn't -- the game is different when lawyers -- forgive me. The game is different when lawyers and judges come in. It is a different thing with the PCC. We are -- I speak as if I'm still chairman; I'm not. We were always charged with acting in the interests of the press and not of the public, being too close to the editors and all of that, but one of the advantages of being close to editors, by

definition, as a thing you have to do, is actually they respond in a different way. And I have in my -- personally -- I'm not going to give any names, I don't think it would be right to do so, but in my time as chairman, I have stopped big stories from being published, either on grounds of unwarranted intrusion into privacy or on the public interest ground. So believe me, this can happen.

Q. So is this right: your powers of persuasion might have been such that the News of the World, armed with this, what they thought was a glorious story which they were about to emblazon all over their front pages and put videos all over their website, would have listened to Sir Christopher Meyer and have held their hand? Is that right?

A. I'm not trying to create a cult of personality around myself, but I'm just saying if someone at the PCC had said it to them this in all seriousness they might have done so.

Because, you see, if you look at the parallelism between court decisions and PCC decisions, there's not a great deal of disparity. By and large, the courts -- this is as it should be. By and large, the courts and the PCC in my experience may not have sung in unison, but they certainly sang in harmony. So if Mr Justice Eady was prepared to rule in favour of Max Mosley, then -- and we, hypothetically, might have said, "What's the public interest?", it is quite possible this would have begin the News of the World pause. It's possible.

Q. How would it have played out in front of the PCC to this extent? That the News of the World were saying there was a Nazi theme, which is a matter of fact based on, they would say, a reasonable inference to be drawn from the video. How would the PCC have resolved that issue, do you think?

A. We're wading through hypothesis now.

 LORD JUSTICE LEVESON: But this isn't a hypothetical question, actually, Sir Christopher. This is a very real question because one could postulate it this way: to what extent, when this type of issue arises, does the PCC get into the facts?

A. Oh, right, okay. Put like that, I'm very happy to --

 LORD JUSTICE LEVESON: That's the question.

A. Mr Mosley would have presented a complaint, or he would have said to us: "This thing is coming down." Is this a question about post-publication or pre-publication?

MR JAY: Pre-publication.

A. Okay, pre-publication. Let's say Mr Mosley would have rung us up and said, "This thing is coming down the
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24 Q. The editor probably would have said to you -- of course, one can only speculate: "We've got it all on video and about that."
23 A. Look at a video? We may have done. I can't remember it.
22 LORD JUSTICE LEVESON: "Hang on", go back to Mosley and say, "This is what the editor says." Then we go back to the editor.
21 And maybe in that exchange, based on the facts as we knew them, as we'd got them from News of the World and we'd got them from Max Mosley, we might have said to the editor: "This looks dodgy", or we might not have done.
20 But we would have taken a judgment on the facts as we knew them.
19 I don't see what more I can say to you.
18 MR JAY: Mm.
17 I don't see what more I can say to you.
16 But we would have taken a judgment on the facts as we knew them.
15 As we'd got them from News of the World and we'd got them from Max Mosley, we might have said to the editor: "This looks dodgy", or we might not have done.
14 We wouldn't have been moving luxuriously on this; we would have been moving extremely fast.
13 And maybe in that exchange, based on the facts as we knew them, as we'd got them from News of the World and we'd got them from Max Mosley, we might have said to the editor: "This looks dodgy", or we might not have done.
12 We wouldn't have been moving luxuriously on this; we would have been moving extremely fast.
11 Q. The editor probably would have said to you -- of course, one can only speculate: "We've got it all on video and the video demonstrates that there was a Nazi theme and there's a public interest, therefore, in publication."
10 Page 49

1 Q. You might have had to accept that, mightn't you?
2 A. There would have been a big debate about it. I think that is the only clear -- just as there was a big debate in court, I believe, there would have been a big debate about whether the Nazi stuff, if it were Nazi, affected the central argument.
3 Q. I'm not sure how big the debate could have been, because the hypothesis here is you're having this conversation before publication, it's all being done in a hurry, not in the relative luxury of a courtroom where the matters --
4 A. We wouldn't have been moving luxuriously on this; we would have been moving extremely fast.
5 Q. That's right, but why would --
6 A. And we have to make a very quick judgment about what it is necessary or not to say. I mean, really, it didn't happen.
7 LORD JUSTICE LEVESON: Let me move it from the theoretical, would you have said, "Will you let us see the video?"
8 A. Might have done.
9 LORD JUSTICE LEVESON: Have you ever done that?
10 A. Look at a video? We may have done. I can't remember it.
11 LORD JUSTICE LEVESON: Have you ever asked a newspaper editor to provide the source material of a story so that you could judge its validity?
12 A. Yes, we may have done. We -- no, we -- yes, we used to do that, because we would often ask whether there was independent corroboration for a story, which a journalist had acquired, because this is part of the mix in deciding whether a newspaper should run a story or not.
13 Sorry, my Lord, the short answer to your last question is: yes.
14 MR JAY: I don't think, though, that you ever asked to see the underlying material. What you might have done on occasion is test with the editor whether the editor had independent corroboration or had, for example, a video, but you wouldn't get involved --
15 A. You might do. You might do.
16 Q. Can you remember circumstances in which you did, though?
17 A. Well, on the whole -- I did one or two of these things personally myself. On the whole, this was a matter for the director and his staff to do, and it was case by case. Horses for courses. The only normal, natural, pragmatic thing to do. I am just worried about what you're driving at with this line of hypothetical questions which you keep on telling me are factual. But they aren't; they're hypotheses.
18 Q. I think the likely true position is this: that you would have tested the editor -- we're going back to the Max Mosley hypothesis. You'd have asked him, "Are you sure of your public interest justification?" He would have said, "Yes", and that would have been the end of it, wouldn't it?
19 A. Not necessarily so. I can't imagine anybody at the PCC being satisfied by "yes". Of course there would have been more discussion. Of course there would.
20 Q. Was any consideration given, during your six years as chairman, to amending the code to have a general requirement, not an absolute requirement, of pre-notification in this sort of situation?
21 A. No. Let me look at the -- I have to -- I think Mr Mosley has been asking, has he not, for blanket pre-notification for --
22 Q. Sorry, that wasn't my question.
23 A. Not your question.
24 Q. It's not an answer to my question.
25 A. I thought we were still on Mr Mosley.
nature, where -- if this is your question -- where
warning somebody that a story was coming could have
resulted in action not to publish the story.

Q. That, again, isn't an answer to the question, because --
A. The short answer to your question is: yes, there was
consideration, and we dismissed it.

Q. What your answer demonstrates is that you were concerned
that there might be exceptional cases where there would
be a public interest reason for not notifying the
subject of the story.
A. Quite so.

Q. But the point of the general requirement of
pre-notification is that that would be the ordinary
situation, the norm, but if the editor could demonstrate
a reason for departing from the norm -- and you've given
such an example -- that would be fine. But why not have
that as the basic standard to which newspapers should
operate?
A. Well, I think we had already established that as a basic
standard through a series of rulings over the years, and
that newspapers understood this. It is not in the code.

Q. But you're looking, then, to a fragmented group of
cases, some of which point in different directions.
We've looked at the Burrell case. There's also the
Livingstone case. Why not have it clearly stated in the
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code that there is a general requirement to pre-notify
individuals in Mr Mosley's position, but he's only one
example?
A. All I can say to you is when I was chairman, we did
consider this, the point was made to us, we did not go
down this path, the Code Committee didn't go down this
path. If you still think it's important, then I think
it's a question for Lord Hunt this afternoon.

Q. There would be considerable resistance in the Code
Committee to amending the code to include that
requirement because after all, they're full of newspaper
editors and proprietors, aren't they?
A. Which is why I recommend in my witness statement that.
they be leavened by the presence of independent
commissioners from the PCC and perhaps even give the
chair to the chairman of the PCC.

Q. But when you were chairman of the PCC between 2003 and
2009, you, presumably, were fully aware of the make-up
of the Code Committee, of the limitations in your
ability to persuade the Code Committee to make a change
in the rules such as the one I'm discussing, and
therefore perhaps there was little or no point in
pursuing it any harder. Is that right?
A. No, that's not right, because I and the director were
members ex officio of the Code Committee, so we were the
Page 54

Q. But I bet on this issue they weren't a disunited group.
I bet they spoke as one group --
A. Well, I can't remember.

Q. -- telling you that pre-notification would be
a disaster?
A. You keep on putting words into my mouth, Mr Jay. You
don't have the faintest idea what they said to me, and
I don't have the faintest idea what they said to me
because I can't remember. But the fact of the matter is
that three national editors, one magazine editor and the
rest from the regions -- you had a huge variation in
views among the editors. There was usually more harmony
among the ten independent commissioners than there was
among the editors.

