



## New BBC Charter - has anything really changed?

By Liz Justice

The Government has announced a new draft Royal Charter for the BBC covering the next 11 years and aimed at ensuring that "a strong, distinctive, independent BBC will continue to thrive for years to come."

Using much of the flowery language of the previous Charter, the arguments on the day of the announcement focused on the naming and shaming of BBC presenters and journalists who earn more than £150,000. But this is a side-show and the BBC has far more to worry about, and a firm understanding that any debate will be cut short as the current Charter will expire at the end of this year.

The new draft BBC Charter amazingly whitewashes the licence fee debate. For those people who assure us that the licence fee is value for money - pence for the pounds spent with competitors - there is no problem. The Charter says it is not "ideal" but the best option and ignores the fact that it penalising infrequent viewers and the very poorest households. And to those glum people it cheerfully reinforces that the licence fee will rise with inflation over the next five years!

But where does that leave its longer term future and the idea of subscription fees? Sorry but again more long grass with a promise to explore the options.

Tony Hall, Director-General of the BBC, broadly welcomed the new draft Charter, saying: "This hard-won Charter is now an opportunity to write the next chapter in the BBC's history. It will deliver the strong and creative BBC the public believes in. It provides an 11-year charter and a licence fee guaranteed for 11 years. It endorses the remit, scale and scope of the BBC, and backs it as a great British institution."

With Ofcom taking the lead regulatory role, even the BBC Trust will be replaced by a Trustee Board in which the Government

will nominate key people - although apparently less than was expected.

Again Mr Hall reassures us: "The BBC is a public service broadcaster - not a state broadcaster. I am glad they have reconsidered. There will now be an equal number of board-appointed Non-Executive Directors alongside the ones appointed by the Government. And there will now be four Executive directors on the board too. An independent and strong BBC is what the public want and demand."

### Reasonable endeavours

Digital radio is obviously heralded as the new standard and the new BBC Charter states: "The BBC must use all reasonable endeavours to co-operate promptly and in good faith with any department of the UK Government involved in the planning or implementation of a digital radio switchover."

So returning to the argument of the day and the idea of publishing the names of those on £150k salaries. This was neatly delivered by Mrs May's new Culture Secretary, Karen Bradley, who said the new obligations to reveal details of stars' pay would help make the BBC a more "transparent and open" organisation.

Tony Hall steps in with "Our position on talent pay has not changed and all major broadcasters have questioned the merit of the proposal. The BBC is already incredibly transparent and we publish what we spend on talent pay - a bill which has fallen in recent years. The BBC operates in a competitive market and this will not make it easier for the BBC to retain the talent the public love. Ultimately, the BBC should be judged on the quality of its programmes."

He might, but most of us recognise the media is a take-your-chances kind of place,



photo: © Sarah Marshall

and for many the BBC will still continue to offer them the safest net for continuing to pay their mortgage while staying in the public eye.

After all, it says BBC personnel who earn more than that amount will be highlighted - but it will not say what any individual salary is. While I can hear the tut-tuts from those a bit precious about their routine of morning listening to the Today programme or BBC 2 using the radio they were given when they went to College or like my own Grandfather on the Gramophone in the living room - can I see revolution ahead?

I doubt it as for however many anti-licence fee payers agree with the "we don't need it" youth there isn't enough change in this publication for that.

More likely is that the draft Charter will be debated in Parliament and the devolved Parliaments this autumn before being presented to the Privy Council for approval.

One thing for certain is that the document will then come into force starting on January 1, 2017 - even if the Board of Trustees and Ofcom are lagging behind.

<https://www.gov.uk/government/news/bbc-charter-to-safeguard-future-while-delivering-transparency-for-licence-fee-payers>

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Editor



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## Editor's Comment

# Conference season

This Autumn the Chartered Institute of Journalists heads to the south west for its annual conference. The historic county of Dorset is a glorious location for our main gathering of the year. I am surprised it has taken us so long to escape from London. In fact we haven't ventured to the seaside for an Institute AGM for a good few years. I am sure I am not the only CIOJ member with happy memories of conferencing during the '80s, 90s and noughties in such places as Eastbourne, Worthing, Llandudno and – more exotically – Gibraltar and Malta! Hopefully this year's experience "beside the seaside, beside the sea" will tempt us to return to coastal venues for our meetings more often in future - whether or not we have time for a stroll along the prom-prom-prom or the brass bands still play Tiddely-on-pom-pom!

Of course, the CIOJ conference is not just about fish & chips and the bracing sea air. This is the key opportunity for members to interrogate the officers of the Institute and to debate the pressing issues of the day. Among these must surely be the various challenges to press freedom both here in the UK and throughout the world. If we look at the domestic scene, the picture is not particularly bright. Not only do we still have a confused situation on press regulation, with two rival regulatory bodies vying for industry support and public trust, but the decline of newspapers has meant a continuing shrinkage of jobs in journalism - in the past 10 years we have seen more than 300 local and regional papers closing down. Where will all this end? If we finish up with a muzzled national press and a decimated local press this will have far-reaching implications for democracy in this country, because accurate information and balanced journalism are absolutely key to any free society. We need an active, independent, national and local press to hold our lords and masters to account.

Globally, there are even bigger

challenges. In many countries freedom of the press is even more fragile than it is here in Britain - and in some it is non-existent. For thousands of our fellow journalists around the world, the hazards are infinitely worse than ending up in court or losing your job. Journalism can be a matter of life and death. Unsurprisingly, Iraq and Syria still head the league table of suppression and murder of journalists, but it is not just in Middle East war zones where it is highly dangerous to pursue our profession. Turkish President Erdogan and recently-elected Philippine President Duterte are among the leaders who seem to have no respect whatever for press freedom or the lives of journalists. The same could be said, of course, for Russia's Vladimir Putin, who has long been an enemy of journalism. Altogether more than a thousand journalists and media workers have been killed in the line of duty in the past two decades, many of them murdered by regimes or state agencies for the crime of trying to report the facts - or simply for asking too many tricky questions.

Let us not forget those members of our profession, world-wide, who have paid the ultimate price.

