



Department
for Culture
Media & Sport



Home Office

**CONSULTATION ON THE LEVESON INQUIRY AND ITS
IMPLEMENTATION**

**SECTION 40 OF THE CRIME AND COURTS ACT 2013
AND
PART 2 OF THE LEVESON INQUIRY**

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Foreword from the Culture Secretary and Home Secretary

A free press is an essential component of a fully functioning democracy. It should tell the truth without fear or favour and hold the powerful to account. Yet the press has a significant power itself, which it must use responsibly. We know that some parts of the press have abused their position in the past - and ignored not only their own Code of Practice but the law. Police officers and public officials have been found guilty of serious offences. We therefore owed it to the victims of the past to make sure that what happened before cannot happen again.

The Leveson Inquiry was therefore established in July 2011 by the Coalition Government, to look into the role of the press and the police in phone hacking and other illegal practices in the British press. The first part of the Inquiry heard evidence from more than 300 people, including some of those who had been affected by the most egregious behaviour. Nearly £50 million of public money has so far been spent to ensure that the transgressions of the past cannot be repeated, and that victims of press intrusion have justice.

It is five years since the Inquiry was established and four years since the report on Part 1 was published. Much has changed in that time. Three police investigations have investigated a wide range of offences. A clear message has been sent to all police officers and public officials that receiving payments for confidential information will not be tolerated and will be dealt with robustly. The College of Policing has developed national guidance for police officers and staff, and published a code of ethics. We have seen arguably the most significant changes to press self-regulation in decades.

In that context, we are now seeking views from the public on two issues that relate to the inquiry: the different options for commencement of section 40 of the Crime and Courts Act 2013; and whether proceeding with Part 2 of the Inquiry is still appropriate, proportionate and in the public interest.

These issues are too important not to consult on, and we are aware of the strength of feeling around these important topics. We therefore hope that a wide range of interested parties will engage with the questions set out here.

This is a government that works for everyone and not just the privileged few. We remain steadfastly committed to ensuring that the inexcusable practices that led to the Leveson Inquiry being established can never happen again.

Chapter 1. Introduction

Context

1. This government made clear in its manifesto that it is committed to defending hard-won liberties and the operation of a free press. This is a fundamental principle of a liberal democracy. As Sir Brian Leveson stated, 'the press, operating properly and in the public interest, is one of the true safeguards of our democracy'.¹
2. On 13 July 2011 the Coalition Government announced a statutory public Inquiry investigating the role of the press and police following the revelations of phone hacking at the (now defunct) News of the World. Sir Brian Leveson (Lord Justice Leveson at the time, now President of the Queen's Bench Division) was appointed Chair of the Inquiry.
3. Part 1 of the Inquiry examined the culture, practices and ethics of the press and, in particular, the relationship of the press with the public, police and politicians. Part 2 was designed to examine wrongdoing in the press and the police, including the apparent failings of the first police investigations into phone-hacking in 2005-2006 and the wider implications for police and press relations. The terms of reference for the Inquiry are available at Annex A.
4. Sir Brian Leveson published his report on Part 1 on 29 November 2012. It contained 92 recommendations on areas including press self-regulation, the police, relationships between the press and politicians, data protection, media plurality and media ownership. The majority of these recommendations have been acted upon and are being delivered.
5. A key part of the Coalition Government's implementation of the recommendations has been the establishment of a new system of voluntary press self-regulation. Two incentives were put in place by Parliament to encourage publishers to voluntarily join the new system. Firstly, exemplary damages provisions in sections 34-39 of the Crime and Courts Act 2013, that came into force on 3 November 2015, mean that publishers who are members of a recognised regulator will, in principle, be exempt from paying exemplary damages in relevant media-related court cases. The other incentive, costs provisions in section 40 of the Crime and Courts Act 2013 (see Annex B), has been enacted by Parliament but has not been commenced.

¹ The Leveson Inquiry, November 2012, Executive Summary.