Q. Can I move to another issue and see how it played out.
There was certainly a public perception that when it
came to the publication of adverse adjudications made by
the PCC and apologies, there was inadequate due
prominence given, both in terms of position within the
newspaper and often, equally importantly, the size. Do
you accept that there is certainly a perception to that
effect?
A. There still is, and it was a problem. I make no bones
about that. When I became chairman, it was a problem,
and we worked very hard in my time to get the editors to
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<td><strong>Q.</strong> Why didn't you agitate for that, Sir Christopher, while you were chairman? You could have made it clear that it was PCC policy, which, if necessary, you were going to impose on the Code of Practice Committee, that if the PCC said that an adjudication had to be published in a particular way, in a particular place, in a particular font size, that that was the end of it; the editors had to accept the PCC ruling? Why didn't you agitate for that?</td>
<td><strong>A.</strong> Because I was agitating for so much else at the same time. It was not as though I was sitting in my office twiddling my thumbs. There was a massive agenda. There were a huge number of things that had to be done. So in the end you have to prioritise, and at the time what we were doing was cajoling, persuading editors to bring these things far further forward, and there are statistics, which I know is in Stephen Abell's witness statement --</td>
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<td><strong>Q.</strong> The system which you left in 2009 was still dependent on the consent of the editor as to where to publish and the size of the publication; would you accept?</td>
<td><strong>A.</strong> I would accept that. It became a matter of negotiation between the PCC and the editor as to where it went, and I have to say that the editor had the final say, but if something appeared ludicrously hidden, then we would have made a fuss. Again, I make a recommendation that in a new regulatory system, the PCC, whatever you're going to call it, must have the power to direct where these things go.</td>
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<td><strong>Q.</strong> It's a matter of perception. It's a real matter of concern to the public that the PCC, whatever you're doing is close to editors.</td>
<td><strong>A.</strong> We had some success, but had I stayed as chairman, I more or less did that. Most of the time, I tried to keep a distance between myself and the editor. I tried to take out to lunch once a year every national editor. But with the PCC, with editors? Particularly editors who were involved with the PCC.</td>
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<td><strong>Q.</strong> Okay.</td>
<td><strong>A.</strong> Yes, we've seen those.</td>
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<td><strong>Q.</strong> Okay.</td>
<td><strong>A.</strong> I think when you mention the word &quot;collusion&quot;, even to dismiss it, there is the whiff of poodle or lapdog here, which I don't like at all.</td>
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<td><strong>Q.</strong> Okay.</td>
<td><strong>A.</strong> God knows I had my conflicts with the editors on all kinds of things. If you think that I was sitting in their pocket not daring to do things that they disliked, think again, Mr Jay.</td>
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<td><strong>MR JAY:</strong> Okay.</td>
<td><strong>Q.</strong> Okay.</td>
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<td><strong>MR JAY:</strong> Okay.</td>
<td><strong>Q.</strong> LORD JUSTICE LEVESON: One of the things you did say, Sir Christopher, was you spoke of the advantages of being close to editors.</td>
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<td><strong>Q.</strong> Then you see it's much less of a problem than it was in 2003.</td>
<td><strong>A.</strong> Well, of course. You can't -- you can't run -- it's like the BMA is close to doctors. I assume that you guys are regulated by something and they keep fairly close to your profession. What do you expect, to keep distant from the industry? The point here is whether unwarranted influence was exercised over my responsibility by overweening editors. I can tell you here, on oath, that that was not the case.</td>
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<td><strong>Q.</strong> It's a matter of perception. It's a real matter of concern to the public that the PCC, even when they publish an adverse adjudication, have to enter into some sort of negotiation with the newspaper as to where the adjudication is going to be published, when really, as regulator, the PCC should be saying, &quot;We're not listening to you, editor; you're going to do exactly as we say. You're going to publish it where we want, on a particular date, in a particular size, end of story.&quot; Why didn't you insist that that should be the position?</td>
<td><strong>A.</strong> I decided other things were more important.</td>
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<td><strong>Q.</strong> The answer is in part that that sort of approach would have placed you in confrontation with powerful individuals, self-evidently. There would have been considerable resistance to that and it would have broken down the -- I won't use the word &quot;collusion&quot; but almost the sense of consent and collaboration, which was the basis on which you wanted to work with the people you were quasi-regulating; is that fair?</td>
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<td><strong>Q.</strong> Okay.</td>
<td><strong>A.</strong> I tried to take out to lunch once a year every national editor. I more or less did that. Most of the time, I did not -- it was I who gave the hospitality, rather than accepting it from them, and when I was on the road, which was a lot, we would obviously see the regional editors or any local editor who came to town. But I tried to keep a distance between myself and the editor and make the main point of contact for all operational purposes the director and his staff.</td>
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<td><strong>Q.</strong> Can we test that in relation to a particular issue? We</td>
<td><strong>A.</strong> Well, of course. You can't -- you can't run -- it's like the BMA is close to doctors. I assume that you guys are regulated by something and they keep fairly close to your profession. What do you expect, to keep distant from the industry? The point here is whether unwarranted influence was exercised over my responsibility by overweening editors. I can tell you here, on oath, that that was not the case.</td>
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1 know that the Information Commissioner was agitating for
2 a change of the law.
3 A. Yeah.
4 Q. Section 55, bring in a custodial sanction. We know that
5 the PCC was dead against that and spoke of the chilling
6 effect. We also know that that was the position --
7 A. Yeah, we've said that in one of our annual reviews,
8 I remember that.
9 Q. It's the position which every national newspaper editor
10 took. Were there discussions between you and editors on
11 the PCC on that particular topic?
12 A. None that I remember.
13 Q. Are you sure about that?
14 A. None that I remember.
15 Q. Can you remember any discussions with Mr Dacre, for
16 example, on that topic?
17 A. None that I can remember.
18 Q. Mm-hm.
19 A. If you're saying that we sort of -- that we put together
20 a kind of joint united front on Section 55, it's
21 absolutely untrue.
22 Q. Why did the PCC adopt any position on Section 55? It's
23 not a campaigning body, is it?
24 A. No, it's not a campaigning body, but it was something
25 that we thought would be pretty chilling to freedom of
expression.
2       Q. Well, maybe you did, but why was it necessary, if you
3       thought you were a regulator, or even if you weren't
4       a regulator, to have adopted a position on an issue of
5       that sort?
6 A. But why not? I mean, we're damned if we do and we're
7 damned if we don't. If we don't express a view, you say
8 to me: "As a regulator, you jolly well should have
9 done." Then we do, and you ask me, "Why did you do it?"
10 I mean, there are issues out there --
11 Q. Isn't there a difference -- sorry to cut across you,
12 Sir Christopher.
13 A. No, that's all right.
14 Q. If you express a view about breaches of the Data
15 Protection Act and about lapses in standards by
16 newspapers, that's clearly within your province. Let's
17 agree about that. And it's your role, some might say,
18 to lay down general standards, but that's rather
19 different from expressing a view as to what the criminal
20 law should say in relation to breaches of the Data
21 Protection Act which you've already told us are outside
22 your domain altogether.
23 A. Yes, but there is an effect -- there is a consequence
24 there which goes strictly beyond the law, and if you go
25 back to the speech I made in 2003, where you accuse me
of being too dogmatic too early on about my enthusiasm
for freedom of expression and so forth, you will see
there is a clear line of thinking that runs from 2003
through. So maybe I was going beyond my powers in
saying it, but I thought it needed to be said.
6 Q. Maybe it's the inaction of a philosophical position
which sides with the press, because emotionally,
temperamentally and philosophically, that's where you
stand.
10 A. Mr Jay, please. Forget the amateur psychology here. It
was something I believed in. It was something
12 I believed in, and if you think Mr Dacre picked up the
phone one day and said, you know, as he does --
14 I believe -- he picked up the phone one day and he says,
15 "Very helpful if you stick in the annual review
something about Section 55" -- forget it. Even
17 Jack Straw was on his side as well, for Peter's sake,
18 and the Information Commissioner was rebuffed by the
then Lord Chancellor.
20 So it was not as if I was expressing some
astonishing view. There was a very wide public debate
about this, and we decided to take part in it and why
the hell not?
24 Q. One can be entirely neutral and agnostic as to whether
you were right or wrong. That wasn't the point of my
question.
2 A. I know what the point of your question was.
3 Q. It's whether it was right for you to express any view,
because you were acting ex cathedra, weren't you,
5 really?
6 A. Yes, I go with that, but it's a separate point from the
enforcement of the criminal law and doing the
Information Commissioner's job for him.
9 Q. Yes. I think we're going to pause there for a few
moments.
11 A. Okay.
12 MR JAY: After our break, we'll no doubt resume.
13 (11.33 am)
14 (A short break)
15 (11.40 am)
16 MR JAY: Ask you about a different topic now,
17 Sir Christopher, the issue of inaccurate and misleading
headlines.
19 A. Yes.
20 Q. Was that an issue which troubled the PCC during your
chairmanship?
22 A. Absolutely. I made a speech in March of 2005 -- I think
I have that right -- in which I said to the industry
that the old doctrine, which was if the headline is
slightly wonky, so long as the story's got it right,
then you have to take the thing as a whole and there's no grounds for complaint -- and I said, "You can't go on like this because it's not working, because you have a headline which is completely misleading and the story may correct it but the whole thing is completely disproportionate."