Andy Smith

## CIOJ Annual Conference 2016

Saturday October 15

Royal Bath Hotel,  
Bournemouth

See page 16 for full details

## CIOJ Council and PPB

### Your Council members are:

Norman Bartlett  
Andy Smith  
Keith Lockwood  
Michael Evans

### The Ex Officio members of Council are:

Mark Croucher, President  
Michael Hardware, Honorary Treasurer  
Janice Shillum Bhend, Vice-President  
Paul Leighton, Immediate Past President  
Tim Crook, Chairman, PPB

### Your PPB members are:

Tim Crook, Chairman  
Campbell Thomas, Vice-Chairman  
Amanda Brodie  
Janice Shillum Bhend  
Norman Bartlett  
Jim Filbin  
Andrew Kelly

# Journalist makes legal history

Legal history has been made in Edinburgh with The Investigatory Powers Tribunal awarding substantial damages to a Scottish investigative journalist after Police Scotland had unlawfully obtained his phone records to discover the identity of his sources.

The award of £10,000 to former police officer, Gerard Gallacher, is the first time any British court/tribunal has compensated a UK journalist for jeopardising the protection of his sources by intercepting his communications data.

Police Scotland failed to comply with a legal duty to seek the permission of a judge.

Its detectives were investigating the source of three articles published in April 2015 by the Sunday Mail newspaper about the failed murder inquiry into the death of 27-year-old Emma Caldwell in 2005.

Mr Justice Burton said in his ruling released on August 8: "Mr Gallacher was a persuasive advocate before us, and put before us orally and in writing his case as to the invasion of privacy, familial strife, personal stress and strain and loss of long-standing friendships which he alleged to result from the Respondents' (Police Scotland) unlawful acts."

The Tribunal said the compensation was necessary because the actions of Police Scotland had led to "a stultification of earning potential."

The CloJ's senior representative in Scotland, Campbell Thomas, said: "It is very welcome that the pendulum in protecting journalists' sources is now swinging back. It's a very significant outcome."

The Tribunal sitting in Edinburgh had ruled that obtaining the communications data was unlawful and breaches of Articles 8 (privacy) and 10 (freedom of expression) of the European Convention on Human Rights.

This decision contrasts with a Tribunal ruling in February when it declined to give compensation to Sun reporter Craig Woodhouse whose data over nine days had been accessed by the Metropolitan Police investigating 'Plebgate', the exposé about an altercation between police officers at Downing Street and Tory MP Andrew Mitchell (then a cabinet minister in the Coalition government).

The Tribunal observed: "Just satisfaction is provided by the declaration as to the infringement of Mr Woodhouse's rights."

# Seeing double

The potential farce of double press regulation is looming as the Royal Charter's Press Recognition Panel moves closer to approving IMPRESS, a rival to the main industry backed regulator IPSO.

IMPRESS recognition would mean that publishers not agreeing to Royal Charter-approved policing of their editorial standards could face penalties in media law disputes.

Sections 34 and 40 of the 2013 Crime and Courts Act give the courts power to impose punitive damages, and force media defendants to pay all sides' costs whether they win or lose.

The panel intended to declare its decision on August 23, but this was delayed after the News Media Association intervened and complained that: "The process followed by the PRP appears to have been designed with a view to granting recognition to IMPRESS under the Royal Charter without proper regard to the Charter's requirements."

Most of the UK press and magazine industry has contracted to independent self-regulation through the successor body to the Press Complaints Commission, namely the Independent Press Standards Organisation (IPSO).

This is headed by the former Appeal Court judge Sir Alan Moses QC and has recently introduced a low-cost pilot arbitration scheme for media law disputes.

The NMA warned the Press Recognition Panel chair David Wolfe QC that if it had granted recognition to IMPRESS it "will be susceptible to challenge that its decision is substantively and procedurally irrational and unfair."

The NMA has told the PRP that it can only properly discharge its public functions by refusing recognition of IMPRESS. It says that IMPRESS lacks public transparency over its funding, which it says is substantially dependent on a family trust linked to the media victim campaigner Max Mosley.

Mosley won £60,000 damages from the now defunct News of the World for an article alleging that an S&M party he had paid to take part in was a Nazi-themed orgy.

He is pursuing an action to the Grand Chamber of the European Court of Human Rights in Strasbourg seeking the right of all potential media privacy victims to be notified prior to publication.

CloJ President Mark Croucher commented: "The Institute is wholly opposed to a situation where a state approved regulator has legal privileges such as immunity from punitive damages for members being sued in media law cases."

He added: "It's farcical that there could be two different regulators, with two separate codes of ethics."

**Tim Crook**

# Warning over privatisation

The CloJ has called on the Government to ensure that privatisation of state agencies does not result in restrictions to journalists' access to digital databases.

There were fears that privatisation of the Land Registry could limit the ability of investigative journalists to seek information about corruption, special interests and questionable financial arrangements.

It has been reported that the government has quietly postponed the plan. The Institute is apolitical on the issue of privatisation, but urged caution in ensuring freedom of information access, and a continued quality of service.

While still in government ownership, the Land Registry has been deleting historical background documents to changes in property ownership, thereby making difficult to check signatures and the paper trail in relation to house transfers.

The Institute also warned Companies House against scaling back the access to files on failed businesses going back 20 years.

A proposal to restrict provision to only six years was viewed as a serious block on the public obtaining vital information on the record of company directors.

CloJ President Mark Croucher warned: "All journalists need to be able to research the background of business people taking decisions that affect the working lives and consumer experience of ordinary people."

He added that "telescoping down the access period so drastically amounts to a default cover-up of behaviour and conduct that dodgy directors would prefer to be expunged."

Companies House manages databases for UK companies, listing all directors, shareholders and annual returns of accounts.

The agency's proposal to reduce the time they keep records is the result of lobbying from business interests who wanted to reduce costs and restrict information on previously dissolved companies.

## Did you know?

Your annual subscription to the Chartered Institute of Journalists is tax-deductible? This applies to any Institute member who is a UK taxpayer, whether you are a staff journalist or a freelance.

## Restore ECHR to protect Turkey's journalists, says Institute

The Chartered Institute of Journalists has urged the Turkish government to restore the application of the European Convention of Human Rights and protect the position of the country's journalists and media workers.

In the wake of the failed military coup against President Erdogan, the CIOJ argues that respect for essential human rights such as freedom of expression (Article 10), right to life (Article 2) and the prohibition of torture and inhuman treatment (Article 3) are the best guarantees of democracy and peace in Turkey.

Institute President Mark Croucher said: "The Institute appreciates that Turkey is undergoing a catastrophic challenge to its democratic institutions. But a free and independent media working in a society where human rights prevail is the way ahead."