6. Representations have been made by a range of stakeholders on both the advantages and disadvantages of commencing section 40 at this time. This consultation seeks to better understand the different views being offered and help ensure the government is engaging with the widest possible audience as we consider next steps.
7. In addition to a public Inquiry being established, the revelations about phone hacking resulted in a number of police operations being set up to investigate illegal activity. These included investigations around inappropriate payments (Operation Elveden), phone hacking (Operations Weeting and Golding) and computer hacking (Operation Tuleta) and have resulted in more than 40 convictions.
8. In 2011 the decision was taken by Sir Brian Leveson that Part 2 of the Inquiry should not begin until all relevant police investigations and prosecutions, including appeals, had concluded in order to avoid any prejudice to criminal proceedings. The last of the relevant criminal cases is entering its final stages and the government therefore believes that it is now an appropriate time to look carefully at the future of Part 2. Having reflected on how best to do this, and being conscious of the various interests engaged, the government believes this consultation provides the most appropriate and fair way to do this. This consultation will allow all interested parties to make clear their views and will help better inform the government's decision.
9. It is five years since the Inquiry was established and four years since the report on Part 1 was published. Much has changed in that time, including the completion of three detailed police investigations, extensive reforms to policing practices and arguably the most significant changes to press self-regulation in decades. The government remains steadfastly committed to ensuring that the inexcusable practices that led to the Leveson Inquiry being established can never happen again. As part of this, it is important that the public know that should they have a complaint about the press, their concerns will be handled competently, fairly and swiftly. The government is also fully supportive of a system of voluntary self-regulation by the press that is free from government interference and which enables all sectors of the industry to thrive. On this basis, the government considers that a consultation is needed to look at two issues: commencement of section 40 of the Crime and Courts Act 2013; and whether proceeding with Part 2 of the Inquiry is appropriate and proportionate, whether it should be terminated or whether the government should follow an alternative course.
10. The government has not yet taken any decisions on section 40 or Part 2 of the Inquiry. This consultation seeks views on all options.

Chapter 2. About this consultation

Purpose of this consultation

11. The Government is seeking views on:
- Section 40 of the Crime and Courts Act 2013; and
 - Part 2 of the Leveson Inquiry.

Who this consultation is aimed at

12. We welcome comments from individuals and organisations who have an interest in press self-regulation, including the press, the public, campaigners, representative organisations, self-regulators and professionals advising in this field.

Why we are publishing this consultation

13. The previous Secretary of State for Culture, Media and Sport announced in October 2015 that he was not minded to commence section 40 at that particular time. The government has received various representations from interested parties since then and this consultation seeks to better understand the different views being offered and ensure we are engaging with the widest possible audience as we consider next steps.
14. As the last of the relevant criminal cases associated with the subject matter of the Leveson Inquiry is entering its final stages, it is an appropriate time to seek views on Part 2 and consider whether the police and press have adequately reformed to ensure phone hacking and other illegal and improper activity could not happen again today.

Territorial scope of this consultation

15. Press regulation is devolved in Scotland and Northern Ireland. Publishers from across the UK are able to join a UK-wide recognised self-regulator, and the Royal Charter establishing the Press Recognition Panel (the Panel) did so on a UK wide basis. The incentives in section 40 only apply in England and Wales. This means that the Scottish Government and Northern Ireland Executive retain jurisdiction to develop their own incentives for publishers to join a recognised self-regulator, should they wish to. The Inquiry was set up as a UK-wide inquiry and, should Part 2 take place, its scope would be UK-wide.

Duration of consultation

16. The consultation period begins on 1 November 2016 and runs until 5pm on 10 January 2017, ten weeks after the consultation opens. Please ensure your responses reach us by that date as any replies received after that date may not be taken into account.

How to respond to this consultation

17. Please fill in our online survey form available at:

<https://www.research.net/r/9WH5LV3>

18. If you have additional information in support of your response via the online form, you can also post a response to: Press Policy, Department for Culture, Media and Sport, 4th floor, 100 Parliament St, London SW1A 2BQ or email us at presspolicy@culture.gov.uk.

19. When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear what your role is at that organisation.

Government response

20. We will publish the government's response to this consultation on the GOV.UK website, summarising the responses received and setting out the action we will take, or have taken, in respect of them.

