



HOUSE OF LORDS

# Library Note

## **Leveson Report: Reaction**

This Library Note summarises a selection of the reaction and comment expressed immediately following the publication of the report of Lord Justice Leveson's Inquiry into the Culture, Practices and Ethics of the Press. It gives a brief background to the establishment of the Inquiry, and an outline of its key recommendations, before covering reaction to the Report in Parliament and from a selection of commentators, media outlets and organisations. It also considers public opinion poll data on these issues in advance of the Report's publication.

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## 1. Introduction

This Library Note summarises a selection of the reaction and comment expressed immediately following the publication of the report of Lord Justice Leveson's Inquiry into the Culture, Practices and Ethics of the Press. It gives a brief background to the establishment of the Inquiry, and an outline of its key recommendations, before covering reaction to the Report in Parliament and from a selection of commentators, media outlets and organisations. It also considers public opinion poll data on these issues in advance of the Report's publication.

## 2. Background

Following the exposure of widespread "phone hacking" by journalists at the *News of the World* and other British newspapers, the Prime Minister, David Cameron, announced on 13 July 2011 a two-part inquiry to investigate the culture, practices and ethics of the press.<sup>1</sup> Lord Justice Leveson was appointed Chairman of the Inquiry, and a panel of six independent assessors, with relevant expertise in media, broadcasting, regulation and government, were selected to assist him. The Inquiry was established under the Inquiries Act 2005, with the power to summon witnesses.

Lord Justice Leveson opened the hearings on 14 November 2011, stating:

The Inquiry must balance the desire for a robustly free press with the rights of the individual, while, at the same time, ensuring the critical relationships between the press, parliament, the Government and the police are maintained. The press provides an essential check on all aspects of public life. That is why any failure within the media affects all of us. At the heart of this Inquiry, therefore, may be one simple question: who guards the guardians?<sup>2</sup>

Concurrent to the Leveson Inquiry, the Metropolitan Police are conducting two criminal investigations into phone hacking: Operation Weeting, which is investigating allegations of phone hacking by the *News of the World*, and Operation Elveden, which is investigating allegations of inappropriate payments to the police by those involved with phone hacking.

### 2.1 Remit of the Leveson Inquiry

Under part one of its terms of reference, the Leveson Inquiry was tasked with examining the culture, practices and ethics of the press; its relationship with the public, police and politicians; the extent to which the current policy and regulatory framework failed; and the extent to which there was a failure to act on previous warnings about media misconduct. In addition, the Inquiry was commissioned to make recommendations for a new, more effective, policy and regulatory regime: one that supported the freedom of the press and its independence, including from the Government, while ensuring the highest ethical and professional standards.<sup>3</sup>

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<sup>1</sup> HC *Hansard*, 13 July 2011, cols [311–12](#). For further information on the background to the phone hacking scandal please see the House of Commons Library Standard Note, [Phone Hacking—Inquiries and Reports](#), 26 June 2012, SN06368; and BBC News, [Phone Hacking Scandal: Timeline](#), accessed 28 November 2012.

<sup>2</sup> Leveson Inquiry, 14 November 2011, morning session, pp [1–2](#).

<sup>3</sup> Leveson Inquiry, [Terms of Reference](#), accessed 27 November 2012.

The second part of the Inquiry was established to investigate the extent of unlawful or improper conduct at the *News of the World* and other newspapers, and to inquire into the level of corporate governance and management failure. Furthermore, the Inquiry was directed to examine the original police investigation and the issue of corrupt payments to police officers, and to consider the implications for the relationships between newspaper organisations and the police.<sup>4</sup> Part two of the Inquiry is scheduled to take place after all criminal proceedings relating to phone hacking and bribery charges have concluded.

The first part of the Inquiry's work was split into four modules:

- The relationship between the press and the public and investigate phone hacking and other potentially illegal behaviour
- The relationships between the press and police and the extent to which that has operated in the public interest
- The relationship between press and politicians
- Recommendations for a more effective policy and regulation that supports the integrity and freedom of the press while encouraging the highest ethical standards<sup>5</sup>

Formal evidence hearings started on 14 November 2011 at the Royal Courts of Justice, and concluded on 24 July 2012.

## 2.2 Other Inquiries

In conjunction with Lord Justice Leveson's Inquiry, the debate on the regulation of the UK press has continued, and proposals for reform or replacement of the existing regulatory system have been made by the Joint Committee on Privacy and Injunctions, the House of Lords Select Committee on Communications and by the Press Complaints Commission (PCC).

In February 2012, the PCC unanimously agreed in principle to the proposal that the PCC should move into a transitional phase, transferring its assets, liabilities and staff to a new regulatory body. The Commission also agreed to continue its dialogue with Lord Justice Leveson's Inquiry throughout the proposed transitional phase.<sup>6</sup> In March 2012 the PCC published a draft proposal, composed by the Commission's Chairman Lord Hunt of Wirral, for the future structure of a new system of self-regulation. The proposal advocated that the new regulator should have "two arms": one that deals with complaints and mediation, and one that audits and, where necessary, enforces standards and compliance with the [Editors Code](#).<sup>7</sup>

The Joint Committee on Privacy and Injunctions also reported in March 2012, and concluded that the PCC "lacked the power, sanctions or independence necessary to be truly effective" and called for an "enhanced" regulation of the media, proposing that sanctions should be developed to ensure all "major news publishers, including digital publishers, come under its jurisdiction".<sup>8</sup> Commenting on press regulation in their report,

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<sup>4</sup> Leveson Inquiry, [Terms of Reference](#), accessed 27 November 2012. In August 2006, the *News of the World's* royal editor, Clive Goodman, and private investigator Glenn Mulcaire were arrested for illegal phone hacking. In 2007, they were jailed for illegally accessing royal phone messages.

<sup>5</sup> Leveson Inquiry, [About the Inquiry](#), accessed 27 November 2012.

<sup>6</sup> Minutes for the meeting of the Press Complaints Commission, [21 February 2012](#).

<sup>7</sup> Press Complaints Commission, [Draft Proposal for the Future Structure of a New System of Self-regulation](#), March 2012.

<sup>8</sup> Joint Committee on Privacy and Injunctions, [Privacy and Injunctions](#), 27 March 2012, HL Paper 273 of session 2010–12, p 6.