He added: "Mobile journalistic communication broadcast on live television news programmes enabled elected politicians to resist military takeover by speaking to the people. We urge the exercise of mercy, toleration



photo: © Ken Brookes

Croucher: Urging tolerance

and respect for all human rights in relation to all our fellow journalists and media workers in Turkey."

Turkey is ranked 151 out of 180 countries in the 2016 World Press Freedom Index. The CIOJ notes with concern that even before the attempted coup, journalist NGOs had complained that President Erdogan had embarked on "an offensive against Turkey's media".

The Institute is gravely concerned that the post coup backlash will worsen a situation where journalists have been routinely harassed, accused of "insulting the president", and where the country's internet has been systematically censored.

## The Journalists' Copyright Fund - How you could benefit

The Journalists' Copyright Fund (JCF) is a non-profit making body, run for journalists, giving grants for projects associated with copyright and for the benefit of all journalists and the general journalistic community. Ken Brookes, Past-President of the CIOJ, is the current Chairman of the JCF, and other Trustees represent the Society of Authors and the NUJ.

The JCF has allocated an amount of money each year with which to support projects that meet strict criteria. The JCF typically allocates between £200 to £6,000, and will consider one off applications or applications for up to three years' funding.

### Objects

The objects of the Fund are as follows:

- (i) To provide relief from poverty by making grants to persons who wish to enter the profession of journalism or who are practising journalists and who have need for training in the professional skills of journalism.
- (ii) To advance education by the support and funding of research and publication of literature and written material for journalists including guides, codes of conducts, directories and other publications.
- (iii) For such other objects in connection with journalism and/or the support of journalists as the Trustees may in their absolute discretion think fit.

### Who can apply?

The Journalists' Copyright Fund Trustees usually meet three times a year and applications are invited from individuals

and organisations for projects that meet one or more of these criteria:

- Projects from those who wish to enter the profession of journalism or who are practising journalists and who have need for training in the professional skills of journalism.
- Projects to advance education by research and publication of literature and written material for journalists, including guides, codes of conduct, directories and other publications.
- Projects in connection with journalism and/or the support of journalists, as the Trustees may in their absolute discretion think fit.

The CIOJ is itself submitting a Training Project for possible JCF funding, but this need not inhibit members from submitting their own ideas if thought appropriate.

### How to apply

Please complete the application form which can be downloaded by application to the CIOJ Chief Executive, Dominic Cooper. The JCF Trustees will only consider applications submitted on this application form. Applicants may also be required to attend a meeting to discuss their application. The JCF Trustees reserve the right not to make an award in any given year if judged to be appropriate.

Please submit your application to the Journalists' Copyright Fund by email to [pamelam@nuj.org.uk](mailto:pamelam@nuj.org.uk) or print and post it to:

#### Journalists' Copyright fund

c/o Pamela Morton, NUJ, 308-312 Gray's Inn Road, London, WC1X 8DP

**Deadline:** Monday October 24, 2016

## Senior police officers call for more secrecy

In a move widely condemned as hypocritical by journalists and by victims of false accusations, the Chief Constables' Council is demanding that official complaints about the conduct and behaviour of senior police officers should be kept secret.

A report by journalists at The Mail on Sunday has revealed that at a meeting between the Chief Constables' Council and the Independent Police Complaints Commission, the CCC said it was "damaging" for accusations against senior policemen to be made public. Currently, when investigations into the highest-ranking officers are launched by police forces or the IPCC, the identities of those facing disciplinary action can be revealed. But the Chiefs want the names of those being investigated to be kept out of the public domain unless they are found guilty. It could mean details of the claims against

them remain secret for several years – or even concealed for ever if the charges are not proven.

The IPCC is currently investigating eight top-ranking officers, from six forces across England and Wales, and according to The MoS a further six more chief constables, assistant chief constables and deputy chief constables are having their conduct scrutinised by external police forces.

The CCC argues that "Press releases can be damaging... as the media will run with big stories. It may then transpire that there is no case to answer."

No such protection is being advocated by the CCC for those outside the police service who are being investigated on what subsequently turn out to have been false accusations. Indeed, many lives have been ruined because the police have press-released their investigations.

# Unfair contracts – evidence needed

Have you ever been presented with a contract transferring all your rights, for the entire universe, for ever, by all publishing means including those not yet invented, then told “Sign this, or else!”? If you are a freelance journalist, or indeed any other kind of self-employed creator of intellectual property, the likely answer is ‘Yes’. What’s more, there are many in government and industry who say this is perfectly fair, and indeed the playing field is tilted in your favour, since you can refuse to sign, and the publisher (or whatever) will then be deprived of your excellent services. The fact that you may also lose your livelihood, your home and your starving family is almost irrelevant. In the trade, the action is called ‘rights grabbing’, and it’s found in most other creative industries, such as music, entertainment, photography and book publishing. I’ve suffered myself in this way, indeed very recently, up against one of the largest technical and scientific publishers in the world.

What can creators do about this situation? For a start, they’ve recognised that the problem of unfair contracts is not confined to a single industry, like freelance journalism, but is general and widespread. Secondly, that their resources – in lobbying, PR, legal assistance and especially financial backing – will never match those of major international corporations or even their smaller relations. Thirdly, and perhaps

most importantly, that happy creators are better creators and more productive creators who, if kept happy, will deliver even greater profits to their employers and exploiters. That means really fair contracts, with employers not even trying to secure greater rights or more extensive licences than are actually needed. Our campaign must therefore fight proverbial massed sledgehammers with the delicacy and effectiveness of a surgeon’s scalpel.

A joint committee, comprising representatives of many creators’ organisations (including myself for the CIOJ), has been quietly working on these truly massive problems for some time. Its particular current problem is gathering evidence of unfair, onerous and exploitative contracts to put to the government, Intellectual Property Office, individual MPs and other opinion-makers.

## You can help

Have you been faced with an unfair contract, calling on you to sign away all your rights in an article, a book or anything else, for the world, the galaxy or the universe, and even to waive all your moral rights (which are important, but do you know what they are)? Under duress, did you actually sign? Did you refuse and, if so, what was the result?

Whatever, we need your help. Please send me any examples you may have of unfair contracts, or even unfair clauses

in otherwise sensible documents, for our vitally important Evidence Dossier. Your name and affiliation will not be passed on, and the document itself will be anonymised to hide its origin.

The actual campaign, details of which are necessarily under wraps, is not yet under way, since we are still in the evidence-gathering stage, but it will happen sooner and with more chance of success if we can gather more evidence. Please send yours, no matter how small or large, to me, Ken Brookes, at Head Office. The sooner the better. And receive your own thanks, as well as mine, for your help, not just to journalists but to all self-employed creators.

