



## Phone hacking – Inquiries and reports

Standard Note: SN06368  
Last updated: 26 June 2012  
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Section: Home Affairs Section

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This note provides brief details about the ongoing inquiries and investigations associated with phone hacking and the various reports produced. It also gives details of the legislation regarding relevant offences and provides links to timelines of events.

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# 1 Background

The issue of phone hacking has led to the closure of *The News of the World* in July 2011, the launch of three police investigations, the setting up of the Leveson Inquiry and inquiries by the Culture, Media and Sport and Home Affairs Committees.

In 2002 investigations by *The Guardian* and *The Telegraph* raised concerns about the use of private detectives by newspapers in relation to intercepted phone calls and information gained from the police.<sup>1</sup> In August 2006 *The News of the World* Royal Editor, Clive Goodman, and private investigator, Glenn Mulcaire, were arrested on suspicion of illegally intercepting voicemail messages to gather information to be used in newspaper stories. They pleaded guilty to charges under the *Regulation of Investigatory Powers Act 2000* and the *Criminal Law Act 1977* and in January 2007 were convicted and jailed.<sup>2</sup> Andy Coulson, then the editor of *The News of the World*, resigned.<sup>3</sup> Shortly after their conviction representatives of *The News of the World* said in evidence to the Culture, Media and Sport Committee that the two men had acted alone.<sup>4</sup> Further evidence of hacking then emerged and a number of alleged victims made claims against the paper.<sup>5</sup> *The Guardian* revealed in July 2009 that News International had made large out of court settlements to a number of victims of phone hacking.<sup>6</sup> In a statement about voicemail interception made on 8 April 2011, News International said it had decided to approach some civil litigants with an unreserved apology and had asked its lawyers to establish a compensation scheme for those affected.<sup>7</sup>

## 2 Ongoing inquiries

### 2.1 The Leveson Inquiry

On 13 July 2011 the Prime Minister announced a public inquiry led by Lord Justice Leveson to look at the culture, practices and ethics of the press.<sup>8</sup> Mr Cameron made a further statement about the make-up and remit of the inquiry in a statement on public confidence in the media and police on 20 July 2011.<sup>9</sup>

The inquiry is taking place in two parts as set out in the inquiry's [Terms of Reference](#):

#### Part 1

1. To inquire into the culture, practices, and ethics of the press, including:
  - a. contacts and the relationships between national newspapers and politicians, and the conduct of each;
  - b. contacts and the relationship between the press and the police, and the conduct of each;
  - c. the extent to which the current policy and regulatory framework has failed including in relation to data protection; and
  - d. the extent to which there was a failure to act on previous warnings about media misconduct.

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<sup>1</sup> [“Journalists caught on tape in police bugging”](#), *The Guardian*, 21 September 2002 and

[“How tabloids bug phone lines to get a story”](#), *The Telegraph*, 15 December 2002

<sup>2</sup> [“Clive Goodman sentenced to four months”](#), *The Guardian*, 26 January 2007

<sup>3</sup> [“Pair jailed over royal phone taps”](#), *BBC News*, 26 January 2007

<sup>4</sup> Culture, Media and Sport Committee, [Self-regulation of the press](#), 11 July 2007, HC 375 2006-07, para 21

<sup>5</sup> [“Les Hinton resigns from News Corp”](#), *The Guardian*, 15 July 2011

<sup>6</sup> [“Murdoch papers paid £1m to gag phone-hacking victims”](#), *The Guardian*, 8 July 2009

<sup>7</sup> [“News International statement on News of the World phone hacking”](#), *The Guardian*, 8 April 2011

<sup>8</sup> HC Deb 13 July 2011 c311

<sup>9</sup> HC Deb 20 July 2011 c918

2. To make recommendations:

- a. for a new more effective policy and regulatory regime which supports the integrity and freedom of the press, the plurality of the media, and its independence, including from Government, while encouraging the highest ethical and professional standards;
- b. for how future concerns about press behaviour, media policy, regulation and cross-media ownership should be dealt with by all the relevant authorities, including Parliament, Government, the prosecuting authorities and the police;
- c. the future conduct of relations between politicians and the press; and
- d. the future conduct of relations between the police and the press.

## **Part 2**

3. To inquire into the extent of unlawful or improper conduct within News International, other newspaper organisations and, as appropriate, other organisations within the media, and by those responsible for holding personal data.