Other information

21. For further information about this consultation please see Annex C.

Chapter 3. The Leveson Inquiry: background and action to date

22. This country has a long and distinguished history of a strong and independent press. As Sir Brian Leveson has stated:

‘the press, when operating properly and in the public interest, is one of the true safeguards of our democracy... There are truly countless examples of great journalism, great investigations and great campaigns... The press describes world and local events, illuminates political issues and politics generally, holds power to account, challenges authority, investigates and provides a forum for debate’.²

23. While the press is a powerful force that can support and sustain our liberal democracy, it can also act in ways that are contrary to the public interest – particularly if it acts in ways contrary to its own codes of conduct and engages in illegal and improper activity. This was displayed when evidence of phone hacking came to light, which led to the establishment of the Inquiry (see Box 1). The Inquiry Report was clear that the British press served the country very well the vast majority of the time. But it also demonstrated that there had been too many times in the recent past when, in chasing the story, parts of the press had acted as if its own code, which it wrote, simply did not exist.

Box 1: The Leveson Inquiry Report

In the summer of 2011, evidence emerged of phone hacking being carried out by parts of the press. Targets of phone hacking included high profile celebrities as well as members of the public. Questions were also raised about the press’ relationship with both the police and politicians, and how it had been possible for phone hacking to have carried on for such a length of time.

In response, the Coalition Government announced a full public Inquiry with Sir Brian Leveson appointed as Chair. Part 1 of the Inquiry began in November 2011 and lasted a year. More than 300 people gave evidence, including senior newspaper executives and editors, politicians and victims of press abuse.

On 29 November 2012, the Leveson Inquiry Report was published. It made 92 recommendations in total, in areas including the future of press regulation, media plurality, data protection and policing.

² The Leveson Inquiry, November 2012, Executive Summary.

Action to date

24. The findings of the Inquiry's report ranged across a number of areas including data protection, police conduct and the relationship between the press and politicians, but the majority of the recommendations focused on press self-regulation. On 18 March 2013, following cross-party agreement, the Coalition Government published a draft Royal Charter to support a new system of voluntary press self-regulation. The Royal Charter was granted by the Privy Council in October 2013.
25. The Report's central concern was that there should be a new system of press self-regulation that recognised the press' independence but held them to new standards. Sir Brian Leveson recommended a system whereby press self-regulators should be approved against a set of specific criteria in areas such as independence, funding and appointments. The Coalition Government did not agree that Ofcom should act as the independent body for approving such self-regulators and instead established a new independent body to fulfil this function, the Press Recognition Panel, by Royal Charter. The establishment of this new framework meant press self-regulators could apply to the Panel to become a 'recognised regulator' if they met the specific criteria set out in the Royal Charter.

Box 2: Independent press self-regulation following the Leveson Inquiry Report

The Royal Charter set out that an independent body, the Press Recognition Panel, would be set up to receive applications from press self-regulators that meet the set criteria and want to apply for recognition. The Panel is wholly independent of the government in terms of decision-making and the board members were appointed by an independent appointments panel which ran an open application process across the UK. The Panel is currently funded by government through the Lord Chancellor, but it was envisaged that it would become self-supporting and eventually be funded by recognised self-regulators.

A set of incentives to encourage the press to join a recognised self-regulator was included in the Crime and Courts Act 2013. The Charter was granted by the Privy Council on 30 October 2013. The Panel formally came into existence in November 2014, with David Wolfe QC as Chair. It started to take applications from press self-regulators wanting to be recognised from September 2015. On 13 October 2016 it published its first annual report on the press recognition system as required by the Royal Charter.

The Independent Press Standards Organisation (IPSO)

In response to the Leveson Inquiry Report, IPSO was created in March 2014, replacing the Press Complaints Commission. The majority of the press industry are members of IPSO which has more than 2,500 members, including many of the major

tabloids and broadsheets. (Of the major newspapers, the Guardian, the Financial Times and ESI Media have not joined any regulator and have their own systems of self-regulation).

IPSO recently commissioned Sir Joseph Pilling to conduct a review into its independence and effectiveness which reported on 12 October 2016. The Pilling Report stated that its recommendations were 'intended to help a new regulator, which demonstrates early achievement, promise and commitment, to develop into a trusted, experienced regulator'. IPSO has publicly stated it will not seek recognition from the Panel.