By the way, the document that I was recently asked to sign, under “otherwise you will never work for us again” duress, consisted of four pages of small print composed by American lawyers for unpaid academic contributors. After about four weeks of tough negotiations, I conceded by email exchange an additional right that through my goodwill they already had in practice, and they agreed to pay a modest but useful amount more per published page. The final contract revision took less than five minutes and about a dozen words. Nevertheless, I don’t recommend my actions generally, unless you are extremely confident in your abilities (or mad).

**Kenneth J A Brookes**  
CIOJ Copyright Representative

## Rory Peck Trust appoints new Head of Programmes

Mary O’Shea is joining the Rory Peck Trust as the Trust’s new Head of Programmes.

O’Shea is a programme specialist with over 12 years international experience. She brings to the role extensive field experience, having worked on a freelance basis in countries including Sudan, Jordan, Tunisia, Sri Lanka, Lebanon, South Sudan, Maldives, Bangladesh, Togo, Ethiopia, Kazakhstan, Moldova and Timor-Leste.

Over the past decade, O’Shea has regularly provided independent programme advisory services to the UN and the EU. In 2014, she conducted the mid-term review of the UN’s large-scale electoral assistance project in Afghanistan, providing recommendations on the efficiency and effectiveness of the project in the emerging country context. At UNDP Asia Pacific, she co-ordinated a regional programme to support the Institutional and capacity development of National Human Rights Institutions across the region. She has also conducted numerous results-orientated monitoring of EU supported projects in

post-conflict contexts, bringing a donor perspective to her role at the Trust.

Prior to working with the UN, O’Shea was a Policy Desk Officer in the Human Rights & Democratization Unit of the European Commission, reporting on human rights issues across Africa and is currently Programme Specialist at Unicef UK, where she has supported the development of income-generating programmes through philanthropy and partnership engagement.

Mary O’Shea has also worked as a freelance journalist, and has been published in the Irish Times, South China Morning Post, Courier International and Index on Censorship Magazine. In 2013 and 2014, she was awarded Irish Aid’s Simon Cumbers Media Fund grant for journalistic reporting on development issues and was a contributor to Rosie Garthwaite’s book *How to Avoid Being Killed in a Warzone: The Essential Survival Guide for Dangerous Places*, published by Bloomsbury in 2011.

Trust Director Tina Carr said: “Mary brings a great breadth of experience and



valuable expertise to the Rory Peck Trust, and I welcome her knowledge, enthusiasm and energy. We very much look forward to working with her as she helps to take the work of the Trust into its next phase.”

Mary O’Shea commented: “I have long respected the work of the Rory Peck Trust and am delighted to be joining the organisation and contribute to its important work supporting freelance journalists around the world. My interest has always been the intersection between journalism and human rights, so this role brings together both my professional experience and my passion. I am very much looking forward to getting started in October.”

# The Institute's charities and what they mean to YOU

When a new member joins the Chartered Institute of Journalists, I like to explain that it is more than a talking shop, more than the oldest and most respected organisation of professional journalists in the world, an advisory body on copyright, journalistic legalities, professional practices and recommended rates and conditions, and a gatekeeper for the National Press Card. More than all of these, it's also a little like an insurance company in times of need. But you cannot take out fire insurance when the house is on fire! If times are hard, commissions are slow in coming and some of your correspondence is a nasty shade of red, the last thing you should consider – not the first – is cancelling or delaying your subscription. Instead, contact CIOJ HQ for a helpful and sympathetic ear, talk to our legal advisers (they can assist with non-journalistic as well as professional matters) and even think about our charities.

The CIOJ has four main charities. There used to be more but the number has been reduced and efficiency improved by amalgamations. In terms of endowment, the Orphan Fund is by far the largest, and over the years has achieved wonderful results in helping to look after children who unhappily have lost one or both of their journalist parents, even in some sad cases seeing them through childhood and university into their chosen career.

## In distress

Very different is the Benevolent Fund. Administered by the Institute's Council, but in practice by a very small subcommittee of national officers, when necessary it can take urgent action to help members in need or distress.

In addition, there are two other Institute charities, which like the Orphan Fund are run by dedicated teams of elected Trustees. These are the Oak Hill and T P O'Connor Fund, and the Pension Fund. The committees are elected by Council but, once elected, act independently. Their differing rules prevent amalgamation,

but Council decided a few years ago to simplify organisation by electing the same individuals to each committee. They have joint meetings and collectively are known as the Charity Committee. Elected by the Trustees, my colleagues, I have the distinct honour of being the current Chairman.

Oak Hill was, many years ago, a convalescent home owned by the Institute of Journalists, but eventually sold and the proceeds employed, as the Oak Hill Convalescent Fund, to pay for medical treatment and convalescence of professional journalists. Uniquely among Institute charities, both members and non-members could apply. A few years ago it amalgamated with the long-established but rarely employed T P O'Connor Fund, named after the journalist Thomas Power O'Connor, known as T P O'Connor and occasionally as Tay Pay (mimicking his pronunciation), an Irish nationalist political figure and a UK Member of Parliament for nearly half a century. Through the charities' amalgamation, the consolidated fund is able to help sick and aged journalists in poor or necessitous circumstances rather than just a medical condition.

The Pension Fund is what it says, a fund

that provides a welcome supplementary pension to recipients, with additional monetary gifts on birthdays and at that end-of-year holiday. The number varies according to the long-term prospects of its investments, but an announcement is made to members when there is a vacancy.

## Confidentiality

It's important to note that all grants (and occasionally loans) from CIOJ charities are absolutely confidential. Only Trustees of the individual charities are ever aware of recipients' identities.

If you wish to apply to Oak Hill and T P O'Connor, I'm afraid we'll have to ask you to fill in a form. It's as friendly as we can make it and designed to make life easier for you, by reducing the likelihood that we'd have to come back to you and ask for more information. And it can all be done by confidential email via our ultra-sympathetic CEO Dominic Cooper.

## Kenneth JA Brookes

**Past President of the CIOJ, Chairman of Trustees, CIOJ Charity Committee (Oak Hill and T P O'Connor Fund, and Pension Fund)**

## Risking their lives to bring you the news

Remember Omran? The five-year-old Syrian boy placed in an ambulance, in shock and bleeding after he was rescued amid the rubble of a crumbled building?