4. To inquire into the way in which any relevant police force investigated allegations or evidence of unlawful conduct by persons within or connected with News International, the review by the Metropolitan Police of their initial investigation, and the conduct of the prosecuting authorities.

5. To inquire into the extent to which the police received corrupt payments or other inducements, or were otherwise complicit in such misconduct or in suppressing its proper investigation, and how this was allowed to happen.

6. To inquire into the extent of corporate governance and management failures at News International and other newspaper organisations, and the role, if any, of politicians, public servants and others in relation to any failure to investigate wrongdoing at News International

7. In the light of these inquiries, to consider the implications for the relationships between newspaper organisations and the police, prosecuting authorities, and relevant regulatory bodies – and to recommend what actions, if any, should be taken.

The inquiry is being run in four modules. These are:

Module 1: The relationship between the press and the public and looks at phone-hacking and other potentially illegal behaviour.

Module 2: The relationships between the press and police and the extent to which that has operated in the public interest.

Module 3: The relationship between press and politicians.

Module 4: Recommendations for a more effective policy and regulation that supports the integrity and freedom of the press while encouraging the highest ethical standards.

Modules 1 and 2 have, at the time of writing, already been completed and module 3 is due to conclude shortly. Module 4 is due to commence in early July 2012 and Lord Justice Leveson intends to finish the formal part of the inquiry by the end of July.

The inquiry website has a page, [Inquiry Costs](#), which publishes details of expenditure on a quarterly basis, in a cumulative format. According to the most recent published figures, the overall costs from the establishment of the Inquiry (mid-July 2011) until 31 March 2012 total £2,840,800.

For further information on the inquiry's work on press regulation see Library Standard Note [Press regulation: the debate](#).

## 2.2 Police inquiries

### **Metropolitan Police**

Operation Weeting commenced on 26 January 2011 under the Specialist Crime Directorate of the Metropolitan Police Service into allegations of phone hacking by the News of the World newspaper.<sup>10</sup>

Operation Weeting is being conducted alongside Operation Elveden, an investigation into allegations of inappropriate payments to the police by those involved with phone hacking.<sup>11</sup>

Operation Tuleta is an investigation into alleged computer hacking investigating a number of allegations regarding breach of privacy which fall outside the remit of Operation Weeting.<sup>12</sup>

### **Strathclyde Police**

Operation Rubicon is the Strathclyde Police enquiry into allegations of phone hacking, breach of data protection and perjury. The operation is examining aspects of the evidence presented during the Tommy Sheridan perjury trial and specific claims of phone hacking and breaches of data protection in Scotland.<sup>13</sup>

## 3 Reports on phone hacking

### 3.1 Information Commissioner's Office

In December 2006, the Information Commissioner's Office (ICO) published a report entitled [What price privacy now?](#)<sup>14</sup> This identified several publications in receipt of personal data originally obtained in apparent contravention of section 55 of the *Data Protection Act 1998*.

The December 2006 report was a follow-up report to the May 2006 report [What price privacy?](#) which described evidence, uncovered by the ICO and the police, of "a widespread and organised undercover market in confidential personal information".<sup>15</sup>

The report described Operation Motorman, an ICO investigation into data protection offences. It was launched following a search of premises in Surrey under warrant by the Devon and Cornwall Constabulary in 2002. The raid concerned suspected misuse of data from the Police National Computer (PNC) by serving and former police officers.

The report stated that "among the 'buyers' are many journalists looking for a story".<sup>16</sup> In the report the ICO recommended that the Press Complaints Commission should take a much stronger line to tackle press involvement in the illegal trade of personal information.<sup>17</sup>

These reports were used to support the then Information Commissioner's recommendation that custodial sentences should be available in connection with the unlawful obtaining or disclosing of personal data.