The Independent Monitor for the Press (IMPRESS)

IMPRESS has emerged as a new self-regulator. It applied to the Panel for recognition in January 2016 and the decision to recognise IMPRESS was taken by the Panel's board on 25 October 2016. David Wolfe QC, Chair of the Panel, said 'following a detailed and thorough assessment of IMPRESS' application for recognition, the Press Recognition Panel Board has determined that IMPRESS meets the 29 criteria in the Royal Charter, so it has been recognised as an approved regulator'. IMPRESS has around 50 member publications. It is now the first and only recognised self-regulator under the new system.

26. In addition since the Inquiry's Report was published, the government has been working to deliver the Report's other recommendations.
27. The Report made a number of recommendations around data protection, particularly to ensure investigative journalism is carried out responsibly while ensuring genuine investigative journalism is not curtailed. The General Data Protection Regulation (GDPR) (which comes into force in May 2018) will give the government an opportunity to look at the existing sanctions available in relation to the misuse of personal data to make sure they are both proportionate and fit for purpose in the digital age, in compliance with the terms of the GDPR. In particular, the government will review current penalties for data protection breaches and aim for sanctions that act as effective deterrents against the misuse of personal data in all contexts.
28. There were also recommendations made in the Report on media plurality. In 2013, the Coalition Government consulted on a measurement framework for media plurality. Ofcom were subsequently commissioned to produce the framework and consulted on their proposals before reporting in late 2015. The framework will enable the first ever market assessment of media plurality in the UK and is likely to include indicators such as the number of providers, reach and share of consumption as well as more qualitative factors such as impact and influence.

29. The Report made recommendations on the relationship between the press and politicians. The Ministerial Code was amended and, as a result, all Ministers (as well as Special Advisers and Permanent Secretaries) must now disclose details of all meetings with media proprietors, editors and senior executives wherever they take place. This information is published on a quarterly basis.
30. There were also a number of recommendations aimed at the police and their relationship with the press. The College of Policing has developed national guidance for police officers and staff on managing the relationship between the police service and the media. The guidance promotes the discontinuance of the term 'off the record briefing' and introduces new terminology, 'non-reportable briefing' and 'embargoed briefing', to more neutrally describe what may constitute legitimate police and media interactions. It also espouses the simple rule that police officers and staff should ask: 'am I the person responsible for communicating about this issue and is there a policing purpose for doing so?'. If the answer to both parts of this question is 'yes', they should go ahead.
31. The College of Policing has made clear in its guidance that chief officers are to record all of their contact with the media, and that records should be available publically for transparency and audit purposes. A review of compliance is planned to take place at the end of 2016.
32. Greater prominence has also been given to the Public Interest Disclosure Act telephone line operated by the Independent Police Complaints Commission (IPCC) to support whistleblowers in coming forward. In March 2016, the College of Policing published national whistleblowing guidance titled *Reporting Concerns* to improve knowledge of the reporting options, and also set out best practice on handling whistleblowing cases, including the level of support whistleblowers should expect to receive.
33. Through the Policing and Crime Bill, the government has taken action to ensure that those working for the police have the confidence to come forward to report concerns of corruption, misconduct and malpractice. The government is making changes to legislation to strengthen protections for whistleblowers. This includes strengthening the independence of the existing IPCC reporting line by removing the requirement for the IPCC to pass the concern back to the force, allowing the IPCC to investigate whistleblowing allegations with greater independence and providing for the use of covert methods where necessary.
34. The government is also legislating, via the Policing and Crime Bill, to ensure that all allegations about chief officers will, in future, be investigated by the IPCC. This will avoid the scenario whereby a chief of a police force investigates a chief of another police force.

35. The College of Policing published a Code of Ethics in 2014 which sets out the exemplary standards of behaviour for everyone who works in policing. It makes clear that those in the policing profession should behave in a manner, whether on or off duty, which does not bring discredit on the police service or undermine public confidence in policing.
36. The Leveson Inquiry Report also included proposals on the use of the police national computer, the rules which govern its existence and the rigour of the auditing process. Her Majesty's Inspectorate of Constabulary (HMIC) has set up an ongoing programme over three years to inspect the use of the police national computer by non-police organisations and this is now underway.