*The Future of Investigative Journalism*, the House of Lords Select Committee on Communications recommended that the Government should consider further the legality of any proposals to limit the receipt of zero-rated VAT only to those newspapers which are members of the PCC (or any successor body).<sup>9</sup>

### 3. Public Attitudes Towards the Press, Press Regulation and the Leveson Inquiry

In the weeks leading up to the publication of the Leveson Report, a number of polls were published indicating public attitudes towards the press, possible options regarding its regulation and the Leveson Inquiry itself.

On 19 October, YouGov published a poll of 2,846 adults it had carried out for Hacked Off. It asked how respondents thought newspapers should be regulated: 78 percent thought that there should be an independent body, established by law, which dealt with complaints and decided what sanctions there should be if journalists broke agreed codes of conduct; 10 percent thought that newspapers should establish their own body to deal with complaints and decide what sanctions there should be if journalists broke agreed codes of conduct; 4 percent disagreed with both propositions; 7 percent didn't know. Respondents were then given a series of statements, reproduced below, to which they were invited to agree or disagree with.

	Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't know
<b>After the phone hacking scandal it is no longer acceptable for newspaper owners and editors to control the system for dealing with complaints about press behaviour</b>	43	34	12	4	1	5
<b>Free speech is too important to let anyone regulate the press except the newspaper editors and owners themselves</b>	7	16	28	29	12	7
<b>I would respect any political leader who was prepared to challenge newspaper owners and editors</b>	29	41	20	4	2	5
<b>We can trust newspaper editors to ensure that their journalists act in the public interest</b>	2	6	18	38	33	5
<b>The Government should do more to ensure that newspapers correct inaccurate stories</b>	31	37	18	7	2	5
<b>The test of a new system of press regulation is that it should satisfy the victims of unethical press behaviour</b>	22	45	16	6	1	11

A question was posed as to whether respondents could trust Lord Justice Leveson to make fair and effective recommendations on regulating the press, which drew the following: 9 percent said a great deal; 45 percent a fair amount; 22 percent not very much; 5 percent not at all; 19 percent did not know. In reply to whether they thought that the Government should implement Lord Justice Leveson's recommendations, 57 percent said that it should, 6 percent said that it should not and 37 percent did not know. When

<sup>9</sup> House of Lords Select Committee on Communications, [\*The Future of Investigative Journalism\*](#), 16 February 2012, HL Paper 256 of session 2010–12, para 177.

asked who they would trust the most to produce an effective system of press regulation to protect people from unethical press behaviour, the following were listed: Ofcom (19 percent); the Press Complaints Commission (17 percent); Lord Justice Leveson (13 percent); the Labour Party under Ed Miliband (9 percent); the Conservative Party under David Cameron (6 percent); MPs (4 percent); the Liberal Democrat Party under Nick Clegg (2 percent); newspaper editors (1 percent); newspaper owners (1 percent); newspaper journalists (0 percent); other (5 percent); don't know (24 percent). When asked who Lord Justice Leveson should listen to most when making his recommendations: 61 percent thought this should be the victims of unethical press behaviour; 2 percent newspaper owners; 3 percent politicians; 3 percent newspaper journalists; 9 percent someone else; 22 percent did not know. Finally, the survey asked a political question on whether respondents would be more or less likely to vote for a party who opposed the recommendations of Lord Justice Leveson: 4 percent said that they would be more likely to vote for such a party; 24 percent said that they would be less likely; 55 percent said it would make no difference; 17 percent did not know.

On 15 November, YouGov published a [poll](#) of 1,608 adults for the *Sun*, which asked a series of questions on the regulation of the British press and press practices. In terms of current press regulation: 6 percent thought that current rules were too tough and that the press should have more freedom; 50 percent thought that current rules were not tough enough and should be tightened up; 31 percent thought that the current rules got the balance about right; 13 percent did not know. When asked how the press should be regulated: 24 percent supported a regulatory body set up through law by parliament, with rules agreed by MPs; 42 percent supported a regulatory body set up through legally binding contracts by the media industry, with rules agreed by newspaper owners; 18 percent supported neither; 17 percent did not know. When asked whether they agreed with one or other of two statements: 43 percent agreed that it was vital for democracy that a free press was protected and whatever the failings of a few journalists, statutory regulation set up by politicians would risk damaging press freedom; 35 percent agreed that the behaviour of press and journalists had gone too far and could no longer be trusted to set up their own regulatory system and that parliament should act to introduce proper legal regulation; 9 percent did not agree with either statement; 12 percent did not know. When asked who should pay for a system of press regulation: 9 percent thought that the Government should fund media regulation from general taxation; 78 percent thought that the newspapers and media should fund media regulation themselves; 13 percent did not know. On the question of whether parliament and politicians could be trusted to set up a fair system of press regulation: 1 percent trusted a lot; 26 percent trusted a fair amount; 37 percent did not trust a lot; 24 percent did not trust at all; 13 percent did not know. When asked whether newspapers and journalists could be trusted to set up a fair system of regulation: 1 percent trusted a lot; 26 percent trusted a fair amount; 38 percent did not trust a lot; 25 percent did not trust at all; 11 percent did not know. Respondents were also asked if they believed that a press regulation system set up by parliament would lead to governments trying to stop newspapers criticising them: 37 percent saw a large risk; 38 percent saw a small risk; 9 percent saw no real risk; 2 percent no risk at all; 13 percent did not know. The survey then asked a series of questions as to when the media should be allowed to report stories and also break the law to investigate them. Responses to these questions are reproduced in the table below.