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<sup>10</sup> Metropolitan Police news release, [New investigation regarding alleged phone hacking](#), 26 January 2011 and [Phone hacking investigation – update](#), 9 February 2011

<sup>11</sup> Metropolitan Police news release, [Statement from Commissioner](#), 6 July 2011

<sup>12</sup> Metropolitan Police news release, [Operation Tuleta officers arrest two men](#), 24 February 2012

<sup>13</sup> Strathclyde Police news release, [Operation Rubicon: Phone Hacking and Perjury Enquiry](#), July 2011

<sup>14</sup> Information Commissioner's Office, [What price privacy now?](#), December 2006, HC 36 2006-07

<sup>15</sup> Information Commissioner's Office, [What price privacy?](#) May 2006, HC 1056 2005-06, para 1.7

<sup>16</sup> Information Commissioner's Office, [What price privacy?](#) May 2006, HC 1056 2005-06, para 1.8

<sup>17</sup> Information Commissioner's Office, [What price privacy?](#) May 2006, HC 1056 2005-06, para 7.20

### 3.2 Press Complaints Commission

In May 2007 the Press Complaints Commission (PCC) published its [Report on Subterfuge and Newsgathering](#), following an investigation into the use of subterfuge by the British newspaper and magazine industry.<sup>18</sup> The report stated that the PCC had decided not to ask Andy Coulson (the former editor of *The News of the World* who had resigned in January 2007) to give an account what had gone wrong because the PCC does not have statutory powers of investigation and prosecution and because Mr Coulson was, following his resignation, no longer answerable to the PCC.<sup>19</sup>

In November 2009 the PCC published its [Report on phone message tapping allegations](#).<sup>20</sup> This report was subsequently withdrawn by the PCC in July 2011 following admissions from the News of the World of its involvement in the hacking of the telephone of murdered schoolgirl Milly Dowler in 2002.<sup>21</sup> The report had concluded that there was no evidence that the practice of phone message tapping was ongoing and that the PCC's work aimed at improving the integrity of undercover journalism had played its part in raising standards.<sup>22</sup>

In April 2010 the PCC responded to the Culture, Media and Sport Committee's report [Press standards, privacy and libel](#) which had criticised the PCC's November 2009 report (see below).

In its response the PCC said that the Committee's report had mischaracterised what the PCC had sought to do which had not been to duplicate the police investigation but to ensure a change in practice at *The News of the World* and confirm best practice across the industry as a whole. In the response the PCC said that it would consider internally whether it could have clarified its intent and role better and noted how its work had been received "in some quarters".<sup>23</sup>

### 3.3 Culture, Media and Sport Committee

In 2003 the Culture, Media and Sport Committee published a report, [Privacy and Media Intrusion](#), which recommended that a new Press Code of Conduct should explicitly ban payments to the police and to intermediaries to obtain private information.<sup>24</sup> In the course of the inquiry Rebekah Wade had given evidence to the committee and admitted that *The News of the World* had "paid the police for information in the past".<sup>25</sup>

On 11 July 2007, the Culture, Media and Sport Committee published the results of its inquiry into [Self-regulation of the press](#), concluding that it did not believe there was a case for a statutory regulator for the press which, it said, would represent a very dangerous interference with the freedom of the press.<sup>26</sup> The report said that the Committee found it extraordinary that the PCC did not feel it necessary to question Andy Coulson who was then editor of *The News of the World* about the Clive Goodman case.<sup>27</sup> The report also expressed the

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<sup>18</sup> Press Complaints Commission, [Report on Subterfuge and Newsgathering](#), 18 May 2007

<sup>19</sup> Press Complaints Commission, [Report on Subterfuge and Newsgathering](#), 18 May 2007, para 1.6

<sup>20</sup> Press Complaints Commission, [Report on phone message tapping allegations](#), 9 November 2009

<sup>21</sup> Press Complaints Commission, [Statement from the PCC on phone hacking following meeting today](#), 6 July 2011

<sup>22</sup> Press Complaints Commission, [Report on phone message tapping allegations](#), 9 November 2009. Para 13.5

<sup>23</sup> Press Complaints Commission, [Press standards, privacy and libel: Press Complaints Commission's Response to the Committee's Second Report of Session 2009–10](#), 6 April 2010, HC 532

<sup>24</sup> Culture, Media and Sport Committee, [Privacy and Media Intrusion](#), 21 May 2003, HC 485 2002-3, para 63iii

<sup>25</sup> Culture, Media and Sport Committee, [Privacy and Media Intrusion](#), 21 May 2003, HC 485-II, [Ev 467](#)

<sup>26</sup> Culture, Media and Sport Committee, [Self-regulation of the press](#), 11 July 2007, HC 375 2006-07, p3

<sup>27</sup> Culture, Media and Sport Committee, [Self-regulation of the press](#), 11 July 2007, HC 375 2006-07, para 21

Committee's concern at the complacency of the industry's reaction to evidence presented by the ICO in its 2006 report.

