

narrative of fact is available, against which to judge the efficacy of the present system of self regulation promulgated through the Press Complaints Commission and any proposals to amend or replace that system.

- 1.33** I can illustrate this necessary inhibition on what I have been able to do with a simple example. In his first statement to the Inquiry, the editor of The Times, James Harding, made a passing reference to a single instance of computer hacking. This was not investigated further at that time but, in a masterly analysis, David Allan Green linked the reference to the exposure of a blogger known as Nightjack. That led to a letter and a further statement from Mr Harding which resulted in his being recalled to give evidence. Because the Nightjack incident had been the subject of litigation, the then legal manager of The Times, Mr Alastair Brett, appeared at the Inquiry when the matter was analysed in some detail. On the basis of this evidence, it would certainly be possible to draw a number of important conclusions about what happened at The Times and about internal governance and legal risk management. However, because the journalist who was said to be at the centre of this incident has now been arrested for offences of computer hacking and attempting to pervert the course of justice, it is not appropriate to risk prejudice to that investigation or to any possible trial by further discussing it.
- 1.34** A further consequence of this has been the need to avoid the possibility of inferential criticism of those who are currently the subject of criminal investigations. So, for example, a criticism of the governance arrangements at a particular newspaper, whether in general terms or directed at particular members of the management team, could, by implication, be interpreted as a criticism of others, elsewhere within the organisation. The requirement on me to tread this careful path might mean that some readers of this Report are surprised that a number of senior executives who gave evidence are not subject to the criticisms that might otherwise have been expected or, at least, discussed. It is, however, the consequence of the imperative not to or cause substantial prejudice to the investigation or prosecution of allegations of crime.

2. The gathering and presentation of evidence

Module One

- 2.1** As I have explained, many public inquiries follow some incident or event which has immediately been the subject of police or other investigation, so that the product of that investigation will be able to form the basis body of evidence upon which the inquiry can rely for its facts. In the case of this Inquiry, however, although aspects of the Terms of Reference had been or were the subject of litigation,¹¹ the police investigation was ongoing. Although the Inquiry obtained evidence both from the civil and public law actions, the collection of evidence even for Module One (the press and the public) required trawling from a very wide range of people including (a) individuals who complained that they have been the subject of press criminality or intrusion (one of whom gave evidence with the benefit of complete

¹¹ This includes the civil actions of Gordon Taylor and Sienna Miller which were of critical importance to the greater understanding of the truth behind the assertion of 'one rogue reporter', the many civil actions conducted before Vos J and the public law review of the conduct of the Metropolitan Police in relation to Operation Carylaid