Chapter 4. Incentives to join a recognised regulator – section 40

Background

37. As part of the Inquiry's report framework for a new system of voluntary self-regulation, as set out above, the Inquiry recommended two incentives to encourage the press to join a recognised self-regulator, but with no compulsion to join. These were agreed as part of a cross-party agreement and subsequently legislated for in the Crime and Courts Act 2013. These were:

Exemplary damages (sections 34-39) - members of a recognised self-regulator would, in principle, be exempt from paying exemplary damages in relevant media-related court cases. Exemplary damages are awarded in cases where there has been a deliberate or reckless disregard of an outrageous nature for a claimant's rights. The commencement date for these sections was one year after the Panel was established. These sections were commenced on 3 November 2015 and are now in force.

Costs provisions (section 40) - these provisions cover libel, slander, breach of confidence, misuse of private information, malicious falsehood and harassment. The court retains a general discretion as to the award of costs in all cases but the current presumption in civil cases is that it is the loser that pays the legal fees of both sides. Section 40 would change this presumption so that, in relevant media-related court cases, newspapers which are members of a recognised self-regulator are exempt from paying their opponents' legal costs, even if they lose a case. The presumption would also mean that newspapers outside a recognised self-regulator must pay their own and their opponents' legal costs, even if they win a case. The section 40 incentive is based on the fact that recognised self-regulators have to have a low cost arbitration scheme that replaces the need for court action. There was no commencement date set for this section on the face of the Act and it is not currently in force.

38. In October 2015 the then Secretary of State for Culture, Media and Sport indicated in a speech to the Society of Editors that he was not convinced the time was right to commence section 40. He cited a number of factors which needed consideration including the changes underway within the industry, the introduction of the new exemplary damages provisions, and the pressures on the industry.

39. Since then, representations have been made by a range of stakeholders on both the advantages and disadvantages of commencing section 40. For example, some victims of press abuse and their representatives have publicly argued for the immediate commencement of section 40. Their view is that it could bring substantial benefits for ordinary citizens by providing improved access to justice and protections for journalists against the threat of high cost libel claims. They believe it is a vital incentive to encourage publishers to join a recognised self-regulator. Moreover, they argue that non-commencement is a breach of the cross-party agreement. Conversely, representatives of some part of the press have argued that commencement of section 40 would have a chilling effect on the press, particularly local titles, as publishers outside a recognised self-regulator may be threatened with legal action by those wishing to suppress stories that are in the public interest, relying on the presumption they would have their legal costs paid regardless of whether they won or lost. Furthermore, they argue that there was little discussion with publishers when the self-regulatory framework and associated incentives were created and that the system does not have buy-in from the industry, which is crucial for a voluntary self-regulatory system. More information on these issues is set out in the options below.
40. This consultation is an opportunity for all interested individuals and organisations to set out their views and for those who have already provided information to the government to provide more detailed evidence around the potential impacts of the various options for the section 40 incentive. The government is clear that, following this consultation and depending on which option becomes the government's preferred approach, it will be important to have proper regard to the need to return to Parliament as Parliament has enacted section 40.

Options for next steps on section 40

41. The government considers there are four main options in respect of section 40. These are set out below:

Option 1: Keep section 40 under review

42. The government's position has been to keep section 40 under review. Given the changes that the press industry has gone through over the last four years, it has not been considered appropriate to commence it. One option is therefore not to commence the provision immediately and for the government to continue to keep matters under review to determine an appropriate time for commencement. The main argument against this is that it creates regulatory uncertainty and does not fulfil Parliament's intention following the cross-party agreement.

Option 2: Fully commence section 40

43. The government could make a commencement order to bring section 40 into force in its entirety. Proponents argue this will maximise incentives to join a recognised self-regulator and that newspapers that choose not to join in these circumstances are voluntarily laying themselves open to additional legal costs. Publishers that join a recognised self-regulator will be protected from costs which will enhance freedom of expression and investigative journalism. Others argue that paying both sides' legal costs, even if a publisher has won the case, goes against the principles of fairness and justice. There have also been suggestions that commencement of section 40 will increase the volume of cases brought, as the presumption is that claimants will be protected from paying legal costs for cases against publishers who are not members of a recognised self-regulator.
44. One of the key issues raised by some members of the press is that the potential financial impact on publishers who are not members of a recognised regulator if section 40 is commenced would be significant and could put publishers, particularly small, local newspapers, out of business unless they join a recognised self-regulator. They believe this goes beyond an incentive to comply voluntarily with the new system. As such we are keen to understand the evidence base regarding likely financial impacts of full commencement on individual publishers and the industry as a whole. To address this the government is particularly interested in views relating to:

The likely change in the volume of cases brought - and whether full implementation of section 40 would increase or decrease the volumes of cases brought against publishers outside a recognised self-regulator; and

The extent of legal costs associated with bringing and defending individual cases - understanding both the average costs of cases and the range of costs by type of case will provide a fuller understanding of likely impact.

