

25th April, 2024

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Dear Sir Brian

As you know, the government is seeking to remove Section 40 of the Crime and Courts Act 2013 from the statute book. I write now because a number of Members of both Houses who wish to contribute to Parliamentary debates on this matter are concerned at the ways in which Section 40 and the broader framework of independent press regulation is being characterised. In particular, Parliamentarians have noted that claims are being made that Section 40 is unjust, asserting that it undermines the freedom of the press in the following ways:

- a regulator recognised by the Press Recognition Panel must be regarded as a “state regulator”, with all that implies about government interference and powers of censorship;
- by forcing news publications to pay costs in libel cases even when they win, Section 40 offends against principles of natural justice;
- Section 40 threatens to bankrupt small publishers, which will not be able to afford to fight libel and privacy cases;
- it also threatens to “chill” good journalism and encourage SLAPPs;
- Section 40 is about the past and not the future, addressing out-of-date, historical problems when new ones are far more pressing.

I appreciate that you are not able to engage with what is a matter of political argument but I know that colleagues in Parliament would find it helpful if they were able, in the coming debates, to cite your recollection of how you took these challenges into account when developing your Report in 2012.

With all good wishes,

Professor Sheila the Baroness Hollins, FRCPsych, FRCPCH, FRCP hon, FHEA