	Stories uncovering corrupt politicians	Stories about politicians behaving in legal, but morally dubious ways	Stories about bad or damaging government policies	Stories about corrupt business people	Stories investigating crime and criminal activity	Stories about famous people breaking the law	Stories about famous people behaving in legal, but morally dubious ways
It is important that newspapers should be able to run these stories, and in some circumstances they would be justified in breaking the law if it was necessary to investigate them.	39	20	31	38	40	23	14
It is important that newspapers should be able to run these stories, but breaking the law to investigate them would never be justified	51	57	57	52	50	51	45
It is not important for newspapers to run stories like this, but it would be wrong to ban them from doing so	2	15	5	4	2	18	30
Newspapers should be completely banned from running stories like this	1	2	0	0	1	1	3
Don't know	7	7	7	6	7	7	7

On 28 November, the day before the Leveson Report was published, YouGov put out a [poll](#) for the Media Standards Trust of 3,620 adults. When asked who Lord Justice Leveson should listen to most when making his recommendations for regulating the press, the responses were: the victims of unethical press behaviour (60 percent); newspaper journalists (5 percent); newspaper owners (3 percent); politicians (2 percent); someone else (10 percent); did not know (20 percent). Respondents when asked to what extent, if at all, they trusted Lord Justice Leveson to make fair and effective recommendations on regulating the press, they answered: a great deal (8 percent); a fair amount (39 percent); not very much (27 percent); not at all (6 percent); did not know (21 percent). When asked whether the Government should or should not implement Lord Justice Leveson's recommendations once he has made them, 60 percent thought that it should implement them, while 6 percent disagreed and 34 percent did not know. When asked how newspapers should be regulated in the future, 79 percent of respondents agreed with the statement: "there should an independent body, established by law, which deals with complaints and decides what sanctions there should be if journalists break agreed codes of conduct". By contrast, 9 percent of respondents agreed with the view: "newspapers should establish their own body which deals with complaints and decides what sanctions there should be if journalists break agreed codes of conduct". However, 4 percent disagreed with both statements and 8 percent did not know. A question was asked as to whether respondents thought there was a danger that press self-regulation might lead to a repeat of unethical and illegal practices (such as phone hacking and intrusions into people's private lives). The answers showed that 56 percent thought there was a large risk, 30 percent a small risk, while 4 percent thought that there was no real risk, 1 percent no risk at all and 9 percent did not know. In terms of a new regulatory system, 8 percent of respondents thought that newspapers should be allowed to opt out, while 82 percent believed that newspapers should be obliged to join by law and 10 percent did not know. On the question of whether it was no longer acceptable for newspaper owners and editors to control the system for dealing with complaints about press behaviour: 50 percent agreed; 32 percent tended to agree; 8 percent neither agreed nor disagreed; 3 percent tended to disagree; 1 percent strongly agreed; 6 percent did not know. Finally, respondents were asked whether they could trust editors to ensure that their journalists acted in the public interest: 3 percent strongly agreed; 8 percent tended to agree; 34 percent strongly disagreed; 36 percent tended to disagree; 14 percent neither agreed nor disagreed; 5 percent did not know.

On the morning of 29 November, the day the Leveson Report was published, ComRes published the [results](#) of a poll of 1,002 people on the press, its regulation and the Leveson Inquiry, on behalf of Radio 5 Live. When asked to what extent, if at all, do you trust British newspapers to tell the truth, the results were: a great deal (2 percent); a fair amount (31 percent); not very much (42 percent); not at all (24 percent); did not know (2 percent). This gave a net result of no trust (66 percent) and trust (33 percent). When asked who would you most like to see regulate newspapers in Britain, the results were: a regulatory body with rules agreed and enforced by newspaper owners (12 percent); a regulatory body with rules agreed and enforced by the courts (47 percent); something else (33 percent); did not know (8 percent). Respondents were also asked whether they thought that the Leveson Inquiry would improve or worsen the quality of journalism in British newspapers, or make no difference to the quality and whether they thought that the quality of journalism was currently good or bad. The results were: improve (37 percent); worsen (5 percent); make no difference—the quality of journalism is currently good (16 percent); make no difference—the quality of journalism is currently bad (29 percent); did not know (13 percent).

#### 4. Leveson Report: Findings and Recommendations

Lord Justice Leveson published his report on the [Culture, Practices and Ethics of the Press](#) on 29 November 2012.

Summarising the evidence placed before the Inquiry, Lord Justice Leveson concluded that:

There have been too many times when, chasing the story, parts of the press have acted as if its own code, which it wrote, simply did not exist. This has caused real hardship and, on occasion, wreaked havoc with the lives of innocent people whose rights and liberties have been disdained.<sup>10</sup>

However the Report emphasised that this should not mean “press freedom” should be “jeopardised or that the press should be delivered into the arms of the state”.<sup>11</sup>

Lord Justice Leveson’s Report investigated: the press’ relationship with the public, police and politicians and identified a number of key issues and made a series of recommendations; addressed the extent to which the current policy and regulatory framework failed in relation to data protection, identifying a number of amendments to be made to the Data Protection Act 1998 and actions to be taken by the Information Commissioner; and it examined the role of the Press Complaints Commission, presenting Lord Justice Leveson’s proposals for a new regulatory body.

Lord Justice Leveson made the following key points:

- He made recommendations for a new self-regulation body, which would be independent in respect of appointments and funding, with a standards code, an arbitration service, and a speedy complaint-handling mechanism. Lord Justice Leveson emphasised that it was “essential that there should be legislation to underpin... and facilitate its recognition in legal processes”.<sup>12</sup>
- He concluded that the “notion” there was a widespread problem with police integrity and their relationship with the press “as a matter of fact, was not borne out”.<sup>13</sup>
- He judged that the main political parties, those that form the national government and the official opposition, had developed too close a relationship with the press, which had not been in the public interest.<sup>14</sup>
- He recognised that the majority of editors, journalists and others “do good work”, which was in the public interest. However, the evidence presented

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<sup>10</sup> Leveson Inquiry, [An Inquiry into the Culture, Practices and Ethics of the Press: Executive Summary](#), November 2012, para 7.

<sup>11</sup> *ibid*, para 8.

<sup>12</sup> *ibid*, para 70. Further details of Lord Justice Leveson’s recommendations can be found in the Chapter ‘Summary of Recommendations: Regulatory Models for the Future’ contained within the *Executive Summary*.

<sup>13</sup> Leveson Inquiry, *An Inquiry into the Culture, Practices and Ethics of the Press: Report*, November 2012, vol II, p 981. Further details can be found in vol II, ‘Part G’, of the *Report*, and a summary of recommendations can be found in vol IV, in the Chapter ‘Summary of Recommendations’.