Option 3: Repeal section 40

45. The third option would be to seek to repeal section 40 in the next appropriate legislative vehicle. The press are able to voluntarily join a recognised self-regulator, IMPRESS, independently assessed by the Press Recognition Panel, or any other self-regulator that gained recognition. Section 40 is not the only incentive to join IMPRESS; the exemplary damages provisions are already in force and current IMPRESS members have cited the reputational benefits of being regulated by a recognised self-regulator rather than IPSO. Others, however, argue that without the incentives to join a recognised self-regulator, there may remain only a very small proportion of the market covered by the new self-regulatory system. Given Parliament has legislated to create section 40, if there is no intention to commence it, or it is viewed as no longer of practical benefit, it should be repealed from the statute book.

Option 4: Partially commence section 40

46. A fourth option, now that IMPRESS has been recognised by the Panel, would be for the government to commence only those sub-sections of section 40 that would give protections to members of a recognised self-regulator. This would mean publishers who are members of a recognised self-regulator would be protected from the adverse costs arising from legal action brought by powerful claimants. Those who are not members of a recognised self-regulator would not share those benefits.
47. With regards to the elements of section 40 that apply to those outside a recognised self-regulator, the government could either leave these elements on the statute book and keep them under review for commencement at a later date (as set out in Option 1) or seek to repeal them in the next appropriate legislative vehicle (as set out in Option 3).
48. Partial commencement would therefore provide further incentives to join a recognised self-regulator while avoiding the elements of section 40 relating to paying additional legal costs where publishers are not a member of a recognised self-regulator.
49. As with full commencement, the government is particularly interested in estimates of the likely financial impact of partial commencement on the sector.

Reforms to Conditional Fee Agreements

50. Section 40 alters the costs rules, in terms of which party pays the legal costs. It does not affect how a case is funded. The reforms to 'no win, no fee' conditional fee agreements under Part 2 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 do not apply to defamation and privacy proceedings. The Coalition Government accepted Sir Brian Leveson's recommendation that the LASPO reforms should not go ahead for these cases without a regime of costs protection to protect poorer claimants from adverse costs. Whatever decision is made on the future of section 40 it will not, of itself, have any impact on the possible implementation of the LASPO reforms.

Consultation questions on section 40

Question 1: Which of the following statements do you agree with:

- (a) Government should not commence any of section 40 now, but keep it under review and on the statute book;
- (b) Government should fully commence section 40 now;
- (c) Government should ask Parliament to repeal all of section 40 now;
- (d) If Government does not fully commence section 40 now, Government should partially commence section 40, and keep under review those elements that apply to publishers outside a recognised regulator;
- (e) If Government does not fully commence section 40 now, Government should partially commence section 40, and ask Parliament to repeal those elements that apply to publishers outside a recognised regulator.

Question 2: Do you have evidence in support of your view, particularly in terms of the impacts on the press industry and claimants? If so, please provide evidence. (We are particularly interested in hearing from legal professionals - using their experience of litigation - in respect of the financial impacts on publishers outside a recognised self-regulator should government fully commence section 40, and specifically on (a) the likely change in volume of cases brought; and (b) the extent of average legal costs associated with bringing or defending individual cases).

Question 3: To what extent will full commencement incentivise publishers to join a recognised self-regulator? Please supply evidence.

Please use our online survey to respond to these questions.

