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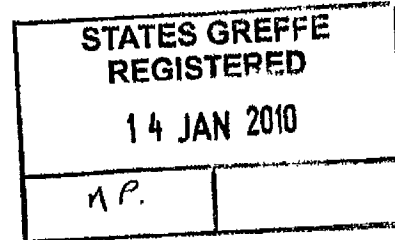


Jersey Evening Post

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Senator B.E. Shenton,
Chairman, Media Working Party,
States Greffe,
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13 January, 2010

Dear Ben,

I write in response to your invitation for comments on the ways in which information about the States of Jersey reaches the Island public.

My observations relate mainly to the role of the media in that process, with particular reference to point (c) of your media working party remit (i.e. 'Who are the media?'), and are made in the context of the major changes which are currently affecting the regional newspaper industry.

Clearly, the rapid growth of digital communication has altered the relationship between government, citizens and those who have traditionally mediated the information passing between them (literally, the media). Equally clearly, it has the potential to change it even more dramatically in the future.

However, while the digital revolution will no doubt continue to throw up unpredictable new challenges and opportunities, some of the fundamentals will not change.

From our point of view, those basics notably include the public need for easy access to independently evaluated and authoritative information. While the means of delivery will evolve in new ways, there will continue to be a demand for the time-honoured newsgathering and editing skills which trained, professional journalists bring to the processes of information selection and explanation.

Indeed, it may be argued that these professional skills will come to be of more, rather than less, public importance as the on-line plethora of undifferentiated information continues to grow; as both government and commercial interests employ increasingly sophisticated spin techniques; and as untrained individuals with no commitment to accuracy or balance launch blogs and websites under the misleading banner of 'citizen journalism'.

The public needs and wants information it can trust. That can come neither directly from the government nor from the mixture of partial pamphleteering, gossip and hearsay which typifies many blogs in both the UK and CI, particularly those with politics and government as primary interests.

Who is a journalist?

Assuming, then, that it is accepted that responsible journalism has a key role to play in keeping the public informed, the question arises of how a journalist may be defined. Now that anyone with a laptop and a modem can publish material on the internet, this question is far more complex and difficult to answer than in the past.

That is particularly the case because, as journalists, we have never claimed greater statutory rights of access to information than those afforded to any member of the public whose interests we aspire to protect and represent. For us to do so would risk encouraging a completely unacceptable situation in which our activities are authorised and regulated by government authorities.

The result is an occasionally tense accommodation with officialdom in which certain media, usually because they have built up a relationship of trust with both readers/audience and sources of information over a long period, are informally recognised as having established a right to seek information and ask questions in the public interest.

Almost without exception, places among those recognised media have been the exclusive preserve of commercial operations, employing professionally trained and managed journalists, full-time, part-time or freelance. As the media landscape fragments and diversifies, there is no reason to suppose that this can, or even should, necessarily continue to be the case.

However, there are certain other professional characteristics which distinguish true journalists whether they are employed by commercial organisations or not.

They include:

- ◆ Commitment to accuracy and truth.
- ◆ Commitment to fairness and balance in reporting.
- ◆ Clear differentiation between factual reporting and comment.
- ◆ Clear differentiation between commercial promotion and journalism.
- ◆ Ethical conduct with regard to issues such as privacy, intrusion, subterfuge in newsgathering, payment for information and protection of sources.
- ◆ Adherence to (and training in) the relevant laws of the land, notably those concerning contempt of court, defamation and data protection.
- ◆ Availability of redress for parties aggrieved by publication.

For all British newspapers, the JEP among them, many of those commitments are enshrined in the Editors' Code of the Press Complaints Commission, reinforced where they relate to commercial considerations by the requirements of the Advertising Standards Authority and the Audit Bureau of Circulation. Other established media have their own codes of conduct and professional guidelines.

In the case of the broadcasting media, established 100 years or more after newspapers, these are influenced by statutes and charters. By contrast, professional bodies representing newspapers (Newspaper Publishers Association, Newspaper Society, Society of Editors) have continued to argue with success against statutory regulation and in favour of a system of self-regulation as the best means of balancing a requirement for responsible conduct with the all-important freedom to comment, to stimulate public debate and to provide a platform for that debate.

This works partly because of the clear distinction between factual reporting and comment. New idioms created by the development of online publishing have blurred the lines and sometimes made that distinction more subtle, but the majority of professional journalists in Britain remain fundamentally committed to the celebrated dictum of C P Scott of the Manchester Guardian that 'comment is free, but facts are sacred'.

Accreditation

In considering the future relationship between the States of Jersey and a rapidly diversifying range of channels of information to the public, it has been suggested that a system of media accreditation may be considered.