The only reason you or I can even picture this innocent boy and know his story is because journalists risked their own lives to capture this moment and to shine a bright spotlight on the need for dramatic action in Syria to help save lives.

But there's a frightening growing trend in the journalist community – and we need your help today to reverse the tide. In the last 10 years alone, nearly 800 journalists have been killed in the line of duty. Many more have been kidnapped, tortured or reported missing.

When journalists die, the information that they are struggling to get out to the world, dies with them. Reporters Without Borders is leading the effort as part of a worldwide coalition of organizations to defend journalists' lives by calling on the United Nations to appoint a politically powerful Protector of Journalists, a Special Representative of the UN Secretary General

for the Safety of Journalists.

Journalists endure risk after risk – and sometimes pay the ultimate price with their lives to share their stories with us. The CIOJ supports this campaign for a UN Protector of Journalists, and individual members of the Institute are also encouraged to sign up to support this important initiative to #ProtectJournalists.

## E-mail address

If you are not receiving regular messages from us via e-mail it is likely we do not have your up-to-date details. Don't miss out. Update your details today - [memberservices@cioj.co.uk](mailto:memberservices@cioj.co.uk)

## Recruitment

The Institute is offering a referral fee to any member who can help recruit new members.

Every Full Member you sign up will earn you £50. The new member will need to be sponsored by you and will have to satisfy our accreditation procedures.

Contact our Chief Executive for more details - [memberservices@cioj.co.uk](mailto:memberservices@cioj.co.uk)

# CIOJ charities to take a new turn?

The Chartered Institute of Journalists has had its own charities for many, many years. Some have been merged or assimilated into others during this long period and now there are just four in existence. Is it time, perhaps, to consolidate further to meet today's conditions and demands?

Presently the Orphan Fund dominates the quartet with investments in excess of £2 million that generated income last year of £89,000. It made grants of around £21,000 leaving a surplus of around £67,000. Our Benevolent Fund has investments worth £285,000, made grants of over £9,000 leaving it with a surplus for the year of about one thousand pounds.

The Pension Fund, with investments worth a quarter of a million pounds, has four pensioners currently. It made grants to them of almost £7,000 which represented almost all the income generated from the investments. The smallest fund, informally known as Oakhill, is a merger of the Oak Hill and the T P O'Connor Funds. It has inherited investments worth just over £200,000 which generated income of about £6,000 last year, of which £4,000 was paid out in grants.

The only income the charities receive comes from investments and deposits. The investments are with established charitable funds such as Charibond that pay dividends. Bank deposits pay interest but the interest received today is peanuts.

The picture that emerges of the Institute charities is of a rather unbalanced team.

Disregarding Oakhill, whose legacy funds and charitable objects are not entirely inclusive to the Institute, each of the charities has a different set of Trustees. There is also a worrying aspect of the funds' surplus. The Charity Commission takes a dim view of charities that build up large balances. The view is that a charity exists to help its beneficiaries or promote the objectives for which it was founded. A charity is not there to generate large fund balances. The Commission has the power to direct a charity to run down its balances. The Charity Commission is also a bit averse to small charities and has encouraged where possible the merging or acquisition of charities to make more viable and efficient organisations.

## Financial returns

One way that the Institute could bring greater compliance with the Charity Commission policy is to merge the three charities whose objectives are confined to the support and welfare of its members.

If the Orphan, Benevolent and Pension Funds were merged into one Welfare Fund it would immediately generate administrative savings.

The number of financial returns and reports would be reduced by two thirds which is no small factor in this day and age of compliance and anti-money laundering documentation. The number of Trustees could also be reduced which, again, reduces the burden of financial services bureaucracy.

The Institute would have in its Welfare Fund investments worth almost £3 million. As the investment amount available increases, the overhead charges as a proportion of the total will be lower, generating an additional amount of income.

Trustees would no longer be constrained by the allocation presently available. Thus the number of Institute pensioners could (not necessarily would) be increased beyond the present number. Neither would any unfortunate youngsters who had lost a mother or father who was an Institute member lose out. The funds available in the Welfare Fund would be adequate even if the number of orphans should be treble the number the Institute has supported over the last 20 or 30 years.

The trustees would be able to review the whole range of welfare needs of members and their dependants not, as at present, looking at one segment, detached from the others. With one Welfare Fund, the Institute would be in a far more logical and practical position to help its members should they get into situations where they need support.

Obviously this is a matter for the membership as a whole and not simply Council. The Institute's Annual Conference would be an ideal occasion at which to debate the matter.

## Norman Bartlett

**CIOJ Council Member and Trustee of Benevolent, Oakhill and Pension Funds, Past President of the CIOJ and Past Hon. Treasurer**

## A Word from The President

Much has changed since I sat down to write for the last issue in June. Can it really only be only four months ago? The UK has a new Prime Minister and the nation is set to leave the European Union. The proposed new Charter for the BBC has just been published, and one can but wonder what the prospects are for journalism when the greatest proponent of the seemingly inevitable Snoopers' Charter now occupies 10 Downing Street: the legislation continues its progress through Parliament, and the Institute continues its opposition to it.

Thought must now turn to our Annual Conference, which this year takes place in Bournemouth. I look forward to seeing many of you there, and to the debates to be had over the future direction of the Institute. I mentioned in the last issue our decision to address the issue of our colleagues who work in online media with a new category of membership tailored specifically to their needs: the eMCIJ for full time on-line journalists, and the AeMCIJ to equate to our existing affiliate membership grade for those

who work in on-line journalism but who do not earn the majority of their income from it.

However one views the on-line media, it is a significant and growing presence, and it is not difficult to imagine that at some stage it will if not replace then overtake the dead tree press, be that in five years or 50: it requires no presses, no printers, no distribution network and no trees. We must be in a position to prevent employers deciding it requires no journalists either!

Such a growth also raises other serious questions which are perhaps more evident to the young who increasingly rely on websites for their news rather than those of us – myself included! – who prefer a broadsheet or the BBC. How can you rely on what you read? Current on-line offerings range from the Daily Telegraph through to the conspiracy-theory heavy Infowars and on to the 'click-bait' which is designed solely to generate advertising revenue. There is no meaningful press regulation scheme on the increasingly crowded information superhighway, and no guarantee that what

is read wasn't simply made up 10 minutes before it was posted on-line.

It is a problem which I feel we should address, particularly if we are seeking to extend membership to our colleagues who work in this media. To this end there is a motion before Conference which seeks approval to introduce a 'Chartermark' for on-line news services and blogs. Such websites could display the Chartermark to signify that they adhere to the Editor's and the Institute's codes, and the Institute would offer a voluntary grievance scheme for complaints and maintain an on-line register of those news services who are signed up.