Chapter 5. Part 2 of the Leveson Inquiry

Background

51. When the Leveson Inquiry was set up in 2011, the full details of phone hacking were still coming to light. The terms of reference for Part 2 (see Annex A) were drafted before Part 1 had started. Since then, three primary police investigations, Operations Elveden, Tuleta, and Weeting (including Operation Golding) have investigated a wide range of offences at a total cost of £43.7 million to the public purse.
52. Operation Elveden investigated misconduct in public office resulting in prosecutions of police and police staff, journalists from a number of newspaper groups and public officials (such as prison officers, soldiers and civil servants) for accepting payments for releasing personal data to the press. Operation Weeting (including Operation Golding) investigated conspiracy to intercept communications (phone hacking) and Operation Tuleta investigated breaches of privacy which fell outside the remit of Operation Weeting, including computer hacking. These operations had comprehensive terms of reference, and conducted full and wide ranging investigations.
53. The extent to which the police received corrupt payments or other inducements, or were otherwise complicit in such misconduct or in suppressing proper investigation, and how this was allowed to happen, has emerged from the investigations. This includes, for example, allegations that the police accepted money for supplying information to journalists.
54. The investigations also examined the extent of unlawful conduct at News International and the Mirror Group as well as the Express Group. These included investigations into conspiracy to commit misconduct in public office and phone hacking itself.
55. As a result of these investigations, more than 40 people have been convicted. This includes 11 police officers and police staff, all of whom were subsequently dismissed. In addition, two further officers were dismissed for gross misconduct. There have also been 19 public officials who have been convicted, and 10 journalists. The prosecutions and convictions sent a clear message to all police officers and public officials that receiving payments for confidential information would not be tolerated and would be robustly dealt with.

56. The way in which police forces have investigated allegations of unlawful conduct by people within media organisations and the conduct of prosecuting authorities was also reviewed by Part 1 of the Inquiry. Sir Brian Leveson thoroughly reviewed the initial investigation of the Metropolitan Police Service into phone hacking (Operation Carylaid) and the role of politicians and public servants in relation to any failure to investigate wrongdoing in News International. He was satisfied that the officers who worked on Operation Carylaid approached their task with complete integrity and that the decision made in September 2006 not to expand the investigation was justified. Part 1 also considered the circumstances in which the decision was taken not to reopen the investigation in 2009 when more evidence came to light. Sir Brian Leveson outlined a series of mistakes made but concluded that these errors were a matter of poor decision-making and judgement rather than anything more untoward. He found no evidence that the police were influenced by the press.
57. The Report also explored the approach and response of the Crown Prosecution Service (CPS) to the investigation and concluded that they advised on an entirely appropriate strategy of targeted prosecution which was pursued effectively to conviction. In September 2012, the Director of Public Prosecutions at the time published formal guidelines on the approach prosecutors should take when assessing the public interest in cases affecting the media. The Inquiry's report welcomed this contribution and the clarity it provides.
58. The police, HMIC and the College of Policing are subsequently implementing all the Inquiry's recommendations with policies and procedures to provide reassurance around the relationship between newspaper organisations and the police, prosecuting authorities and relevant regulatory bodies. Operation Weeting also spent three years comprehensively re-examining all the material possessed by Operation Carylaid, and concluded that everything that could have been done at the time had been done. Any further review of Carylaid would therefore duplicate exactly what Operation Weeting has already done.
59. There has also been a great deal of reform in the press industry. As Chapter 3 sets out, the government has implemented a new system of press self-regulation and IMPRESS has recently been recognised by the Press Recognition Panel.
60. Given the extent of the criminal investigations and Part 1 of the Inquiry, the implementation of the recommendations following Part 1 including reforms within the police and the press, and the cost to the taxpayer of these investigations (£43.7 million) and of Part 1 (£5.4 million), the government must now consider whether proceeding with Part 2 of the Inquiry is appropriate, proportionate and in the public interest. Some consider that the Leveson Inquiry has succeeded in what it set out to achieve and the media and police have made significant changes to their operations. Others feel that further work through Part 2 is still

required. This consultation seeks to gather evidence to help inform the government's decision on next steps.