I remember we had a case of a Scottish newspaper which led with the headline "Assassination plot against Tony Blair!", and in the body of the story the police said, "There is no assassination plot against Tony Blair." That was one of the worst examples.

But yes, there was a concern, and yes, we sought to crack down on it.

Q. Did you crack down on it by issuing any general statements or guidance which the industry as a whole should follow?

A. We did not, to the best of my knowledge, issue a formal guidance note. The industry knew perfectly well that we were after them on this, first of all because the speech is sent around to all the industry -- it doesn't quite have the force of a guidance note but they read the thing and they see what the points are -- and secondly, it started to appear in our adjudications.

Q. Did you give consideration to causing or recommending that the code of practice should be amended, clause 1, to make specific reference to inaccuracy in headlines?

A. No, we did not, because I think our judgment there was you have the statement of principle in the code of practice and then you implement the clauses of the code. You have the jurisprudence then around the principles, and if anybody is still too thick to understand what we're trying to say, you then have the code of practice handbook, which has been revised, which explains the jurisprudence.

So, no, we didn't go for a change in its code itself.

Q. Does this demonstrate the philosophical approach which you were adopting, namely to build up standards through jurisprudence and hope that the industry would understand what the standards were by reading the jurisprudence, rather than by acting more proactively and laying down general statements of principle in the code itself and/or in the code book?

A. The answer to that is a combination of the two things.

Matters we've taken to the Code Committee for amendment take account of developments. If, for example, you look at the subterfuge clause 10 and look at its development between 2003 and 2009, you will see that.

So it became a balance between statements of principle and the way in which they were applied, and this is hardly reactive. This is proactive, but maybe not proactive in the sense that you mean. But I mean I was out there all the time, not only enjoining people not to break the law and to respect the Data Protection Act, but saying, "Just watch it on the headlines because we're not going to let this kind of stuff go through any more. You can't do this."

Q. You say that, but there's been quite a lot of evidence to the Inquiry of inaccurate headlines in the sense you would agree were inaccurate -- if you don't read them in conjunction with the story, you look at them within their own terms -- which demonstrates that newspapers still are not getting the message. Do you accept that?

A. This is inevitable. You're never going to get a perfect situation. The issue is: is the problem reducing or is it not? Or is it increasing? Our view was, in my time, that having come down pretty hard against this, the strike rate of bad headlines to stories was improving.

I can't give you figures, I don't have a sort of slide rule for this, but you can't load up the code of practice with too much detail.

You may disagree with me on this, but the jurisprudence is immensely important. That is another reason why we repeatedly said to the industry: "You must write into every journalist's contract the need to abide by the code of practice", which means that the journalist must read the code of practice to see what is in it.

This is why we did endless seminars around the country, not just in London, explaining to people how the code of practice works, because if you don't understand the jurisprudence, you're in real trouble.

Q. Did you cause the Commission to monitor headlines in either individual newspapers or a range of newspapers to see whether they were following your advice that they should be accurate?

A. I can't remember, I'm sorry.

Q. Because without doing that, you wouldn't know whether newspapers were behaving themselves or not?

A. Well, first of all, we had a very small staff. There were limits to what you could do to monitor the entire United Kingdom output of newspapers. Online, don't forget, as well as in print. So this would, in any event, have been a highly limited exercise. But in answer to your specific question, I do not remember.

Q. Doesn't your approach put too much weight on the jurisprudence as it builds up, too much weight on the ability and willingness of journalist to read and understand the jurisprudence, and not enough weight on making general statements of principle, preferably by the code of practice?"
within the code of practice itself?

A. Well, I would beg to differ with you there, Mr Jay, because if you think that statements of principle would attract more attention than, say, major developments in jurisprudence, I would argue with you about that. It's a matter for debate, but jurisprudence is unbelievably important, and my view was that editors understood this because it described the way in which the regulatory system was developing, and that is why there was more and more time in my time on occasion.

Q. Another issue here with headlines is that a misleading headline, an inaccurate headline, unless it is directed to an individual, which may be rare, would be unlikely to elicit a complaint. Wouldn't you agree?

A. Well, I remember a lot of complaints about headlines.

Q. But are those complaints which you would deal with, given your reluctance to address third-party complaints?

A. Third-party complaints -- there's a kind of myth out there. Can we move sideways to third-party complaints or are we still on headlines? On headlines, I remember adjudications in which newspapers were struck down for or are we still on headlines? On headlines, I remember the disparity between the headline and the content, and -- there was no doctrinal objection to third-party complaints, but they were rare compared with first-party complaints. It's not true that we never entertained complaints. It's not true that we never entertained

A. Let me put it this way: I cannot say that forever and a day a case would not come up just as you have described. What I do remember is this: if I can give you an example of a footballer who dropped dead in the middle of a match, and there were some rather unfortunate photographs of him, I don't think people realised, dead on the pitch. Loads of third-party complaints about this, but the family, the first party of the dead footballers, did not want anything further done, so we did not proceed.

Q. Even though, as you say, large numbers of people were concerned about the intrusive nature of the photograph; is that right?

A. Even though.

MR JAY: I ask you a different question now: did you feel, even though, as you say, large numbers of people were concerned about the intrusive nature of the photograph; is that right?

A. Yes. My Lord, I'm with you on that. I think it's a good idea.

Q. Because certainly on wider issues of regulation, which is that right?

A. Well, as I went through the six years, I thought the balance was not right between those three bodies, that although there was a majority of independent commissioners on the Commission itself, which was very, very important point, the industry did monopolise both PressBoF and the Code Committee, and I do think that that needs to change. But in the time that I was there, there was -- there wasn't time to start thinking about these things. If I'd done another term, for example, then maybe -- in fact almost certainly I think I would have wished to address that.

Q. Because certainly on wider issues of regulation, which I know the PCC didn't necessarily get particularly involved in, as opposed to complaints, there would be, would there not, a concordance of view amongst editors,
because editors would tend to support the principles of freedom of expression, independence of the press and perhaps it's the strongest example -- pre-notification, every thing else?

A. Mm.

Q. Whereas the position of the lay members might be more fractured; is that correct?
A. No, that's -- that was not my experience. Lay

members -- I found the editors -- on the Commission,

I found the editors fractured. This was why I made the

facets reference to the Bulgarian politburo before.

When I chaired my first view meetings I was waiting for this sort of lump to act as a lump, but they never did.

Q. Can I test that in this way: let's accept you're right

in terms of the adjudication of individual complaints,

that there would not necessarily, you've told us, be an

editorial block.

A. Mm.

Q. Fine. But if one's talking about general issues of principle -- for example, the issue of pre-notification,

the issue of prominence of adjudications and apologies and their publication -- you would expect to see a consistent approach amongst editors because they're all speaking from the same position, the position of freedom of the express, the importance of the press in a democratic society --
Page 73

A. Yeah.

Q. -- and they wouldn't particularly want the PCC to have control over the publication of adjudications. Would you agree with that?
A. Well, in my time we certainly hadn't reached a point in the Commission where -- because we hadn't discussed it -- where there was a move to, as it were, take control of where adjudications, et cetera, went. But toward the end of my time -- it must have been the latter half of 2008 -- we happened to have a Commission meeting in Manchester, because it's all part of the away day thing, and it was at that meeting where I was quite forceful about how we absolutely had to, again, address the question of advertising for the PCC. I'm not talking about the prominence of adjudications.