<sup>14</sup> *ibid*, vol III, p 1439. Further details can be found in vol III of the *Report*, and a summary of recommendations can be found in vol IV, in the Chapter ‘Summary of Recommendations’.

suggested there were a significant number of instances where press reports failed to meet the acceptable standards of “integrity and propriety”. He suggested this reflected a culture within some parts of some titles.<sup>15</sup>

## 5. Reaction

### 5.1 Reaction in Parliament

#### 5.1.1 Prime Minister

In his statement to the House of Commons, the Prime Minister, David Cameron, expressed his support for Lord Justice Leveson’s recommendations which were “designed to break the perception of an excessively cosy relationship between the press and the police”, and for the proposals which suggested politicians should disclose further information on the level of interaction between politicians and the press.<sup>16</sup>

Addressing the recommendations put forward by Lord Justice Leveson on the issue of self-regulation, he stated:

... the key “requirements” that an independent self-regulatory body should meet, including independence of appointments and funding, a standards code, an arbitration service, and a speedy complaint-handling mechanism... are the central recommendations of the Report. If they can be put in place, we truly will have a regulatory system that delivers public confidence, justice for the victims, and a step change in the way the press is regulated in our country. I accept these principles, and I hope that the whole House will come in behind them. The onus should now be on the press to implement them—and implement them radically.<sup>17</sup>

However, on the question of passing legislation to underpin the new body, Cameron expressed his “concerns and misgivings”:

The issue of principle is that, for the first time, we would have crossed the Rubicon of writing elements of press regulation into the law of the land. We should be wary of any legislation that has the potential to infringe free speech and a free press. In this House, which has been a bulwark of democracy for centuries, we should think very, very carefully before crossing that line.<sup>18</sup>

Furthermore, he argued:

I am not convinced at this stage that statute is necessary to achieve Lord Justice Leveson’s objectives. I believe that there may be alternative options for putting in place incentives, providing reassurance to the public and ensuring that the Leveson principles of regulation are put in place. Those options should be explored.<sup>19</sup>

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<sup>15</sup> Leveson Inquiry, [An Inquiry into the Culture, Practices and Ethics of the Press: Executive Summary](#), November 2012, para 29. Further details can be found in vol II of the Report, and a summary of recommendations can be found in vol IV, in the Chapter ‘Summary of Recommendations’.

<sup>16</sup> HC *Hansard*, 29 November 2012, cols [446–7](#).

<sup>17</sup> *ibid*, col [448](#).

<sup>18</sup> *ibid*, col [449](#).

<sup>19</sup> *ibid*, col [449](#).

Concluding his statement, the Prime Minister announced that he had invited the Deputy Prime Minister and the Leader of the Opposition to join cross-party talks, making it “clear” that he believed “a regulatory system that complies with the Leveson principles should be put in place rapidly”.<sup>20</sup>

### 5.1.2 Leader of the Opposition

Responding to the Prime Minister’s statement, the Leader of the Opposition, Ed Miliband, said:

I will seek to convince him and this House of Commons that we should put our faith in the recommendations of Lord Justice Leveson that were delivered to us today. I am sorry that the Prime Minister is not yet there, but I hope to convince him over the days ahead that is where we should go. We should put our trust in Lord Justice Leveson’s recommendations.<sup>21</sup>

He agreed with David Cameron in relation to Lord Justice Leveson’s findings on the relationship between the press and politicians, arguing “we all must take responsibility”. However, contrary to the position set out by Cameron, he stated that the recommendations should be accepted “in their entirety”, emphasising that establishing the role of Ofcom and the criteria of independence in statute was “important”:

We support the view that Ofcom is the right body for the task of recognition of the new regulator, and the proposal that the House should lay the role of Ofcom down in statute. We endorse the proposal that the criteria any new regulatory body must meet should be set out in statute. Without that, there cannot be the change we need. Lord Justice Leveson is 100 percent clear on that in his report.<sup>22</sup>

Closing his speech, Ed Miliband welcomed the offer of cross-party talks, stressing that “the talks must be about implementing the recommendations, not whether we implement them”.<sup>23</sup>

### 5.1.3 Deputy Prime Minister

In a separate statement, the Deputy Prime Minister and Leader of the Liberal Democrats, Nick Clegg, stated:

There are two big liberal principles at play in this debate: on the one hand, the belief that a raucous and vigorous press is the lifeblood of a healthy democracy, and on the other, the belief that the vulnerable, the innocent and the weak should be protected from powerful vested interests. A free press does not mean a press that is free to bully innocent people or free to abuse grieving families.

What I want now is for us to strike a better balance between these two liberal principles so that our media can scrutinise the powers that be, but cannot destroy innocent lives.<sup>24</sup>

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<sup>20</sup> HC *Hansard*, 29 November 2012, col [449](#).

<sup>21</sup> *ibid*, col [450](#).

<sup>22</sup> *ibid*, col [451](#).

<sup>23</sup> *ibid*, cols [451–2](#).

<sup>24</sup> *ibid*, col [470](#).

He expressed his support for Lord Justice Leveson’s “core proposal... namely, a tougher system of self-regulation, supported by new independent checks recognised in law”, stating that “changing the law is the only way to give us all the assurance that the new regulator is not just independent for a few months or years, but is independent for good”.<sup>25</sup> He also agreed with the Report’s recommendation to “enshrine the freedom of the press in statute”. Nevertheless, he affirmed that he had “specific concerns about some specific recommendations”:

... for example, on some of his ideas concerning data protection rules, and on the suggestion that it should be Ofcom which independently verifies the new press watchdog. Ofcom has a key role in regulating the content of broadcast media. I am yet to be convinced that it is best placed to take on this new, light-touch function with the print media too.<sup>26</sup>

#### 5.1.4 Other Members of Parliament

John Whittingdale, Chairman of the House of Commons Culture, Media and Sport Select Committee, “strongly welcomed” the Prime Minister’s statement, and suggested:

... that the question of whether the regulator should have statutory underpinning is something that parliament needs to consider carefully, perhaps through a regular assessment of its effectiveness by the Culture, Media and Sport Committee, and that we should proceed to legislate only if it becomes absolutely clear that it will not function properly without it.<sup>27</sup>

Tim Farron, President of the Liberal Democrat party, argued:

We are not being asked by Leveson to cross a Rubicon—barely even a brook. Perhaps the Prime Minister ought to consider the fact that the Irish system—Leveson proposes something similar—is already signed up to by the *Times*, the *Daily Mail* and the *Sun*.<sup>28</sup>