Options for next steps on Part 2 of the Leveson Inquiry

61. There are two options relating to Part 2 of the Leveson Inquiry, taking into account the original terms of reference (see Annex A). These options are set out below, but the government is clear that, before it can take any final decisions in relation to Part 2 of the Inquiry, it will need to consult Sir Brian Leveson, as Chair of the Inquiry, in accordance with the Inquiries Act 2005. This public consultation does not supplant the need for such engagement with the Inquiry Chair. Instead the purpose of this public consultation is to help inform the government's approach before pursuing the formal steps required under the Inquiries Act 2005.
62. As set out in the background section of this chapter, many of the terms of reference have already been covered by the criminal investigations and Part 1 of the Inquiry. In setting out these two options, the government is keen to understand if there is further evidence available to inform next steps.

Option 1: Continue with the Inquiry, either on the original terms of reference or an amended terms of reference

63. The first option is to continue with the Inquiry, under the Inquiries Act 2005, either using the full terms of reference as originally conceived in 2011, or an amended terms of reference. Given it appears that many elements of the terms of reference have already been covered by the criminal investigations and Part 1 of the Inquiry we are interested to hear views on whether continuing the Inquiry based on the 2011 or an amended terms of reference is still proportionate and in the public interest.

Option 2: Terminate the Inquiry

64. The second option is to terminate Part 2 of the Inquiry. The police service in England and Wales has undergone significant reform since the Leveson Inquiry, particularly in its relationship with the media. Similarly, the press has undergone significant changes. For example the majority of the press are regulated by IPSO, a new self-regulator, and IMPRESS has recently been recognised by the Panel. The government is keen to understand whether the reformed institutional structures in both the police and the press mean that there is public confidence that neither phone-hacking nor other press abuse could happen again today on a systemic basis.
65. Please indicate if you think that the government should adopt any other course of action.

Questions on Part 2 of the Leveson Inquiry

Question 4: Do you believe that the terms of reference of Part 2 of the Leveson Inquiry have already been covered by Part 1 and the criminal investigations? If not which terms do you think still require further investigation?

Question 5: Do you have evidence in support of your view? If so, please provide your evidence.

Question 6: Which of the two options set out below best represents your views?

- Continue the Inquiry with either the original or amended terms of reference
- Terminate the Inquiry

If you think the government should take another course of action to those set out in the question above, please set out your views.

Please use our online survey to respond to these questions.

Annex A: Terms of reference for the Leveson Inquiry

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.
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.

Annex B: Section 40 of the Crime and Courts Act 2013

40 Awards of costs

- (1) This section applies where—
 - (a) a relevant claim is made against a person (“the defendant”),
 - (b) the defendant was a relevant publisher at the material time, and
 - (c) the claim is related to the publication of news-related material.

- (2) If the defendant was a member of an approved regulator at the time when the claim was commenced (or was unable to be a member at that time for reasons beyond the defendant's control or it would have been unreasonable in the circumstances for the defendant to have been a member at that time), the court must not award costs against the defendant unless satisfied that—
 - (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator, or
 - (b) it is just and equitable in all the circumstances of the case to award costs against the defendant.

- (3) If the defendant was not a member of an approved regulator at the time when the claim was commenced (but would have been able to be a member at that time and it would have been reasonable in the circumstances for the defendant to have been a member at that time), the court must award costs against the defendant unless satisfied that—
 - (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator (had the defendant been a member), or
 - (b) it is just and equitable in all the circumstances of the case to make a different award of costs or make no award of costs.

- (4) The Secretary of State must take steps to put in place arrangements for protecting the position in costs of parties to relevant claims who have entered into agreements under section 58 of the Courts and Legal Services Act 1990.

- (5) This section is not to be read as limiting any power to make rules of court.

- (6) This section does not apply until such time as a body is first recognised as an approved regulator.

Annex C: Further information about this consultation

For enquiries about the practicalities of responding to this consultation, rather than responding to the content, please contact the DCMS Ministerial Support Team at the Department for Culture, Media and Sport, 4th floor, 100 Parliament St, London SW1A 2BQ or email using the form at www.gov.uk/contact_us.

Information provided in response to this consultation, including personal information, may also be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (“FOIA”), the Data Protection Act 1998 and the Environmental Information Regulations 2004).

The Government may publish responses received. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, please identify, and provide explanation for, any information that you consider confidential and do not wish to be disclosed.

If we receive a request for disclosure of the information, we will take account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. It would need to be considered appropriate under the relevant legislation. You should note that many email messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-disclosure unless accompanied by an additional specific request for confidentiality.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.