One of the other things -- it's linked but --

Q. You're going off on a bit of a tangent.
A. Am I?

Q. I fear you are. I was addressing a general point and I just wonder whether the answer is yes or no.
A. Can you remind me of the general point again? I'm very sorry about this.

Q. On points of principle, such as prominence of adjudications and apologies and their publication,
inaccurate headlines and I think my other example -- and
Page 74

A. Yeah.

Q. I do remember that, yeah.
A. We thought -- I really have to dredge my memory here.

I think that the view we came to on that was if we were talking about bribery, this is a matter for the criminal law. If we're talking about payments to informants, that is not necessarily wrong, either in the law or under the code, and -- sorry, I can't remember the last point there. Paying policemen?

LORD JUSTICE LEVESON: Private detectives.
A. Oh, yes, can I come back --

LORD JUSTICE LEVESON: To extract or otherwise obtain private information.
MR JAY: Have a look at the recommendation itself. If you go to file B1, tab 19, you'll see it. Page 37975.
A. Yes, I'll try to find it.
Q. Paragraph 11.
A. I remember the recommendation.
Q. To be fair to you, it's the exact way in which it's couched.
A. Here we are. Sorry, what was the page number again?
Q. 37975.
A. Yes, I'm with you.
Q. "The code should explicitly ban payments to the police..."
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<th>Q.</th>
<th>A.</th>
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<td>Aside from it being illegal?</td>
<td>Well --</td>
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<td>Why not, Sir Christopher? That's what regulators do. The criminal law is there for one purpose; the regulatory law is there for another purpose. Shouldn't there be, in the relevant code, an explicit statement, that as the DCMS committee are precisely recommending, that payments to the police for information is completely unethical?</td>
<td>Well, it was and it wasn't. This is -- I'm going to</td>
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<td>But why not?</td>
<td>That was never implemented, was it?</td>
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<td>It was a breach of the criminal law back in 2003?</td>
<td>&quot;There should also be a ban on the use and payment of intermediaries, such as private detectives, to extract or otherwise obtain private information about individuals from public and private source, again, especially police.&quot;</td>
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<td>It's also a breach of the code. That's what the DCMS committee want you to make clear --</td>
<td>&quot;If you'd implemented that, that would in fact have covered phone hacking, wouldn't it?&quot;</td>
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<td>It wasn't that long ago, was it?</td>
<td>Yes. Well, there you have clause 10 of the PCC code --</td>
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<td>-- and which you weren't making clear, were you?</td>
<td>Which you say --</td>
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<td>Well, there are whole swathes of the criminal law which are of application to journalists which might be imported into the code of practice. There has to be a limit on that. We already have a number of clauses where there is overlap.</td>
<td>-- which deals with subterfuge.</td>
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<td>This isn't a recommendation from some pressure group or whatever, not that I'm diminishing pressure groups; it's a recommendation from a parliamentary committee. I think your response to it is: we didn't do it because the criminal law is adequate. Is that fair?</td>
<td>This makes it absolutely clear, though, that you don't have a get-out clause if you employ an intermediary. Would you agree?</td>
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<td>You're clearly not saying that the police, the inquiry agents, should never ask for information?</td>
<td>Well, the trouble with this -- no, hang on. The trouble with this paragraph 11 is it's a muddle, and it's a muddle where inquiry agents are concerned. This has been something which has afflicted the whole debate about inquiry agents. Payment by newspapers to enquiry agents, full stop, is not in and of itself illegal, nor is it illegal under the code. It is the question of what the inquiry agents then do or are procured to do which then offends the law, if I'm right here, and certainly offends clause 10 of the code of practice.</td>
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<td>The commitment you make is a commitment to put into the code everything that the Select Committee want you to make clear --</td>
<td>So pausing there, did that ever happen?</td>
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<td>The discipline you want to impose is to avoid that risk, ban them.</td>
<td>I mean, we're going back now nine years. I have no recollection --</td>
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<td>Ban all inquiry agents?</td>
<td>Yes. I do see that, and in 2003 I did not think that was a reasonable position to take.</td>
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<td>For this particular purpose. Do you see that?</td>
<td>God knows. I can't remember. I have no recollection --</td>
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<td>I think your response to it is: we didn't do it because we must have discussed the recommendations, because we always do discuss the recommendations of Select Committees, but I can't remember when the discussion was in 2003. It must have been at the first Commission meeting after the publication after the report.</td>
<td>&quot;Journalists should be able to refuse an assignment on the ground that it breaches the code, and if necessary, refer the matter to the Commission without prejudice.&quot;</td>
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<td>Another recommendation made -- this is paragraph 10: &quot;If you'd implemented that, that would in fact have covered phone hacking, wouldn't it?&quot;</td>
<td>That was never implemented, was it?</td>
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<td>This recommendation discussed within the Commission?</td>
<td>Well, it was and it wasn't. This is -- I'm going to</td>
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<td>&quot;God knows. I can't remember. I have no recollection -- I mean, we're going back now nine years. I have no --&quot;</td>
<td>have to be a bit -- kind of a bit slippery on this. The fact of the matter was we were constantly being asked by the National Union of Journalists to get into, effectively, contractual disputes between their members</td>
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<td>What was this recommendation in other Select Committee reports where we haven't necessarily adopted what they recommended.</td>
<td>That was never implemented, was it?</td>
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<td>If you look at the next one:</td>
<td>Well, it was and it wasn't. This is -- I'm going to</td>
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<td>&quot;There should also be a ban on the use and payment of intermediaries, such as private detectives, to extract or otherwise obtain private information about individuals from public and private source, again, especially police.&quot;</td>
<td>have to be a bit -- kind of a bit slippery on this. The fact of the matter was we were constantly being asked by the National Union of Journalists to get into, effectively, contractual disputes between their members</td>
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and their managements, or their editors. This we considered not to be the way to proceed, which is why 10, the recommendation at clause 10, was not implemented as it is there, but -- and I agreed this with the then Secretary General -- he may still be Secretary General of the NUJ, Jeremy Dear -- it may have been the following year, may have been two years afterwards -- by insisting that journalists' contracts should contain a clause specifically enjoining them to respect the code also put obligations on their editors, and that therefore, if there was, in their work contracts, a requirement to respect the code of practice, it would be a breach of their contract if they were asked by the editor to do something which prima facie was a breach of the code of practice. That is the way we did it and that is what I agreed with Jeremy Dear and Austin Mitchell MP in an informal meeting we had.

Q. I think the answer to my question was: the PCC did not --
A. Not as it was, no. We did a lot of other things. But we did not take -- agree these things by rote, even if it was a Select Committee.

Q. Okay. In 2007 there was another Select Committee report, as we all know.
A. Where is that?
Q. That's this in the same B bundle 1, but I have it in a continuation file. It's tab 53.
A. Yes, I think I do too. Yes.
Q. Maybe I can take this point more shortly, because I'm sure you remember it. The recommendation by the DCMS committee then -- and this is at our page 45405, paragraph 72 -- is that --
A. 45 what?
Q. 45405. Paragraph 72. There should be a financial sanction.
A. Oh yeah.
Q. Although it was recognised that the introduction of such sanctions might need statutory backing to make the power enforceable. Do you see that, Sir Christopher?
A. Yeah.
Q. That, of course, was another recommendation which you rejected?
A. Yeah.
Q. Was it discussed in the Commission?
A. Yes. I think it was, and we were all of a mind, independent commissioners and editorial commissioners, that fines were not the way to go. So, yes, he we rejected that.
Q. It is fair to say, I should read on, that the DCMS committee said:

"This would be a major step, which we would not recommend without a broader examination of the subject."

So they weren't making an unequivocal recommendation.
A. No, that is correct.
Q. In 2009, another Select Committee. You gave evidence to that Select Committee, of course. I think this was the third time --
A. Yes.
Q. -- you gave evidence to a Select Committee. I'm going to ask you a couple of specific points. I don't know whether your version is paginated in the same way. Mine isn't. But if you go to tab 55 and look at the internal numbering of the report itself, it's page EV113.
A. EV113. All right, oh yes, I see how it works. Getting there. Yes, I'm there.
Q. Just one point, which arises from what you told the Select Committee on 24 March 2009. You see in the left-hand column, you give quite a lengthy answer in relation to the McCann case.
A. Yes.
Q. You say, amongst other things -- and it's repeated in your witness statement:
"There's a time for the courts and there's a time for the PCC."
Then you say:
"The PCC is never going to eliminate the courts, and I sure as hell hope that the judges do not eliminate the PCC."