Your thoughts on these issues are not just welcomed, they are invaluable. Our membership is a vast pool of journalistic talent, and there is nobody more capable of providing the insight and experience necessary to make these plans work should we collectively as an Institute decide to pursue them!

**Mark Croucher  
President, CIOJ**

# Institute backs prison service whistleblower

The Institute has expressed its support for a former Belmarsh Prison Officer and trade union representative jailed in Operation Elveden, the Metropolitan Police operation investigating journalists who paid public official sources.

Most of the journalists have been acquitted or told they will not be charged. This was the case with the Daily Mirror and News of the World reporter Stephen Moyes. The Mirror group surrendered the confidentiality of his dealings with Mr Norman who was prosecuted for misconduct in public office and jailed for 20 months.

The institute is the only journalist organisation to campaign for Elveden sources. We are pressing for new laws to give sources greater protection and a legal remedy to sue journalists or publishers who 'burn' them to the police or anyone else.

Robert Norman is the only Elveden source challenging his conviction and sentence on the grounds that his rights under Article 8 and 10 rights under the European Convention of Human Rights were violated. The Lord Chief Justice and two other appeal court judges are expected to give their ruling in October.

His barrister, Kier Monteith, told the court Mirror Group Newspapers handed over Norman's details voluntarily to the police without a court-granted production order.

He said no newspaper can hand over sources, without breaching Article 10 of the European Convention on Human Rights dealing with freedom of expression and information.

The judge in Norman's original trial should have stayed the prosecution, because the police did not go through the proper legal process when obtaining information about a confidential journalistic source from the Daily Mirror publisher.

Norman leaked concerns about staff cuts, a plot to assassinate a governor and claims that a Roman Catholic chaplain was having affairs with inmates.

The proposed state approved regulator, IMPRESS, which is backed by the NUJ, has included in its draft standards code that "Publishers must not pay public officials for information, except as permitted by law."

It is astonishing that bodies purporting to represent the journalism profession should be confirming so enthusiastically the criminalising of journalism sources.

The 2010 Bribery Act has also criminalised the paying of any journalist sources as

it does not allow for any public interest defence for journalists and the people giving them information.

Like the hundreds of public officials I had, and may still have as protected sources, Mr Norman is a man of courage and conviction. He was on the front line of the acute crisis in our country's prison system.

He was a qualified and significant intelligence source serving the public interest to a free media in a democratic society that has a constitutional duty to hold government, and other state bodies to account in relation to the criminal justice system. He was an agent of democracy.

He was not being corrupted. He was being compensated, very modestly, for the appalling consequences of being discovered. This was not even a reward for favours. The £10,000 he received over 5 years for over 40 stories could not be construed in any way as bribery.

## Truth to power

He was offering truth to power. He was communicating to the public in the interests of democracy, liberty and the freedom to receive information about what was being done in the name of everyone in society.

That flow of information was the source for legitimate debate, political discussion at the highest levels of public interest speech, for the purposes of public safety, for the purposes of evaluating our criminal justice system, for investigating and applying scrutiny to the efficacies, and rights and wrongs of imprisonment, and the regime of custodial penalty in Britain.

The state having been delivered the total betrayal of his Article 10 and 8 rights cannot pick and choose a judgement call on every item of information that he provided.

This was a legitimate consultative relationship between a confidential source and journalist. The state and its judicial system had no right to subject this relationship to the lurid and prurient speculation as to the varying pressure gauge of Mr Norman's motivation, the personal likes and dislikes of his role at Belmarsh, and his relationship with the people he worked for and with.

What he did was at great and serious risk to himself and his family. The implications of discovery were sociological armageddon. This was visceral and personally existential.

The sacrifice he was making was the devastating vulnerability to sacking, destruction of career, loss of pension, the annihilation of social and professional esteem, and the sentence of long-term and most likely permanent unemployment.

What employer would ever take the risk on someone who spied for the public interest? The exclusion confidentiality of the Police



and Criminal Evidence Act protection of sources was created by Parliament to codify the longstanding common law pressing social need to protect public officials and give their courageous conduct safe harbour.

What he was also doing was also putting himself at greater risk of attack than the normal exigencies of his day to day job entailed. If there had been any suspicion that he were an observer and confidante for the public interest of journalism his life would have been on the line.

The payments were never a substitute for the living and dignity of secure employment that he jeopardised. They were honoraria to re-awaken confidence, assuage the terror of being discovered, reassure him as he lived with the constant fear of being exposed, constructed and condemned as the sneak and nark, and to confirm that his consultation and service were valuable, important, worthwhile and for the public good.

He and his journalist had committed to each other in the terms of a long term and serious relationship of one valued source to one professional and highly respected journalist. Mr Norman was not a prostitute of betrayal on hire to the highest bidders in the red light district of corrupt ignominy.

## Violence

Real corruption in this context, in other words confirmation of the motive that he was only doing it for the money, would have been rewards greater than he had for his actual employment in the prison service, and promiscuous as with whom he was going to trade, and non-discriminating in the secrets he was peddling.

Mr Norman reminds me of the working class agent called 'Steve' who risked his life for the Security Service for more than a decade by infiltrating the far right. By openly taking on the mask of the racist and fascist he lost his friends and endured the scorn and hatred of the people in his community that he valued most.

This agent saved lives and protected our society from atrocity, the explosion of racist violence and fracturing of peace and equilibrium. His work was wretched, terrifying, and all encompassing of his life's identity in public and private space.

While operating undercover, it is likely he would have received modest regular payments, as many such agents do, and when he stopped, MI5 gave him a £5,000 pay-off. Nobody for one moment could argue that he had been corrupted, that he had been bribed, or that he had even been vaguely and appropriately remunerated.

The money was a gift, an honorarium, a gesture of support and gratitude.

Mr Norman stayed with his journalist and his journalist stayed with him. It was the equivalent relationship of the intelligence officer and handler to his intelligence agent in the field. In Mr Norman's case the officer and agent were working for democracy and a free press, as the MI5 handler and far right undercover agent were working for the democratic imperative to thwart terrorism and the threat to public safety.

Both operations needed to protect the identity of the source for the public interest

to be served. The Article 10 protection of journalist confidentiality is sacrosanct, a pressing social need, and a democratic necessity as significant and as valuable as the Security Service running and paying for agents in the field to protect our national security.