Speaking in the House of Lords, following the repetition of the Prime Minister’s statement by the Leader of the House, Lord Strathclyde, Labour peer Lord Mandelson stated:

Leveson is right: we need a statutory longstop to a genuinely independent system of regulation—a statute that should give privileges to the press because of the unique role that they play in our society, but should make absolutely clear that while they enjoy those unique privileges, they are none the less not above the law in how they behave.<sup>29</sup>

## 5.2 Press Reaction

### 5.2.1 Emily Bell—Relevance of Leveson to Internet Journalism

Emily Bell, writing on the [Guardian](#) website, argued that the Leveson Report was in many respects “a large vote of confidence in the power of the press and its continuing influence over the tenor of the national conversation”, but asked whether this was “rational”. She wondered whether it had failed to take account of the power of the

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<sup>25</sup> HC *Hansard*, 29 November 2012, cols [470–1](#).

<sup>26</sup> *ibid*, col [470](#).

<sup>27</sup> *ibid*, col [455](#).

<sup>28</sup> *ibid*, col [456](#).

<sup>29</sup> HL *Hansard*, 29 November 2012, col [348](#).

internet: “The free press of the 21st century consists of the distributed social platforms, the WordPress blogging software and the “dark social” matter of the hidden web, as much as it is the venerable institutions that have local accountability to whatever regulator the UK Government should seek to appoint”. Though she agreed that those wronged across such media should have redress, there was a need to acknowledge that “we are entering an age where the ethics of intrusion in the public interest are about to enter a new phase”. Leveson dealt with “the nefarious ways of publishing personal information, the fallout of incestuous relationships run from the heart of government and the personal cost of people crushed by journalism-as-showbusiness”. However, it could not deal with the regulation of the press in the 21st century without a broader definition of who “the press” was in its widest online sense.

### **5.2.2 Roy Greenslade—Status Quo or the Delay of the Statutory Axe?**

Professor Roy Greenslade, writing on the *Guardian* media [blog](#), wondered whether the Report had disappointed both those who wanted a statutory solution and those who did not, for those who favoured it would view his plan as no more than a continuance of the status quo, while those against might still wonder if the statutory axe had been merely suspended. There was a hint of statute in the proposal that the new regulator should be subjected to a “recognition body”, through Ofcom, which would have the power to review its operation at set intervals. However, it was unclear what would happen if Ofcom was dissatisfied with the new press regulator’s performance. Leveson took account of this by recognising “the possibility” that the industry might fail to rise to the challenge, whereby it would be up to the Government to pursue the option of turning Ofcom into a backstop regulator. Thus, though the Report did not pursue the option of the Government imposing a statutory regulator, the threat was tacit. He thought that many of the recommendations about the operation of the regulator amounted to PCC Plus or PCC Mark 2; a sensible adoption of current practice along with some additions. Hence, complaints would be arbitrated as they were currently with a possibly revised code of conduct, with “excellent” additions including a conscience clause in journalists’ contracts and the creation of a whistle-blowing hotline for reporters who felt they were being asked to break the code. He also considered the issue of compulsion and how publishers could be encouraged to “volunteer” to subscribe to a new system. He thought that Leveson’s solution—to hold out the lure of incentives in terms of likely legal actions against publishers, had borrowed to an extent, from the Irish model, as a publisher having chosen to remain outside the new regulatory system could face a greater judicial punishment, especially in terms of bearing legal costs. But he wondered if that was enough: “A publisher might be willing to take the risk of coughing up for occasional transgressions that end up in court in order to avoid the need to subscribe to the new system” and it “would also mean the avoidance of editors answering for run-of-the-mill complaints that are not covered by law that are the usual type of complaints handled by the PCC”.

### **5.2.3 Nick Davies—Leveson Report: A Nightmare, but Only for the Old Guard of Fleet Street**

Nick Davies, writing on the *Guardian* [website](#), questioned whether the nightmare scenarios painted by various newspapers regarding press regulation had proved to “be no more than froth on the lips of propagandists, simply another round of the same old distortion that did so much to create this inquiry in the first place”. He contended that reporters should have no “obvious problem” with the core of Leveson’s Report—his proposed system of “independent self-regulation”. Such a system would: handle complaints through an organisation that was neither appointed by nor answerable to Fleet Street; investigate systemic breaches of the code of conduct—taking pictures in breach of their subject’s privacy, for example, or interviewing children without the



consent of their parent; run a new arbitration system as a cheaper and quicker alternative to the civil courts. If there was a nightmare, it was “for the old guard of Fleet Street” because for “them to lose control of the regulator is to lose their licence to do exactly as they please”. The Report did raise some issues for journalism generally. He noted that the suggestion that police officers should no longer be able to give non-attributable briefings to reporters might have prevented the *Guardian* from exposing the hacking scandal. Also, the section which implied that reporters should be able to conceal the identities of confidential sources only if they had some kind of proof of the undertaking, such as a written agreement with the source, might prove very difficult if “your source is a professional criminal describing alleged police corruption, or a child prostitute talking about her pimp”. He feared that the debate that followed would not be settled by facts and reason: “It will be conducted under the same old rules—of falsehood, distortion and bullying”.

#### **5.2.4 Ian Burrell—Press will be Horrified by the Leveson Report**

Ian Burrell, in an article posted on the *Independent* [website](#), maintained that the press would be very upset by what Leveson had proposed. He thought that the demand by Leveson for statutory underpinning of a “genuinely independent” regulator would “simply be seen as an unacceptable compromise of the autonomy of an industry that has been free since 1695”. For most papers it would be a simple matter of principle: “Parliament has no role in the press”. He believed that the press had even greater cause for concern regarding a range of other issues: the calls for fines of up to £1 million; a new compliance culture where the regulator would decide where apologies were published; a public hall of shame where past apologies and corrections were on permanent display; and the prospect of inquisitorial arbitration hearings where journalists were grilled by legal experts. He also thought that the promise of a new regulatory body that would champion the right to freedom of speech, alongside legislation that placed a legal duty on the Government to protect the freedom of the press, would not pacify the press. Instead they would be “horrified” at the prospect of Ofcom having a role in newspaper regulation, perhaps even as a backstop. This was “Leveson using Ofcom as a stick”. Conversely, he believed that for Hugh Grant and Hacked Off, who had lobbied hard for radical press reform, this was a moment of triumph. Leveson had given them the ammunition which a parliamentary majority—comprising Labour and Liberal Democrat MPs and a rump of Tory rebels—was likely to use to support their demands. He concluded that while the press had hoped they would be given a final period of grace to put their house in order, Leveson’s language had diminished that possibility.