Of course, the judges would never have had power to do that.
"We act in a complementary way. What I said to Gerry McCann when I first saw him was that this is what the PCC can do for you, this is how we can help. 'If you want damages, if it comes to that, we do not do money. The courts do money, so you're going to have to make a choice.'"

To be clear about that, when did you say that to Dr McCann?
A. In July of 2007.
Q. And the circumstances were what? Was it a meeting?
A. At my house.
Q. Did you make it clear to him that it was, as it were, dichotomous: courts on the one hand, PCC on the other hand, but you can't do both?
A. I made it perfectly plain. Indeed, I handed over some PCC literature, and we had a fair discussion, I would say, and I left him, in my view, absolutely clear about the different ways that he could proceed. And indeed, I think shortly after that, briefly, when...
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1. Ms Justine McGuinness was his press secretary.
2. a complaint was lodged with the PCC against a newspaper
3. but the complaint was not proceeded with.

4. LORD JUSTICE LEVESON: The tense of this answer is accurate,
5. is it? If you want money, damages, you go to the court,
6. but there is a whole range of other things that "we
7. could have done". In other words, if they didn't go to
8. the court, we could do things, but if they do go to the
9. court, we can't do things. Is that the correct sense --
10. A. Yes, this was done in -- when is this?
12. A. Yeah, March 2009, so we had already had, in March 2008,
13. the upshot of the libel action against Northern & Shell,
14. and so we knew what had happened.

15. Q. But I think the question is directed to what you were
16. saying to Dr McCann in July 2007.
17. A. In July 2007, I was explaining to him and his press
18. handler what the options were should they believe that
19. they needed to take action against a newspaper, which
20. was quite early days then, because it was before the
21. McCanns were declared arguidos by the Portuguese
22. authorities, which changed the tempo and the rhythm of
23. everything. This was July.
24. Q. Yes.
25. A. And she wasn't there. This was Dr McCann, and he left

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1. with Justine McGuinness in a noncommittal way. He
2. didn't say to me: "Bingo, I'm going to go to the PCC",
3. or: "I'm going to go to law." He just kept his counsel.
4. Q. But to be clear, you were making it clear to him it was
5. his choice, that there were two positions he could take
6. which were inconsistent with each other.
7. A. Yes.
8. Q. Either go to law or go to the PCC; is that right?
9. A. That's absolutely right. And then, if I may say this,
10. I saw him again --
11. Q. Yes.
12. A. -- more briefly -- I don't know whether you have a note
13. of this -- in February of 2008, by which time they had
14. taken -- I think I'm right, it must have been then -- by
15. which time I think they'd taken a firm decision to go to
16. law, they were with Carter Ruck, and given the nature of
17. what they said was libel, I said to him at the time: "In
18. the circumstances, I think you're doing the right
19. thing." And then I said it in public, that, on
20. 19 March, when I was interviewed by the PM programme.
21. Q. Can we just come to that. Between September 2007
22. and January 2008, there were 38 defamatory articles in
23. the Express newspaper group's publications, weren't
24. there, and there were other articles which were referred
25. to in the witness statement provided to the Inquiry

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1. which caused concern to the McCanns. Did the PCC do
2. anything at all during that period?
3. A. We did a lot. We were in pretty close contact with the
4. press handlers of the McCanns. By that time, it was as
5. a gentleman called Clarence Mitchell, who I think may have
6. appeared before you, and we stood ready to intervene if
7. they wanted it. We come again to the question of the
8. first party.
9. You see, you can't be more royalist than the king on
10. these matters. You cannot wish to stop something more
11. ardently than the first party. But by that time,
12. I think they had chosen to go to law. I can't say
13. exactly, because it's not for me to say, when they first
14. hired Carter Ruck. So it's not as if we were sitting
15. there --
16. Q. What are you suggesting by that, "when they first hired
17. Carter Ruck"?
18. A. I don't know, you see, because I don't know when they
19. took the decision to go to law. I think -- I'm morally
20. certain it had to be in February when I saw Dr McCann,
21. because it was so near to the judgment, but that's only
22. a supposition on my part and I stand to be corrected on
23. that.
24. Q. Presumably, though, when you were reading these pieces
25. as they came out -- and it wasn't just in one newspaper

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1. group -- you were, at the very least, concerned by the
2. tone and substance of what you were reading, weren't
3. you?
4. A. Well, it was -- yes, of course I was. It was pretty
5. violent. It was being briefed out of the Portuguese
6. police, as far as I could tell, and it was not pleasant
7. to read. But I have to say to you -- this is so
8. important -- we'd made particular efforts with the
9. McCanns to make ourselves available. Within 48 hours of
10. Madeleine McCann disappearing, we informed them through
11. the British embassy in Lisbon that we stood ready. You
12. know all this. I'm just repeating stuff that you know.
13. Q. Yes. We don't need to hear it again.
14. A. I thought that we made exceptional efforts to say that
15. we could help you, and indeed, when they came back to
16. England, we did. That was publicly recognised by
17. Clarence Mitchell, in protecting the children from media
18. scrums and so on and so forth.
19. I go back to this again: you can't wish for
20. something more than the first party themselves, and
21. I think Dr McCann has expressed rather well the
22. complexity of the situation in which he found himself.
23. He needed the press, but he didn't need those articles.
24. He had professional handlers and I can't say more than
25. that.
1 LORD JUSTICE LEVESON: He actually went further, because, as,
2 Mr Davies says in the Select Committee:
3 "Gerry McCann said his beef with the PCC was that
4 the editor of the paper which had so flagrantly libelled
5 us with the most devastating stories would hold
6 a position on the board of the PCC. That was his beef."  
7 And you responded:
8 "Where the McCanns are concerned, the editor of the
9 Daily Express, after settlement was announced
10 on 19 March, played no further part in the proceedings
11 of the PCC and it was in May that he was replaced by
12 Peter Wright."
13 Was that because he was required to resign or did
14 resign or just lost his place on the board or what was
15 that?
16 Q. Well, I thought that after he'd paid £550,000 damages
17 and had four front page apologies on the Daily and
18 Sunday titles that his position on the Commission was
19 untenable, and I said what I said to the BBC PM
20 programme on 19 March. It was the day the settlement
21 was announced -- I don't know if you want me to quote
22 myself on the PM programme, I have a text here and I'm
23 sure you have the text there -- and the following day
24 I rang Mr Hill and I said, in effect: "You need to
25 resign." He said something to this effect: "I suppose
Page 89

1 I have to, but I want to consult friends and
2 colleagues", and I said, "The sooner this is done, the
3 better, the better for you and the better for the PCC",
4 and he said to me: "I'll call you back", and that was
5 the last conversation I've ever had with him.
6 And it took a while for him to leave the Commission.
7 He was due to go anyway, because he'd been there quite
8 a long time. Desmond -- Mr Desmond, his proprietor, was
9 not making his contribution to the National Publishers
10 Association, so they were making no contribution to the
11 PCC levy, and then there was the matter of the McCanns.
12 So there were a good three reasons, my Lord, for his
13 leaving the Commission. But it look longer for him to
14 be replaced than it should have done.
15 MR JAY: Here was a fellow commissioner, obviously wearing
16 his different hat as newspaper editor -- and I'm asking
17 you to think back to September 2007, to January 2008,
18 a whole series of pieces, which you described as
19 "violent", I think, but others would describe in
20 a different way. At the least, why not get on the phone
21 to him and say, "Are you sure about this? Because on
22 the face of it, these articles are outrageously
23 defamatory"?
24 A. I spoke to him, but not on a phone, at a Commission
25 meeting. I'm very much aware that I'm on oath here,

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1 hearing it as the lead item on the Today programme.
2 The PCC, so far as I know and certainly for me
3 personally -- I speak for myself -- had received no
4 warning whatsoever from a fellow commissioner that this
5 was coming. So I was angry.
6 Q. The other point that Northern & Shell made -- I want to
7 ask you to comment on it -- is that it's an example both
8 of hypocrisy and of inconsistent treatment, since after
9 all they weren't the only ones who were defaming the
10 McCanns. So in order to be consistent, you should have
11 torn everybody off a strip. Would you accept that?
12 A. No, I wouldn't accept that. The thing that was
13 different here was that Peter Hill was a longstanding
14 member of the Commission. I think he'd been on since
15 late 2003, maybe early 2004. He knew his
16 responsibilities very well and he was the first to pay
17 damages to the McCanns and to publish -- it wasn't him
18 personally; you had different editors, but the group's
19 newspapers, national titles, were publishing
20 front-page apologies.
21 This was without precedent. I know of no such case
22 where such a powerful -- what's the word? -- punishment
23 has been exacted from editors for publishing stories
24 that are wrong. In those circumstances, it is
25 inconceivable, in my view -- it was inconceivable, in my