For the reasons touched upon above, it is democratically unacceptable for government to be the arbiter of who can and cannot have access to official information. The overdue but imminent Freedom of Information (Jersey) Law acknowledges this principle and is a welcome step towards the greater openness which the States of Jersey have long promised but struggle to embrace. (A copy of my letter to the Privileges and Procedures Committee about the FoI Law is attached.)

Even though the desirability of free general access to information may be a given, however, there could still be occasions when practical considerations dictate that special consideration may reasonably be given to representatives of established and proven media outlets. In very broad terms, it is the distinction exemplified by the co-existence of press and public galleries in the States Chamber. It might apply also to such practical matters as press conferences, embargoed reports and arrangement of interviews.

It is not for the media to suggest that such distinctions should be made or in what precise circumstances. If they are to be made, however, the hallmarks of professionalism listed above should be the basis for doing so.

If evidence is required that an individual is a true journalist, it will often be available in the form of press cards issued either by individual organisations, such as the JEP, or by national professional bodies such as the Newspaper Society or the National Union of Journalists.

Open government

Whatever kind of organisation may be put in place to improve the dissemination of official information, and whatever the channels of communication may be, the most constructive single step the authorities can take is to impose on the public service the deep culture change required to establish an assumption that all States information should be freely and readily available, other than in rare circumstances.

This culture change needs to take root at political as well as officer level. The tendency to 'spin' information through the use of euphemistic language, in the manner of political parties elsewhere, continues to be a nuisance. There is also a growing tendency by the Council of Ministers to prevent media access to background reports by putting almost all items on the confidential B part of their agendas and leaving it to ministers to decide which items should move to the publicly available A section.

A carefully signposted website, or series of sites, designed to be rather more user-friendly than the current gov.je would seem the best and most cost-effective means of getting large amounts of systematically grouped, tagged, but otherwise unmediated information into the public domain. By contrast with gov.je, the States Assembly website is attractive and easy-to-use model.

The creation and distribution of printed products such as leaflets, brochures and posters is also clearly necessary up to a point and a very worthwhile objective for the States Communication Unit, which now appears from our perspective to operate more straightforwardly, and therefore more effectively, than at times in the past.

Government as publisher

Care should be taken, though, to resist any temptation for the States to become a publisher in its own right. This has happened in some parts of the UK where local authorities have launched their own publications, with the result that (a) local newspaper advertising revenues have been undermined through the removal of advertising for official notices and public recruiting and (b) the public is less credibly informed because government information is being presented unmediated, a very unhealthy development for democracy.

At a time when local newspapers face unprecedented challenges from a combination of economic conditions and new online advertising platforms, this process has set up vicious circles in some parts of the UK, in which local government action makes local media weaker and so less able to report authoritatively on local government activity.

Concern at the impact on local democracy of these developments has been expressed at high political levels in the UK. In a recent Early Day Motion expressing concern about government-funded 'news', Paul Burstow MP remarked: '...local and regional newspapers have a long track record of serving and being at the heart of their communities (and) are widely acknowledged as the most trusted of all media...The independence of local media is vitally important to proper scrutiny and accountability.'

The Prime Minister made similar remarks in a statement supporting the Newspaper Society's Local Newspaper Week in 2008. (Statement attached.)

I am sure you would agree that an independent press is an indispensable pillar of democracy, for which reason I trust that we have a common objective in keeping access to official information, events and activities as open as possible.

I hope that these brief observations will aid your deliberations and will be happy to discuss any points further if you wish.

Yours sincerely,

CHRIS BRIGHT
EDITOR

Enc:

Our Ref: CB/CAW/EDIT11

Mrs. J. Gallichan,
Chairman, Privileges and Procedures Committee,
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24 November, 2009

Dear Juliette,

I write in response to your invitation for comments on the draft Freedom of Information Law white paper.

Firstly, I would like to offer congratulations to Privileges and Procedures for your decision to seek to add the force of law to the principles of freedom of information in Jersey. It has long been the editorial view of this newspaper that such a law is an indispensable adjunct to the democratic process in a ministerial system and that a code cannot be an adequate substitute.

We therefore warmly welcome the proposed new law. In respect of the Code v. Law argument, I fully endorse the white paper's view that only legislation can bring about the culture change required to establish the degree of transparency legitimately demanded of government by the modern citizen. Our experience as journalists over very many years has been that the States, at both political and officer level, too often continue to act in accordance with an outmoded instinct for confidentiality, whether necessary and justified or not.

Although there have been recent improvements in this respect, exemplified by informal policy development at the Chief Minister's and Treasury departments, the enshrinement in law of a presumption of openness – effectively the opposite of the traditional official position – will be necessary to effect lasting change across the public sector, in our view.

We also welcome the inclusion in the draft legislation of a 'public interest' ground for seeking information, a category which is likely to be of particular significance to the media, whose inquiries under the law will almost always be made with a view to publication on the basis of their general significance. For that reason, we anticipate that a Freedom of Information Law will become an important aid to the process of newsgathering and informing the Jersey public.