In February 2010 the Culture, Media and Sport Committee's report, [Press standards, privacy and libel](#), concluded that a culture of turning a blind eye to illegal activities such as phone hacking did exist in the newsroom of *The News of the World* and other newspapers.<sup>28</sup> The report stated that the Committee was "struck by the collective amnesia afflicting witnesses from *The News of the World*"<sup>29</sup>

The report criticised the Metropolitan Police for its decision in 2006 not to investigate particular documents in its possession<sup>30</sup> and the PCC for the 'simplistic and surprising' conclusions of its November 2006 report which had 'effectively exonerated' *The News of the World*.<sup>31</sup>

The Committee's report [News International and Phone-hacking](#), published on 1 May 2012, concentrated on the issue of whether witnesses had previously misled a select committee of the House of Commons.<sup>32</sup> The report concluded that the Committee's February 2010 report [Press standards, privacy and libel](#) had not been based on fully accurate evidence due to the acts and omissions of several witnesses. It stated that false evidence given to the Committee had prevented it from exposing the true extent of phone-hacking.<sup>33</sup>

### 3.4 Home Affairs Committee

In July 2011 the Home Affairs Committee published its report [Unauthorised tapping into or hacking of mobile communications](#).<sup>34</sup> It criticised the regulatory framework and authorities, News International's response to the original hacking investigation, and the police response. It recommended that the Information Commissioner's remit be extended to cover the provision of advice and support in relation to chapter 1 of the *Regulation of Investigatory Powers Act* and that the Government review the penalties of offences for unlawful interception. It also recommended that the Government seriously consider appointing one overall privacy Commissioner.<sup>35</sup>

The [Government's September 2011 response](#) to the Committee's report rejected the call for the ICO's remit to change but said the Interception Commissioner would issue further guidance.<sup>36</sup> The response stated that the Government was "satisfied that the existing legislation provides a comprehensive set of criminal and civil sanctions for the unlawful hacking of mobile communications".<sup>37</sup> The Government did not accept the call for a privacy

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<sup>28</sup> Culture, Media and Sport Committee, [Press standards, privacy and libel](#), 24 February 2010, HC 362-I 2009-10

<sup>29</sup> Culture, Media and Sport Committee, [Press standards, privacy and libel](#), 24 February 2010, HC 362-I 2009-10, para 442

<sup>30</sup> Namely, a holding contract between Greg Miskiw and Glenn Mulcaire and the 'for Neville' email, see para 467

<sup>31</sup> Culture, Media and Sport Committee, [Press standards, privacy and libel](#), 24 February 2010, HC 362-I 2009-10, paras 467, 470 and 472

<sup>32</sup> Culture, Media and Sport Committee, [News International and Phone-hacking](#), 1 May 2012 HC 903-I 2010-12

<sup>33</sup> Culture, Media and Sport Committee, [News International and Phone-hacking](#), 1 May 2012 HC 903-I 2010-12, para 276

<sup>34</sup> Home Affairs Committee, [Unauthorised tapping into or hacking of mobile communications](#), 20 July 2011, HC 907 2010-12

<sup>35</sup> Ibid, p23

<sup>36</sup> Unauthorised tapping into or hacking of mobile communications: the Government response to the thirteenth report from the Home Affairs Committee session 2010-12 HC 907, Cm 8182, September 2011

<sup>37</sup> [Unauthorised tapping into or hacking of mobile communications: the Government response to the thirteenth report from the Home Affairs Committee session 2010-12 HC 907](#), Cm 8182, September 2011, para 2.10



commissioner but said it would take note of the Committee's concerns in the way it developed and co-ordinated the functions of the Commissioners.<sup>38</sup>

## **4 Relevant offences**

### **4.1 Unlawful interception**

Section 1 of the *Regulation of Investigatory Powers Act 2000* (RIPA) makes it an offence, subject to exceptions, to intentionally and without lawful authority intercept a public or private telecommunication in the course of its transmission. This will apply to mobile phones as well as landlines.<sup>39</sup>

The maximum penalty in the Crown Court for the criminal offences under section 1 is two years' imprisonment or an unlimited fine, and a £5,000 fine in the Magistrates' Court.<sup>40</sup>

### **4.2 Disclosure of personal information**

Under section 55 of the *Data Protection Act 1998* it is a criminal offence to knowingly or recklessly obtain, disclose or procure the disclosure of personal information without the consent of the relevant data controller.