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London EC4A 2DY
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<td>view, that he could stay on the Commission.</td>
<td>should not use court proceedings as a reason not to</td>
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<td>May I say that when we then had a Commission</td>
<td>launch its own inquiry. If ever there were a case which</td>
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<td>meeting -- and may I remind, you with seven editors on</td>
<td>cried out for such an inquiry, it was this case, wasn't</td>
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<td>the Commission -- we came to a conclusion very rapidly</td>
<td>it?</td>
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<td>that he had to be replaced as fast as possible, and the</td>
<td>A. No, I think it was not a case which called for an</td>
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<td>Commission sent that message that very afternoon to the</td>
<td>inquiry. If ever there was a case which was obvious in</td>
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<td>Press Standards Board of Finance to get the National</td>
<td>the way in which newspapers had got it wrong, it was the</td>
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<td>Publishers Association to propose a replacement.</td>
<td>McCanns' case. I have to say -- and you may think this</td>
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<td>I think what worried a number of editors was that</td>
<td>is feeble excuse -- I never read the recommendations of</td>
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<td>this would set a precedent, meaning that if you ever</td>
<td>that report because I had already left the PCC a year</td>
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<td>lost a libel action, you couldn't stay on the</td>
<td>previously.</td>
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<td>Commission, to which the answer is: it's a matter of</td>
<td>Q. That's true.</td>
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<td>scale, it's a matter of degree, and it wasn't</td>
<td>A. So you're actually telling me something of which I was</td>
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<td>necessarily a precedent for all time for all editors who</td>
<td>unaware. But it was screamingly obvious what had gone</td>
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<td>fall foul of the libel law.</td>
<td>wrong. I could go through it again, but you don't like</td>
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<td>I'm not sure. What had gone wrong? Not from the point</td>
<td>me repeating these things.</td>
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<td>Q. I'm not sure. What had gone wrong? Not from the point</td>
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<td>A. I think there were a number of component parts that</td>
<td>saga if I can so describe it?</td>
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<td>created a kind of toxic brew. The poor McCanns --</td>
<td>A. I think there were a number of component parts that</td>
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<td>I cannot think of a worse position to find yourself in.</td>
<td>created a kind of toxic brew. The poor McCanns --</td>
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<td>I think what worried a number of editors was that</td>
<td>I cannot think of a worse position to find yourself in.</td>
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<td>I cannot think of a worse position to find yourself in.</td>
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<td>If it had happened to me, I don't know what I would have</td>
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<td>start this within 48 hours of Madeleine being kidnapped.</td>
<td>done. They needed the press for publicity's sake, and</td>
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<td>We carry on doing this all the way through. We protect</td>
<td>by God, I would have done exactly the same thing.</td>
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<td>their children and the family from being harassed by</td>
<td>I really would. But in those circumstances, it was</td>
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<td>media scrums when they come back to the United Kingdom.</td>
<td>a Faustian bargain and you could see why. Where the</td>
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<td>I speak twice to Dr McCann, something I never did with</td>
<td>press have become obsessed -- not only the press in</td>
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<td>anybody else, but that's --</td>
<td>Britain, it was almost a global thing -- how do you keep</td>
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<td>Q. I think you're just repeating, Sir Christopher, what</td>
<td>the story going? And then the Portuguese police were</td>
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<td>you've told us already.</td>
<td>leaking like sieves. There were all kinds of rumours.</td>
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<td>A. I am repeating, because it doesn't seem to be sinking</td>
<td>You could see journalists under pressure out there in</td>
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<td>in, Mr Jay. That's why.</td>
<td>Praia de Luz, being pressed by their news desks to</td>
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<td>Q. Did the PCC carry out an inquiry after all of this to</td>
<td>provide fresh copy, and so they start taking risks which</td>
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<td>see whether there were clear and systematic failings by</td>
<td>they shouldn't have taken.</td>
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<td>the press in their handling of the whole McCann story,</td>
<td>It doesn't need a big inquiry or a systematic review to</td>
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<td>by which I'm including not just the McCanns but</td>
<td>see this. It is something that happens from time to</td>
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<td>Mr Robert Murat and the eight friends of the McCanns who</td>
<td>time, and in this case, it led to the McCanns being</td>
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<td>also secured substantial libel damages?</td>
<td>accused of something which is utterly abominable.</td>
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<td>A. No, that wasn't necessary, because it had become wholly</td>
<td>Q. It was golden opportunity, though, even if you think the</td>
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<td>clear from the court proceedings exactly what had</td>
<td>that the answers were so obvious, for the PCC to have</td>
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<td>happened, that they had in fact, under pressure, maybe</td>
<td>reviewed the situation, to have considered the lessons</td>
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<td>commercial pressure, taken as read information that was</td>
<td>learnt and to have passed a clear message to the</td>
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<td>being provided in Praia de Luz, which hadn't been</td>
<td>industry as a whole as to what the problems were to</td>
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<td>properly checked. It was clear as a bell.</td>
<td>avoid the chance of future replication, which</td>
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<td>Q. Because paragraph 539 of the DCMS committee's report</td>
<td>possibility you didn't consider, did you?</td>
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<td>says precisely that, that in cases where there have been</td>
<td>A. No, we did not. We do not take that opportunity for the</td>
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<td>clear and systematic failings by the press, the PCC</td>
<td>reasons that I've just stated. Maybe we should have</td>
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(Pages 93 to 96)
Day 34 - AM Leveson Inquiry 31 January 2012

Q. One other point that the committee made, the DCMS committee, paragraph 552 --
A. Which one was this?
Q. The February 2010 report.
A. Which I haven't really looked at, yes.
Q. "If there are grounds to believe that serial breaches of the code are occurring or are likely to cower [this is in the context of the McCann case], the PCC must not wait for a complaint before taking action. That action may involve making contact with those involved and issuing a public warning or initiating an inquiry."
So I suppose you disagree with that?
A. It sounds good, and in principle it's absolutely right, but if Dr and Mrs McCann don't want it, you can't do it.
It's as simple as that, Mr Jay.
Q. Logically, there's nothing to prevent you from doing it.
A. No, it's a matter -- you must respect the complainant's, the first party's wishes. You may disagree with me.
Q. That was the position we took. But nonetheless, we made the first party's wishes. You may disagree with me.
A. Yes, I -- I did not advise him to do that when I saw him in July, I said, "These are the choices." When I saw him in February of the next year, he'd taken the decision. So what I'm denying -- it fits perfectly squarely.
Q. In February, therefore, is this the position -- because you told us earlier: you effectively agreed with him that it was the right thing to do?
A. Yes, and I repeated that in public in my interview on the PM programme on 19 March. So it's not splitting hairs.
Q. It may be the answer is it's a misunderstanding between the two of you as to precisely what was said and precisely what was --
A. Yeah, I think that is right, actually. Yes, I would agree with that.