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The appointment of an Information Commissioner, reporting directly to the States and responsible also for data protection issues, is also a welcome part of the proposals. Since her appointment, the current Data Protection Registrar has brought about great improvements in this potentially difficult area by a clear and common sense-based approach which we hope will serve as a guide for the wider application of the Freedom of Information Law.

There are a few areas of concern in the draft proposals, however.

- ◆ **Exemptions.** The range of exemptions is so wide that any public body wishing to withhold information could find a reason for doing so if it wished. The key to the success of the law must therefore be a robust primary appeals procedure, involving a strong and independent Information Commissioner. In particular, exemption (ix) on 'damage to the economic interests of the Island' is a worryingly vague potential catch-all likely to be seized upon as a convenient reason not to release information.
- ◆ **Appeal process.** The case for the Royal Court being the final arbiter of appeals is not convincingly made and there seems no clear reason why the appeals structure should not mirror that of the Island's court structure in general, with recourse to the Court of Appeal and, conceivably, even the Privy Council.
- ◆ **Cost.** It is not clear who would decide whether or not the cost of meeting a request for information would be 'excessive'. Again, this provision would be open to potential abuse by an authority wishing to thwart a legitimate request.
- ◆ **Extent.** We do not understand why the law should not apply to all public and publicly-aided authorities and other bodies. The argument in Appendix 3 that publicly-aided bodies can be 'adequately held to account' by the Comptroller and Auditor-General appears to assume that all inquiries relevant to bodies would necessarily be financial. In reality, however, requests for information would be likely to cover a wide range of matters of public interest in the remit of important public bodies such as, for example, the Jersey Heritage Trust or Jersey Family Nursing. For the sake of clarity and legal certainty, there should at least be a comprehensive list of those bodies which would be covered by the law and those publicly-aided ones which would not.

A further thought relates to copyright. If it has not done so already, your committee may wish to consider whether copyright waivers might be required in relation to publicly-held information emanating from private sources. A case in point (and perhaps the main relevance) concerns plans and artist's impressions submitted to Planning. In many cases, it is in the public interest for these images to be released to the media as an aid to the greater public consultation on major developments to which that department is now committed. However, the copyright remains with the architects and potential developers, who are therefore able, at least in theory, to control its publication. I believe that this situation is outmoded and wrong in principle, for which reason I have drawn it to the attention of the Minister for Planning and Environment.

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I am not sure to what degree this specific issue overlaps with the provisions of the draft FoI Law but, as it clearly relates to the general question of freedom of information, I thought I would draw it to your attention too.

Thank you for the opportunity to comment on the proposals and good luck in presenting them to the States.

Yours sincerely,

CHRIS BRIGHT
EDITOR

cc Senator Freddie Cohen, Anne Harris

Gordon Brown: Local newspapers are 'at the heart of Britain'

6 May 2008

Local newspapers are critical to helping people take decisions on the way their local services are organised and funded, Prime Minister Gordon Brown has written in support of the Newspaper Society's Local Newspaper Week.

Local newspapers are right at the heart of Britain.

But local newspapers do not just hold the Government to account for the local impact of the changes we are making. They also play a vital role in campaigning for the changes which local people want to see.

There are some real challenges ahead for Britain as a country, every one of which has an impact on local people - whether it is providing more affordable housing, improving our health service, making sure all our young people have the skills to get jobs in the future, making our streets safer for decent people, or protecting our environment.

I know these challenges are appreciated by local newspapers up and down the country, and reflected in their campaigns, from encouraging shoppers to use fewer plastic bags, to tackling gangs and knife crime.

I believe that we can only meet all these challenges if we do more to listen to local people across the country and give them more power to take decisions themselves on the way their local services are organised and funded.

Local newspapers are a critical part of this process, and I know that there is a huge opportunity for them to lead more campaigns on the issues which matter.

And I want readers of this newspaper to know that when you participate in these campaigns, we are listening to you.

That is why one of my first acts as Prime Minister was to appoint individual ministers for every region in Britain to ensure that the demands and concerns of local people are heard at the centre of Government.

Already we can see - from the new Regional Development Agencies bringing jobs and investment to each region, to greater local powers over housing, health, skills and transport - there is a real and growing devolution of power away from Whitehall and down to individual regions and communities.

And I want to do even more to move away from the old Britain weakened by decades of 'Whitehall knows best', towards a new Britain strengthened by local centres of energy, initiative, dynamism and decision-making.

Local newspapers make an essential contribution to the vitality of local communities, and as a result our whole national life is strengthened. You show us what really makes the difference in our country is communities coming together to change things for the better.

Local Newspaper Week, which is this year celebrating the campaigning power of local and regional newspapers, runs until 11 May.