Do not think for one moment that every aspect of the far-right infiltrating agent's spying and information gathering can be confirmed as morally justifiable or essential for the Security Service to know.

This system cannot operate by later 'with hindsight' forensic analysis, and confirmation of an intense balancing exercise of right and wrong, and measured against some artificial and subjective hierarchy of political speech to tittle-tattle gossip.

In 'Steve's' case, he slept with at least one of his intelligence targets. As he was homosexual and found the person attractive, it was not an assignment that he had any significant regret over.

The pillow-talk also yielded important information, but not every time they were in bed together. Can you imagine how a subsequent legal inquiry could problematically evaluate the legal and ethical virtue of this process? That is why common law, human rights law and legislation recognises that this actual narrative has to be covered by a legal veil, or shield.

The Daily Telegraph paid a public official well over £100,000 for a data disk of Parliamentary expenses that had been sealed from public access and denied to the public by the courts through freedom of information litigation.

Most of the information on that disc would not have satisfied the lofty resonance of the highest rung on the judicial public interest legitimacy ladder.

When the Sunday Times wished to expose the Thalidomide scandal, they paid their sources significant amounts of money.

## Undercover

What 'Steve' the undercover agent for MI5 and Mr Robert Norman, the undercover agent for the national press at Belmarsh Prison had in common was being prepared

to live in constant fear and to nobly serve the national and the public interest.

It may well be that I have to answer the key question: 'Would I have willingly paid Mr Norman what he was paid by the two national newspapers that his journalist confidante worked for? My answer is an unequivocal yes.

Mr Norman reminds me of a public official who had been my confidential journalist source over many years. I will always remember his terror, his fear, his apprehension and need to be reassured, his hope and worry that perhaps I could not be trusted, or even if I could be trusted, I may have been under surveillance, had been clumsy, and risked inadvertently exposing him.

I will always remember how during our meetings his blood pressure would drop, the cold sweat would collect on his brow, his hands would be shaking, and be freezing as we bade farewell and his terrified eyes would flit from side to side in constant consternation and agitation.

I've never worked for news organisations that had any budget to pay their sources. But if I could have offered my source compensation for the courage, to mark the risk and value of his consultation, I would have been more than happy to do so. I would have advised him of the risks, of the nature of the law, as I always advised him of the limitations and vulnerabilities of my role as his journalist conduit.

But I would have been grateful and wanting to express the gratitude of a free and independent media serving the interests of thousands and millions of people who wish to be free to read, listen and watch what interests them, what concerns them, what worries and exercises their politics, their prejudices, their hopes, aspirations and curiosity.

Mr Norman is not a criminal. He has nothing to be ashamed of. He is not a corrupted public official, nor a cynical sneak seeking to exploit the secrets of his work for private profit.

He is a hero to democracy and an agent for the public good. He was an invaluable asset to journalism and served the public interest with courage, commitment and integrity.

He has been greatly wronged and is the victim of an appalling miscarriage of justice. I believe it is my duty and that of the Chartered Institute of Journalists, the world's longest standing professional association of journalists to give him our support, our sympathy, our solidarity and our thanks.

**Tim Crook**



*Aerial view of HM Prison Belmarsh in Thamesmead, South East London. Credit: Kleon3 licensed under Creative Commons Satellite view of HMP Belmarsh. Credit: Google Maps.*

# Brexit for Journalists

By Norman Bartlett

Some see the decision to leave the EU as a disaster – a threat to the nation’s prosperity and a declaration of repugnance at European values.

Others see the vote as one for freedom from Brussels tyranny, an opportunity for the country to achieve international success yet still be a European power.

Then there are those – like me – who don’t think it is any big deal. That in five years’ time things will be much the same as at present. That people will look back on the summer of 2016 and wonder what all the passion was about.

There are three areas where changes could happen – legislative, judicial or social. I shall look briefly at how journalists and journalism might be affected. On legislation, remember that we as citizens are not directly affected by Directives, rulings or resolutions coming from Brussels. Everything must be transposed into national law and then enacted in London, Paris, Berlin and other capitals.

As journalists we expect to be able to do our jobs safely and our sources to be protected. These principles are enshrined not in EU regulations but Article 10 of the European Convention on Human Rights (the Convention) that originates with the Council of Europe, a much larger association of 47 countries. This is the Article that was breached by Murdoch and his minions when the complete records of the News of the World were turned over to the Police. Despite best efforts to try and overturn the injustices arising from that action, nothing has yet happened, EU or no EU.

The Council of Europe (not the EU) issued its Recommendation on the protection of journalism and journalists in April 2016. Paragraph 2 of its guidelines states: “Member States should put in place a comprehensive legislative framework that enables journalists and other media actors to contribute to public debate effectively and without fear. Such a framework should reflect the principles set out in this appendix and thereby guarantee public access to information, privacy and data protection, confidentiality and security of communications and protection of journalistic sources and whistle-blowers.”

The EU’s approach is to build on the Convention. It also declares: “The European Commission commits to respect freedom and pluralism of media.” It sets out to do this in a highly bureaucratic way with much of the resource directed to the broadcast sector rather than print. It focuses on outputs rather than journalism – protection of minors, rules on amount and nature of TV advertising, quotas on European content, restrictions on state aid

media ownership, etc. These are issues that the UK can deal with according to its needs and requirements. The need for a European dimension is unclear.

In 2013, the Council of the European Union and the representatives of the Governments of the Member States, meeting within the Council, adopted conclusions on media freedom and pluralism in the digital environment. The Council invited the Commission to address four issues. The first was to “continue to support projects that aim at enhancing the protection of journalists and media practitioners.”

## Flinty-eyed journos

About the same time the Metropolitan Police was full cry in Operation Elveden. This saw 29 journalists taken through the courts for doing their job. Not much evidence there of any protection for the poor guys by European legislation.

Among the bodies that are active in media is The Centre for Media Pluralism & Media Freedom, initiated within the European University Institute in Italy. This is staffed by academics and post-grads doing the stuff that academics and post-grads do which we, as flinty-eyed journos, know too well will not be associated with the real world.

In Annex 1 of the EU’s audio-visual and media policy, one paragraph declares that “The independence of regulatory bodies from governmental influence is a vital condition for free and independent media to flourish. Nomination and appointment procedures for all members of regulatory bodies should follow rules designed to protect their independence and impartiality. National regulatory bodies should be free from direct political interference and should have a positive obligation to protect human rights, including freedom of expression.”