Q. Well, the committee made other recommendations, including more strongly, this time, a recommendation for the ability to impose a financial sanction, and I suppose your answer to that would be the same as the answer you've given previously?
A. Absolutely. I don't believe in money, if you see what I mean. I don't think it is the answer.
Q. I just raise one final point in relation to the McCanns.
Can I ask you to look at file B7 under tab 2.
A. B7?
Q. Yes. It's page 35734. It's a very small point, so maybe I can just read out.
A. 4 -- 2 -- 1 -- yeah, do.
Q. It's a meeting of the PCC which took place on 11 March 2009. At page 35734, you said: "The chairman wished to put on record his denial of a claim made by Gerry McCann that Sir Christopher had advised him to sue Express newspaper titles rather than use the PCC."
A. Yeah.
Q. Do you stand by that?
A. Yes, I -- I did not advise him to do that when I saw him in July. When I saw him in February of the next year, he had already told me that they were going to law. Is that --
Q. It's splitting hairs a bit, Sir Christopher, because it might be said that what Dr McCann was saying was that it was a choice, really: either you sue for defamation, which they did follow, or you use the PCC.
Here you're putting on record your denial of that claim that you advised Dr McCann to sue Express rather than to use the PCC.
A. Well, it's not splitting hairs, is it? They are two completely different statements. When I saw him in July, I said, "These are the choices." When I saw him in February of the next year, he'd taken the decision. So what I'm denying -- it fits perfectly squarely.
Q. In February, therefore, is this the position -- because you told us earlier: you effectively agreed with him that it was the right thing to do?
A. Yes, and I repeated that in public in my interview on the PM programme on 19 March. So it's not splitting hairs.
Q. It may be the answer is it's a misunderstanding between the two of you as to precisely what was said and precisely what was --
A. Yeah, I think that is right, actually. Yes, I would agree with that.
Day 34 - AM  
Leveson Inquiry  
31 January 2012

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<tr>
<td>1. entertain the notion of success in relation to the PCC --</td>
<td>1. actually too difficult to answer. In -- you cannot generalise for the whole of the British press in that way. Some do their job of reporting well, some do it poorly.</td>
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<td>2. Q. Yes.</td>
<td>3. 4. Q. I wasn't intending to.</td>
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<td>4. A. -- which seems difficult at the moment.</td>
<td>5. 6. A. No, well, you sounded like that. That's my only point.</td>
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<td>5. Q. Okay?</td>
<td>7. If what you're saying is that every time there's a big story like that, the chairman of the Press Complaints Commission must go out on the media or issue a press release invoking -- exhorting the press to report this responsible, I can tell you straight off, after three months of this, it would have no traction whatsoever.</td>
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<td>6. A. One of the successes of the PCC was in containing media scrums. Now, if you don't believe me, you can go and ask Lady Newlove, who is sitting in the Lords now, widow of Garry Newlove, who was beaten to death by yobs. She precisely wished to avoid media scrums and we succeeded in doing that and I think her appreciation is a matter of record.</td>
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<td>7. I was long gone from the PCC, but what I would refute absolutely is your -- I'm looking for the right adjective -- I'll just say 'connection' between the McCanns and Jefferies because of a --</td>
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<td>8. Q. I think what you really mean is my tendentious and unfair attempts to link the two in any way? That's what you really want to say, isn't it?</td>
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<td>9. A. You have stolen the words from my mouth, Mr Jay.</td>
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<td>10. Q. It does cut both ways, doesn't it, because the PCC adopting a more prominent position, cajoling the press to behave might have had a causal impact on what happened in December 2010/January 2011, mightn't it?</td>
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<td>11. A. I respectfully decline to answer questions on it?</td>
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<td>12. Q. But a different analysis of the position -- I'm just putting this forward as a possibility -- is perhaps a common theme between the McCann case and the Jefferies case is that the press fails to analyse evidence objectively and clearly and tends to come up with a line which it either believes is probably true or believes chimes in some way with the beliefs and prejudices of its readers, and it's that tendency which needs to be resisted -- it's a tendency which we all need to resist -- and requires firm leadership and direction from a regulator to eschew. Do you see that as a possible analysis?</td>
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<td>13. A. I -- I'm just trying to work out in practice the meaning of what you have just said. We have -- maybe it's</td>
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<td>14. Q. -- which started in November 2003. I'm going to take this quite economically, if I can.</td>
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<td>15. A. Yes.</td>
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<td>16. Q. -- which started in November 2003. I'm going to take this quite economically, if I can.</td>
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<td>17. A. Yes, I have it here. Yes.</td>
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<td>18. Q. We've seen this letter before.</td>
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<td>19. A. Sorry, which one are we looking at?</td>
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<td>20. Q. Tab 1.</td>
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<td>21. A. Tab 1, yes.</td>
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<td>22. Q. Mr Thomas to you, 4 November 2003. There's a manuscript</td>
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Day 34 - AM
Leveson Inquiry
31 January 2012

1 joke you make.
2 A. I know. It's a terrible joke, it really is. I hope you
3 won't repeat it, Mr Jay.
4 Q. I won't, Sir Christopher, but what he draws to your
5 attention is the results of Operation Motorman. He says
6 at the bottom of the -- this is page 41975:
7 "For some months now, my office has been
8 investigating the activities of various inquiry agents
9 who are able to provide a variety of personal
10 confidential information."
11 He says on the next page:
12 "it is clear from the very considerable volume of
13 information that our investigations have collected that
14 journalists from most national newspapers and many
15 periodicals are significant customers of the enquiry
16 agents concerned."
17 He's saying, I paraphrase, that this is breaches or
18 possible breaches of the Data Protection Act. His
19 provisional conclusion, level with the lower hole
20 punch -- are you with me?
21 A. Yes, I am with you, yeah.
22 Q. -- is that:
23 "It would be appropriate first to give the PCC and
24 its Code Committee a prior opportunity to deal with this
25 issue in a way which will put an end to these
26
27 (Pages 105 to 108)

1 unacceptable practices across the media as a whole."
2 A. Yes, yes, yes.
3 Q. "This could involve, subject to suitable safeguards,
4 providing you with some of the evidence that our
5 investigations have revealed."
6 Was Mr Thomas labouring under a misapprehension as
7 to what you could do, Sir Christopher?
8 A. He was, but it didn't stop us doing. I think he
9 laboured under the misapprehension that the PCC had
10 powers of enforcing the criminal law, which of course we
11 don't and we shouldn't.
12 Q. I don't think he was making that mistake, because --
13 A. Sometimes it felt like that, I can tell you.
14 Q. That would be an elementary solecism and it's not there.
15 Mr Thomas is a lawyer. He well understands that his
16 office is concerned with breaches of Section 55 --
17 A. Yes.
18 Q. -- and that your office is concerned with something
19 else.
20 A. Anyway, instead of bickering, let me just say that, yes,
21 he came to us for help, and what did we do? We
23 It took forever to produce because it was lawyered --
24 I'm sorry I have to say this. It was enormously
25 lawyered by both sides and finally popped out of the
26
27 (Pages 105 to 108)
Mr Thomas came to the table and he said to the committee: "I can't give you this information."

So all through the saga and me and Mr Thomas, we were without the essential features, which were: which newspapers were guilty and which journalists? And Mr Thomas, as he suggested in his letter of November 2003, could have given this information to us under any kind of conditionality he wanted. I would have given it whatever protection he needed. But I couldn't really do what he wanted us to do without that.

Q. Did you ask for the information at the meeting which took place on, I think, 27 November 2003?

A. 27 November? Was that in the restaurant or --

Q. No idea where it took place.

A. It's important for my memory.

Q. There's no evidence either way. It's page 52833.

I think you're right. I think it was at lunch. Mr Jay, I can assure you that whenever I saw him, I said the same thing: "Where is the beef, Mr Thomas? Give me names, give me newspapers!" Just using enquiry agents isn't good enough.

Q. The best evidence we have of the meeting -- and it's not altogether clear. If you kindly go to file B10, tab 16.

It's the final document in tab 16, page 52833. A document we've seen before, although it's true --

Q. Possibly, yes, because it's the one you told me you couldn't read.

A. Well, that's as good as not receiving it. Which one is it?

Q. Tab 16, the last document. The Inquiry has looked at this before.

A. Oh yes, sorry. Last document? Yeah, I can't read this.

Q. It's Mr Thomas' note, not yours:

"Good relationship, confidential meeting."

Independent ...

I think that is "from newspapers and politicians". So you were explaining to him what your role is?

A. It's not a reference to the Independent newspaper, is it?

Q. No, of course it isn't. "Independent" in inverted commas is not the newspaper; it's your position.

A. It can't be.

Q. "Attorney General's requirements, contempt, fill the gap. Can't enforce obligation to obey the law."

That's what you said; is that right?

A. Yeah, it's not our role to enforce the criminal law.

Q. Then you say:

"Not our role to enforce the law, not arm of the ICO."

Aren't you making it clear to him that it wasn't the interests of the PCC at all to see whether there had been breaches of the Data Protection Act?

A. I was saying absolutely the contrary. I was saying, "Please give me the evidence!" He was the only person, Mr Jay, who could supply it. How could you possibly deduce from that that I wasn't interested? This was the root of all our conversations over the years.

Q. One possible reading of this -- and it's only a possible one, it's for others to decide -- is that you were telling him: "This isn't of interest to us because it falls within your bailiwick and not within ours."