The Act allows certain defences, set out in section 55(2). For instances exemptions are permitted where obtaining, disclosing or procuring personal information was necessary for the purpose of preventing or detecting crime, or was required by legislation or a court order. Exemptions are also allowed for those who are able to show that obtaining, disclosing or procuring the information was in the public interest.

Under section 60 of the *Data Protection Act 1998* the current maximum penalty for this offence is a fine of up to £5,000 in the Magistrates' Court and an unlimited fine in the Crown Court.

### **4.3 Corruption**

With regard to allegations of payments made to police officers for information the relevant offence for events which took place before 1 July 2011 is corruption under section 1 of the *Prevention of Corruption Act 1906*. With effect from 1 July 2011, the *Bribery Act 2010* repealed this provision for new offences. The offence of corruption under the *Prevention of Corruption Act 1906* would apply where a person corruptly gave a gift to "any agent" as an inducement or reward for doing, or not doing, anything in relation to "the principal's" (i.e. his employer's, or in the case of a police officer, the police force's) business.

### **4.4 Misconduct in public office**

Receipt of a bribe by a public officer can be charged as the common law offence of misconduct in public office. This offence involves a breach of official trust and can include a wide variety of misconduct, including acts done with a dishonest, oppressive or corrupt motive. Further information on this offence is contained in the Library Standard Note SN04909, *Misconduct in public office*.

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<sup>38</sup> *Unauthorised tapping into or hacking of mobile communications: the Government response to the thirteenth report from the Home Affairs Committee session 2010-12 HC 907*, Cm 8182, September 2011, para 2.16

<sup>39</sup> Section 2 of *RIPA 2000* provides the relevant definition of "public telecommunication system"

<sup>40</sup> Section 1 (7) *RIPA 2000*



#### 4.5 Offences against public justice

Perverting the course of justice is a common law offence.<sup>41</sup> It is triable only on indictment and punishable with a maximum penalty of life imprisonment and/or a fine.<sup>42</sup> The offence is committed where a person does or embarks upon an act which has a tendency to, **and** is intended to, pervert the course of public justice.<sup>43</sup> In every case there must be some positive act: an omission or failure to do something (e.g. to point out that the wrong person is being prosecuted) is insufficient (*Headley* [1995] Crim LR 737).

Perjury is an offence under the *Perjury Act 1911* and is triable only on indictment. The offence is committed where a witness wilfully makes a statement in a judicial proceeding which he knows to be false or does not believe to be true. It is punishable by a maximum of seven years imprisonment, or a fine or both a fine and imprisonment.<sup>44</sup>

### 5 Timelines

Various timelines of events connected with the phone hacking scandal are available, including the following:

- [Phone-hacking scandal: Timeline](#), *BBC News*
- [Phone hacking: timeline of the scandal](#), *The Telegraph*
- [News of the World phone hacking – interactive timeline](#), *The Guardian* (to August 2011)
- [Phone hacking: what happened when? Visualised](#), *The Guardian* (to July 2011)
- Annexes to the Culture Media and Sport Committee May 2012 report, [News International and Phone-hacking](#), contain a list of the people involved and a timeline of events. (page 86 onwards)
- [Phone hacking: The main players](#), BBC News (includes those who have been charged and resignations)
- [Phone hacking: Arrests by investigation](#), BBC News (to 30 April 2012)
- [Phone-hacking scandal: arrest timeline](#), *The Guardian*

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<sup>41</sup> Although a conspiracy to commit the offence would technically be charged as a conspiracy offence under section 1 of the [Criminal Law Act 1977](#)

<sup>42</sup> *Archbold Criminal Pleading, Evidence and Practice* suggests that custodial sentences should be imposed in all but the most exceptional cases (*Att-Gen's Reference (No. 17 of 2008)* [2008] RTR 29), and identifies sentences of between around four and 24 months as the "usual bracket" for most cases.

<sup>43</sup> *R v Vreones* [1891] 1 QB 360, CCR

<sup>44</sup> Section 1(1) *Perjury Act 1911*