#### **5.2.5 Steve Richards—David Cameron’s Gamble**

Steve Richards, in a [piece](#) on the *Independent* website, thought that Leveson had been politically astute, as he had supported self-regulation, while presenting the legislative role as a “guarantee” to newspaper freedoms and to effective self-regulation. The idea that such legislation marked a form of state control was “absurd paranoia” and Leveson had made clear that, in his view, a more modest set of proposals was unacceptable. Richards considered the stances of the three party leaders. He accepted that David Cameron’s stance on Leveson reflected his and his party’s wariness of the state: “It would have been quite something to witness small-state Conservatives in the Cabinet putting the case for even the most modest statutory underpinning but it was never going to happen”. However, Richards maintained that Cameron “must have known when he commissioned the Leveson review that statutory enforcement might be a possible recommendation”. In seeking the best of both worlds, or the least worst of both, by calling a review and then seeking to avoid the awkward consequences, he had ended up showing that he understood the anguish of the newspapers’ victims but had then acted to ensure he was on the same side as the newspapers. By contrast, he thought that Ed Miliband was being



genuinely bold in supporting Leveson against all newspapers. Miliband regarded “with good cause, a change in Britain’s media culture to be as important as the reforms to financial markets that are still required following the 2008 crash”. Whereas Cameron led a party that still looked to the 1980s for ideological guidance, Miliband was convinced that an era of tumultuous change demanded a radical rethinking of assumptions. In addition, Miliband had Nick Clegg as an ally, though Clegg had picked an issue where he and Cameron could survive easily a difference over how newspapers were regulated; this might not have been the case if the difference had been an issue such as the economy or public service reform. Clegg had, nonetheless, highlighted that “freedom” took many forms and that while newspapers “must retain the freedom to hold the powerful to account, they cannot be free to wreck the lives of the vulnerable and weak”. He concluded that on balance it was the Prime Minister who held the more risky position: “In times of sweeping change, the more cautious position often proves to be very risky... [and] it is Cameron who starts out with the more cautious position”.

### **5.2.6 Dan Hodges—A Question of Power**

Dan Hodges, writing on the *Telegraph* [website](#), argued that the issues that lay at the heart of the Leveson Report were to do with power:

This is a battle for power, being conducted exclusively by the powerful. On the one hand the press, on the other politicians. It is a binary struggle, in which the ordinary victims of press excess are nothing more than bullets to be fired and dodged by the warring factions.

... Lord Justice Leveson, despite the warm words, has not sided with the weak. He has sided with the politicians—amongst the strongest stakeholders in society—and opted to tilt the scales that govern all our lives in their favour.

He acknowledged that if Lord Justice Leveson’s proposals for new regulation were adopted some of the press abuses would be curtailed, existing laws would be rigorously policed and no more phones would be hacked. However, he was concerned that decisions on what the press could or could not print would be governed by a statutorily backed body, with only minimal input from the press themselves based on Lord Justice Leveson’s personal judgment on what represents the public interest.

### **5.2.7 Mary Riddell—Leveson: Legislate in Haste, Repent at Leisure and Party Politics**

Mary Riddell, writing on the *Telegraph* [website](#), thought that the Leveson Report offered “few surprises”. She believed that his criticism of the “egregious actions” of some newspapers was “inarguable” and that his stated commitment to press freedom had sounded entirely genuine. However, she contended that “reviving the state licensing of newspapers, abandoned three centuries ago, would be a perilous step”. Lord Justice Leveson was right that victims’ grievances should be taken seriously, but “just as criminal justice should never be ordained by victims of heinous crimes, nor should press regulation be in the hands of sufferers”. She advised that as press freedom faced its biggest test for centuries, politicians of every party needed to proceed with the greatest caution.

In another [article](#) posted on the *Telegraph* website, Mary Riddell also considered the political impact of the Report. She thought that David Cameron’s refusal to countenance a new law on newspapers, for now at least, and Nick Clegg’s backing of one, had “caused the most dangerous split of this Government”. While she saw David Cameron’s position as “brave”, she thought that Nick Clegg’s position was “cavalier” towards

democracy and had also struck a blow against liberalism. Mr Miliband had similarly appeared a poor defender of liberty: “While the Labour leader is as keen on press freedom as the next man, it is hard to square that position with a wish for statutory underpinning with Ofcom—whose head is appointed by the Culture Secretary—as the long stop”.

### **5.2.8 Con Coughlin—Three Cheers for David Cameron**

Con Coughlin, writing on the *Telegraph* [website](#), as “a veteran of Fleet Street’s triumphs and excesses for more than three decades”, applauded David Cameron’s announcement that he would resist Lord Justice Leveson’s demand for a statutory framework to regulate the press. He argued that there were already enough laws to punish its transgressors, from the most punitive libel laws in the world to a whole range of criminal legislation that could be used against those who got too carried away in their pursuit of fame and glory. He feared that any form of statutory regulation was “just the thin end of the wedge in terms of the Westminster establishment’s long-held desire to prevent the press from making embarrassing revelations of wrong-doing, whether it is sending British troops into battle in Iraq and Afghanistan without the proper equipment, or fiddling their expenses”.