A. No.

Q. Isn't that what you're saying?

A. No, no, no, no. That's the worst possible construction you could put on this. This is absolutely wrong.

Q. So what were you prepared to do, Sir Christopher?

A. Well, I think we would have gone into some kind of action with the newspapers in question and we would have been able -- I'm not quite sure how, because it's never happened -- we would have been able to sharpen and hone our guidance to newspapers, and it might even have informed changes to the code of practice itself.

MR JAY: What you said in the middle of the page:

"Not surprised maybe at scale."

One does have to read this in conjunction with a --

"Code can't deal with unidentified victims."

What does that mean?

A. I haven't a clue.

Q. Aren't you saying that given that the victims here would be unidentified, it's outside the realm of the PCC altogether?

A. It's not outside the realm of possible action. I don't know whether we were talking about the complaints system or -- I mean, this is the first time -- I'm glad you're deciphering this for me, because this is the first time I've been able to understand what's written here, but it's a bit much, this.

The key point is I went on and on at him about it.

LORD JUSTICE LEVESON: So what were you prepared to do, Sir Christopher?

A. Well, I think we would have gone into some kind of action with the newspapers in question and we would have been able -- I'm not quite sure how, because it's never happened -- we would have been able to sharpen and hone our guidance to newspapers, and it might even have informed changes to the code of practice itself.
1 A. This is a bit much, this. This is all scribbled notes
   and one word --
2 Q. Just be patient. There is a speaking note, which --
3 A. What?
4 Q. A speaking note --
5 A. A speaking note?
6 Q. -- which Mr Thomas deployed, which sets out what he said
7 to you on that occasion. It's earlier on in this file.
8 A. This is like interpreting the Rosetta Stone, this. It's
9 impossible.
10 Q. It's not quite that bad because it's not in three
11 languages, but if you look at the second document in
12 tab 10 --
13 A. I'm sorry.
14 LORD JUSTICE LEVESON: Tab?
15 MR JAY: Tab 10, page 00373.
16 A. Sorry. Tab 10? Which page?
17 Q. 00363. This is Mr Thomas' speaking note. So it's
18 probable -- indeed, I think his evidence was that the
19 gist of this was communicated to you. It's the second
20 page of tab 10.
21 A. I'm completely -- which folder? Bundle 10?
22 Q. Yes.
23 A. Tab 10?
24 Q. Tab 16, I'm sorry.

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1 A. Oh, tab 16. I had Mr Richard Peppiatt, not quite the
2 same thing.
3 Q. It's my fault.
4 A. PCC speaking note?
5 Q. That's right.
6 A. That's for him to say to us.
7 Q. Exactly. It's some evidence -- again, we can only draw
8 inferences, and Mr Thomas, I think, gave evidence that
9 this is what he communicated to you -- of what he told
10 you at your lunch on 27 November. You see:
11 "Results of our investigations, early suspicions,
12 documentary evidence, over 5,500 transactions, 250 plus
13 reporters."
14 A. Yeah.
15 Q. Is it possible he communicated that to you?
16 A. It is quite possible, but I don't remember --
17 Q. No.
18 A. -- the detail, to which I now have two reactions. One
19 was: (a) where's the beef? And (b): "You're the
20 Information Commissioner; get on with it. Prosecute
21 these guys." And prosecutions came around none, ever,
22 in my time, anyway.
23 Q. Your reaction to that information is recorded by
24 Mr Thomas back at the page we were looking at, 52833.
25 A. Yeah.

Page 114

1 Q. You say:
2 "Not surprised maybe at scale. Watershed. Scale of
3 problem endemic."
4 And then:
5 "Knowledge of proprietors."
6 A. I don't know what that means.
7 Q. Maybe you said to him words to this effect:
8 "This information is very interesting. I'm not
9 really surprised, but I am surprised at how much there
10 is."
11 Is that possible?
12 A. This is now getting into sort of Bletchley Park
13 territory.
14 LORD JUSTICE LEVESON: We don't need to go to Bletchley
15 Park, because we can look at 364, the sheet after.
16 MR JAY: With the email.
17 A. That was the Guy Black meeting, my Lord, which wasn't on
18 that date. The Guy Black meeting was at the PCC
19 headquarters at the end of 2003.
20 MR JAY: No, it's the same meeting.
21 A. Oh, you're talking about the same meeting? I thought
22 you were talking about the lunch. This is getting more
23 and more confusing.
24 LORD JUSTICE LEVESON: It's not terribly confusing. The
25 speaking note was clearly dated 26 November 2003.

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1 A. Okay, I'm with you.
2 LORD JUSTICE LEVESON: On the following day -- the
3 handwritten note is dated "PCC 27 November '03". That's
4 the handwritten note.
5 A. Yeah.
6 LORD JUSTICE LEVESON: And the email is dated 5.17 on
7 27 November, and therefore would appear to be a summary
8 in manuscript, in typescript --
9 A. Yes.
10 LORD JUSTICE LEVESON: -- of the meeting.
11 A. And the typescript, my Lord, reads pretty accurately as
12 far as my memory is concerned.
13 MR JAY: Do you see what else is said in the email? I mean,
14 the -- it may be that this wasn't our lunch --
15 A. No, this was not over lunch. No, no, no, this was in
16 the office at Salisbury Square. We had a lunch in the
17 following year, and we had a meeting at Halton House.
18 Q. That's correct.
19 A. And I think that is it.
20 Q. The lunch meeting is December 2004. November 2003 --
21 this is the first time you met Mr Thomas, this more
22 formal meeting.
23 A. Yes, it was, yeah, exactly.
24 Q. What his email says:
25 "The PCC would like time to consider their response.
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They were clearly surprised by the scale and nature of the material we have collected, and see this as a watershed in terms of this sort of activity."

That may or may not tie up with the manuscript note.

A. No, this makes sense.

Q. It does make sense?

A. Yes, it does.

Q. "Although this was not suggested by us, they would be resistant to taking over individual cases and taking action in each case instead of us. Their starting point was that statutory bodies should enforce the law, not them."

So again, that's consistent with the interpretation I was --

A. Yes, absolutely, absolutely.

Q. But it's also consistent with all the other evidence you've been giving us this morning, isn't it?

A. No, I think this is fair. Mn-hm.

Q. So I don't think you ever got to the stage, did you, of discussing individual cases and what you might do, because the message you were communicating to him is that this was his business, not yours; isn't that right?

A. Yes, but we were prepared to help as far as we could, and I think that's why he -- he says, "I had an interesting and useful meeting". He wouldn't have said "daily Mail?"

Q. In 2006, we have two reports from the ICO's office. The second report identifies a significant number of transactions in a table, you recall that, and you recall the newspaper which comes top?

Q. He was making it clear to you in November 2003 that in so -- you know?

A. It is not as if nothing was -- incidentally, the representative of the -- is the leading editor of the Daily Mail?

A. Mm.

Q. At that stage, didn't you say to yourself, "I'd better call in the editor of the newspaper who's come top, find out from him what the hell has been going on"?

A. At the time, the only allegation was that the newspapers had used inquiry agents. That is legal!

Q. No, it isn't what Mr Thomas was saying. He was saying that evidence, under parliamentary privilege, he declined to do so, so if he's going to decline to do so under parliamentary privilege to a Select Committee, he was sure as hell wasn't going to tell me, and that was the problem, Mr Jay!

Q. Couldn't you trust him, at least? He was saying he had good evidence. He put in this report to Parliament, presumably in good faith. It at the very least warranted further investigation or inquiry by you of the leading editors at the top of the table. Don't you think so?

A. It is not as if nothing was -- incidentally, the representative of the -- is the leading editor of the
1 Q. Yes.
2 A. Well, their managing editor, I think he's called
3      Robin Esser, appeared before the Select Committee and
4      denied that there was any wrongdoing.
5 Q. Mm.
6 A. I mean, what does one say in those circumstances except
7      that what we enabled Mr Thomas to do was to get a change
8      to the code, to get a firm recommendation about this
9      being put into contracts, as per the report of 2007, but
10     I come back to the same thing: of course you would
11     assume he wouldn't have made these allegations without
12     some substance, but we never saw the substance, Mr Jay.
13 Q. Your response to the first report was to say, "Thank you
14     very much, this was an interesting read."
15 A. Yeah, I did. That's absolutely right.
16 Q. You weren't being sneering, were you, but --
17 A. Yeah, a bit.
18 LORD JUSTICE LEVESON: I think that's probably a convenient
19     moment and we'll carry on at 2 o'clock.
20 (1.02 pm)
21 (The luncheon adjournment)
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