### **5.2.9 *Financial Times*: Leveson’s Lessons for Fleet Street**

The *Financial Times* editorial noted that the Leveson Report was a damning indictment of the culture and practices of the newspaper industry and suggested that while newspapers had “never shied away from judging others... Fleet Street should have the humility to accept criticism that is justified”. However, it went on to argue that redressing the balance was “primarily a task for the industry rather than the politicians” and that in this respect David Cameron’s reaction to the Report “deserves commendation” and was “right to warn of the risks of statutory intervention in newspapers”. It added that the Government must “take care not to suffocate the free press by trying to sanitise it”. It accepted that the first task had to be to fix the industry’s broken system of regulation and that the Press Complaints Commission (PCC) had “palpably failed to protect the public”, the latter having “suffered from being dominated by industry insiders and serving editors”. The challenge was to come up with a new system that had teeth while avoiding state interference in the press. It noted that the new body that Leveson had proposed would have greater powers than the PCC, such as the right to levy fines of up to £1 million or 1 percent of turnover, an enforceable new code of conduct and a board composed mainly of independent members, with serving editors not eligible. Leveson’s “novel” idea was to encourage participation through incentives, notably by offering some protection against excessive legal costs in libel actions, with the functions of the new regulator enshrined in statute, with some entity—such as Ofcom, given the power to oversee the mechanism. Alongside this would be a legal recognition that the Government had a duty to promote press freedom. However, the *Financial Times* had reservations. While there might be merit in a bargain that traded the incentives to participate for some measure of statutory underpinning, the idea of handing oversight power to Ofcom was “wrong-headed”:

Ofcom is charged with regulating television broadcasters that have a legal obligation to impartiality. It reports directly to government. This is a step down the road towards state licensing of a press that, of course, has no obligation to provide balance.

It was also worried about proposals for a “backstop regulator” that would step in if news organisations did not join the new body: “this explodes the concept of voluntarism that lies at the centre of his recommendations”. It was a “press law by the back door and one that pays scant attention to the revolutionary changes in the media landscape”, which

was “increasingly dominated by digital innovators and social media”. However, it called upon the newspaper industry to respond constructively, to help develop reforms that were workable and that commanded public trust and that could remind the public that the press remained a cornerstone of democracy.

#### **5.2.10 Matthew Engel—Leveson: Out of Kilter with Public Interest?**

Matthew Engel, writing on the *Financial Times* website, argued that while press regulation had “understandably riveted the politico-media complex”, the issue had “run out of steam everywhere else”. He thought that part of this was because the press had become a much less significant political player: “partly because the revulsion over phone hacking has made even the most bumptious tabloids cautious; but more because the press is simply poorer and less almighty”. Technology in particular questioned Leveson’s statement that there was no comparison between a powerful newspaper and bloggers or tweeters. Engel suggested that this appeared to indicate that the Report was in danger of making 20th century recommendations for a 21st century industry.

#### **5.2.11 Philip Stephens—Towards a Grand Bargain with the Press**

Philip Stephens, in an article on the *Financial Times* website, stated that self-regulation did not work and that over the past 70 years there had been seven inquiries, including three royal commissions, into the “feral behaviour of journalists”. Though all brought promises of tighter self-regulation, he argued “nothing has changed”. He thought that the current proposals made by the press themselves were at “very best half-baked—and deliberately so”, as despite “a veneer of independence, real power would remain firmly in the hands of editors and proprietors”. Stephens argued that the “most striking thing about the behaviour of the newspapers in Lord Justice Leveson’s line of fire has been a complete lack of contrition”. He criticised the attempts by the press ahead of publication to portray the Leveson Report as seeking to throw overboard press freedom in favour of a Soviet-style system of state regulation: “The strategy was clear: derail attempts to establish independent oversight, lie low for a while and then return to the old ways”. He also thought that as long as some newspapers believed they should be able to behave as they like there could be no system that “will strike a perfect balance between press freedom and the rights of the citizen” and that “even as one winces at the lying and cheating, media excess is a price that has to be paid to preserve a fundamental pillar of democracy”. Stephens believed that it was for these reasons that Lord Justice Leveson had suggested that a new system of regulation—-independent of government and parliament—should be underpinned by legislation. He contended that this was not state regulation, as the Report said that any such statute should guarantee explicitly the freedom and independence of the press. In his opinion, he thought that Leveson’s basic judgment was right—that the “weak and vulnerable need guarantees against the habitual abuse of press power”. However, he did think that Leveson should have gone further in “offering protections for the media when it is doing its proper job of holding to account those in positions of authority and influence”. He concluded that a balanced package was needed that would put into statute a provision for a robust public interest defence when the press was scrutinising the behaviour of the mighty alongside a drastic rebalancing of the burden of proof in the draconian libel laws that offered an impenetrable shield to those with the money to buy access to the courts.

#### **5.2.12 George Eaton—No, Leveson Hasn’t Banned “Off-the-Record” Briefings**

George Eaton, in a [blog](#) posted on the *New Statesman* website, questioned the view that the Leveson Report had banned “off-the-record” briefings. Firstly, he argued that the section relating to such briefings specifically related to contacts between the press and the police and not those between the press and politicians (or anyone else). Secondly, it

did not call for off-the-record briefings to be banned, but for them to be described henceforth as “non-reportable” briefings. Leveson’s objection was not to the practice itself, which Leveson noted could operate in the public interest, but rather to the ambiguity created by the term “off-the-record”. Eaton concluded that though one could argue that renaming “off the-record” briefings as “non-reportable” briefings was pointless semantics, no one should claim that Leveson had called for the practice to be banned.

### **5.2.13 Fraser Nelson—Leveson Report: Cameron’s Defining Moment**

Fraser Nelson, in a [blog](#) posted on the *Spectator*’s website, argued that David Cameron had pledged to protect press freedom by rejecting “the most illiberal proposals” contained in the Leveson Report by asking the media to reform itself, and radically. Though he had accepted the principles of the Report, he asked but crucially did not tell the media to implement them. Nelson thought that it marked “a defining moment for the Prime Minister” as he invoked “ancient liberties to give a calm, eloquent and robust defence of freedom of speech” which showed that “he is, at heart, a classic English Tory who dislikes changing hundreds of years of precedent due to momentary panics”.

### **5.2.14 *Economist*—Fleet Street’s Grim Reaper**

The *Economist* contended in its [reaction](#) to the Leveson Report that if its proposals were enacted “the result will neither be the demolition of press freedom that newspapers have warned against, nor the brave, well-behaved press that victims want to see”. It thought that the proposal to create an outfit that could hear libel cases cheaply was a good way of compelling newspapers to sign up to it. However, it thought that there were “great dangers in a press law” and that the suggestion that Ofcom should oversee the new body was “worrying”. This was because “regulation has an alarming tendency to creep” with the risk that “the entire press (including this newspaper) will be bound by rules set up for tabloids”. It questioned whether the “celebrity-quizzing judge” had shown anything but “scant interest in serious journalism”. It also wondered whether Leveson had taken account of social media, blogs and news websites, some of them run by newspapers, which posed new problems. For instance, it asked whether an offensive blog post should be treated in the same way as an offensive article on a newspaper website. The *Economist* thought that on these points the lawyers and politicians grappling with these questions “got little guidance from Lord Justice Leveson”, meaning that his Report “already seems dated”.

## **5.3 Other Reaction**

### **5.3.1 Press Complaints Commission (PCC)**

The PCC issued a [press release](#) containing the reaction of its Chairman, Lord Hunt of Wirral, to the Leveson Report. Lord Hunt congratulated Lord Justice Leveson on his Report, though he did not agree with all of its conclusions. Lord Hunt agreed that the trust and confidence of the British people had to be regained to make sure that unacceptable, outrageous and illegal behaviour could never be allowed to happen again. It was also “absolutely key that the result is a new regulator with effective sanctions and teeth, and independent from the Industry and from the Government”. However, he was not convinced that statutory regulation including supervision of press regulation by Ofcom would have prevented the horrors of the past. Instead he believed that what was required was “getting the press to sign up to a fresh start and a serious improvement in governance and culture”.

### 5.3.2 Liberty

Liberty issued a [press release](#) which welcomed the principal Leveson Report recommendation of a “more robust and independent press self-regulator whose members enjoy appropriate legal rewards”. Liberty proposed that legal incentives (such as protection from exemplary damages, legal costs and the opportunity to influence the case-law on privacy and free speech) could be provided for ethical publications who set up and complied with a scheme independent of both the state and serving editors and owners. The press release highlighted those parts of the Leveson Report which it saw as beneficial to the public: ordinary members of the public would have access to an inexpensive regulatory and complaints system independent of serving editors and politicians; there would be higher damages awarded in cases where there was a flagrant violation of privacy (acting as a strong commercial disincentive against media privacy breaches); it would bring readier and cheaper access to justice with a body that had more powers, was more independent and had more clout than the PCC; the public would benefit from a press that remained free from government/parliamentary control, safeguarding its ability to hold elected representatives and a powerful state to account. Leveson would also be good for the press as it would not be subject to statutory or government regulation, maintaining its important constitutional and democratic function in holding the state to account and would get legal rewards for setting up its own robust independent system. However, Liberty would be “unable to support the Report’s last-resort alternative of compulsory statutory regulation, in what it hopes is the unlikely event of a media unwilling to respond”. Finally, Liberty believed that the system Leveson proposed would also be able to keep up with the internet as it would not be necessary to define what is meant by “press”. Liberty suggested that bloggers and others would be able to “set up their own group(s) benefiting from the same potential incentives and the public would have the same potential opportunities of redress”.

### 5.3.3 Hacked Off

Jacqui Hames, a former policewoman and Crimewatch presenter who was placed under surveillance by the *News of the World* in 2002, delivered the reaction of Hacked Off and victims of press abuse to the Leveson Report. They welcomed the Report and its condemnation of the “outrageous conduct of the press in recent years”. Crucial was the importance that it placed on “the complete independence of regulation from politicians and from the editors and proprietors, who run the wholly discredited Press Complaints Commission”. While it proposed a system of voluntary and independent self-regulation, the “proposals made by the industry did not come close to this ideal”. What was needed was a regulator that could properly and effectively protect both the victims of press misconduct and the press itself, and that was backed by legislation. These proposals were “reasonable and proportionate” and needed to be implemented “as soon as possible”.

### 5.3.4 Demos

Chris Tryhorn, writing on the Demos [blog](#), argued that in proposing a renewed form of self-regulation with some statutory underpinning, Leveson had “charted a course between the Scylla of the status quo and the Charybdis of state censorship”. While the proposals required legislation, they fell “a long way short of state regulation as it might be widely understood” as he specifically excluded “government or MPs from any role in the regulatory set-up”. What was proposed was “independent regulation of the press organised by the press, with a statutory verification process to ensure that the required levels of independence and effectiveness are met by the system in order for publishers to take advantage of the benefits arising as a result of membership”. However, he did not believe that this would stop a major controversy about the use of statute of any kind—



and in particular over Ofcom. In conclusion, he thought that though it would be a matter of conjecture as to whether the public ended up getting what it wanted, or what was in the public interest, it was important that “the public interest should involve at least listening to the public’s voice”.

### **5.3.5 National Union of Journalists (NUJ)**

The NUJ issued a [press release](#) which welcomed the Leveson Report’s recommendation regarding a conscience clause for journalists. Michelle Stanistreet, NUJ General Secretary, said that the NUJ would do all it could to “ensure that when journalists stand up for a principle of journalistic ethics they have a contractual protection against being dismissed”. She called for a solid framework that gave journalists the “confidence and the security to put their head above the parapet and take a stand for ethical journalism” and defended their “right to refuse assignments that contravene their ethical code” stating that “no journalists should be disciplined or suffer detriment to their careers for asserting their right to act ethically”. The NUJ also welcomed Leveson’s “support for a free press and independent regulation of the press—independent of both government and of the industry”. It was pleased that the recommendations included civic society involvement and for any new body to have an independent chair and board appointed in a fair and transparent process. It supported the recommendation that the new body should accept third party complaints, provide incentives and tackle prejudicial or pejorative references to race, religion, gender, sexual orientation or physical or mental illness or disability. However, it was disappointed that the Report did not make recommendations in relation to media ownership and plurality.

### **5.3.6 TUC**

The TUC, in its [response](#) to the Leveson Report, stated that it had looked to the Leveson Inquiry to “produce proposals for a system of regulation that will give us a press free from domination either by the state or over-mighty owners” and believed it represented an “important step forward”. It thought that the onus was now with the politicians and the owners to “rise to the challenge and ensure that the Report leads to a system of regulation that is fair, transparent, equal and sustainable”. The TUC particularly welcomed the recognition of the need for a conscience clause for journalists which would “go some way to addressing the culture of newsroom bullying exposed during the course of the inquiry”. It hoped that working journalists, as well as representatives of the public, would “have a strong role in the regulatory body”.