Well this example was breached by the British government in its setting up of IMPRESS. So there was not too much adherence to EU policy there.

So it seems that as far as the UK goes, whether we are in or out of the EU makes no difference to the way the authorities crack down on journalists or protect them or their sources.

Another issue of relevance to journalists is copyright. Here the UK as a member of the EU has delegated its responsibilities. The Commission is responsible for conducting negotiations on industrial and intellectual property within World Intellectual Property Organisation (WIPO) covering such matters as broadcasting, resale right, databases, and the protection of intellectual property rights. How this responsibility will be repatriated to the UK is unclear. The general

issues are covered by the international nature of WIPO which delivers default values in a similar way that trade matters failing any separate agreement will default to the General Agreement on Tariffs & Trade (GATT).

The Commission has been very supportive of the concept of moving content on-line. It has sponsored Licences for Europe a process of dialogue with stakeholders involved in most aspects of publishing – including authors but not journalists. It reached the stage in 2013 of getting most participants to make pledges on cross-border access and portability of services; user-generated content and micro-licensing; audio-visual heritage and text and data mining. It is all exceedingly technical and it will be difficult for disparate stakeholders to arrive at consensus easily.

Judicial matters arising from the two European courts show a marked difference.

The European Court of Human Rights (ECHR) is not part of the EU. The ECHR provides a forum for the peoples of the 47 countries who have consented to its judicial authority. An individual, a group of individuals or one of the other contracting states can make applications to the Court where one of the 47 countries participating is accused of a breach of the Convention. Besides judgments, the Court can also issue advisory opinions. It has been quite resolute in defending journalists’ sources.

## Chilling effect

In *Financial Times & others v UK* in 2009 where four newspapers had been directed to reveal their source of stories about a takeover bid, “The Court held that there had been a violation of Article 10 of the Convention. Emphasising in particular the chilling effect arising whenever journalists were seen to assist in the identification of anonymous sources, it found that the interests in eliminating damage through the future dissemination of confidential information and in obtaining damages for past breaches of confidence were, even if considered cumulatively, insufficient to outweigh the public interest in the protection of journalists’ sources.”

In *Tillack v Belgium* in 2007, a German reporter working on stories about irregularities at the EU had his home searched and records seized. “The Court held that there had been a violation of Article 10 of the Convention. It emphasised in particular that a journalist’s right not to reveal her or his sources could not be considered a mere privilege to be granted or taken away depending on the lawfulness or unlawfulness of their

sources, but was part and parcel of the right to information. It found the reasons given by the Belgian courts to justify the searches insufficient."

In *Ressiot v France* in 2012, the premises of *L'Equipe* and *Le Point* newspapers and the homes of journalists were searched after the authorities wanted to identify the source of the leaks in an investigation about drugs in cycle racing. "The Court held that there had been a violation of Article 10 of the Convention. It found in particular that the French Government had not shown that a fair balance had been struck between the various interests involved. The measures taken had not been reasonably proportionate to the legitimate aim pursued, having regard to the interest of a democratic society in ensuring and maintaining the freedom of the press."

Many other cases affecting journalism are listed in which the main defendant has been, surprisingly, the Dutch government.

The European Court of Justice (ECJ) is different and is tasked with interpreting EU law and ensuring its equal application across all 28 member countries.

One case in recent years involved a journalist. This was *Mikhalchanka v Council* in 2014. In 2011, Council had authorised sanctions against the Belarus government for its human rights record. It decided to impose travel bans on certain Belarussian citizens, including Mr Mikhalchanka claiming he was a senior, prominent and influential figure in the state-run Belarus TV network. It turned out he was nothing of the sort – simply a political commentator who toed the party line. The Council's ruling was annulled.

It seems that while both courts do venture into the journalism field, it is the ECHR that is most defensive of journalists' rights.

Any social issues arising from Brexit, despite the present cries of triumph or despair, may take some time to emerge.

One thing is sure, people – and particularly Eurosceptic publications – will no longer be able to trot the old familiar whinge of blaming regulations from Brussels. Neither will companies nor agencies be able to plead that their inaction was due to: "Brussels again, we can't do anything about that."

Just as today, attacks on the British press and journalist freedom by government and police will probably continue, EU or no EU. The only solution is English – and Scots – law that emulates the First Amendment to the US Constitution. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press;..." This right, as part of the Constitution, has been strenuously defended by publishers and journalists despite political attacks. Through it all, the Supreme Court has maintained the law.

Would that the UK had such an inflexible rule and such a robust defence of it.

## LETTER TO THE EDITOR

### Brexit referendum: an apology to Andrew Marr

Dear Editor,

When I wrote about Andrew Marr's novel *Head of State* in the last issue of *The Journal*, it was to tot up what he had got right and what wrong in his fictional account of a referendum on British membership of the European Union.

I was perhaps a bit dismissive of his novel and its predictions, and I feel I owe him an apology. Well, yes, he did get the date wrong – his referendum was to take place in 2017 – but two things he got resoundingly right.

First, the result. Most political commentators were betting on the Remain camp winning right up until Referendum Day. Marr's fictional referendum was won by the Leave camp.

Second, the post-referendum government in his novel is led by a woman, and a former Home Secretary at that. So Marr got that right even if his fictional Prime Minister, Olivia Kite, bears little resemblance to the Rt Hon Theresa May. So how's that for prescience?

What's more, as I noted, he has Nicholas Sarkozy in place as President of France in 2017. Just recently Sarkozy has launched his campaign to succeed Francois Hollande as President. Could Marr be on track for a sensational clairvoyant hat-trick next year? Watch this space.

Roger Bush

## Shakespeare honoured at the 2016 Proms

This summer at the Royal Albert Hall, there has been much ado about something – the 400th anniversary of Shakespeare's death to be precise. On the August 18, the brilliantly versatile BBC Concert Orchestra honoured the Bard – with settings and versions of his plays for stage and screen: the Prelude to the Olivier film of *Richard III*; the English pastoralist composer Gerald Finzi's music to *Love's Labour's Lost*; and Leonard Bernstein's unforgettable American update of *Romeo and Juliet* – that pulsing score from the streets of 1950s' New York, *West Side Story*. Also included was a piece inspired by *The Winter's Tale*, written by Joby Talbot (born 1971), an emerging figure often known for his work as a television composer – the theme music to *The League of Gentlemen* springs to mind!

The season opened back in July, with Elgar's great elegy, his *Cello Concerto* of 1919, but not before the BBC Symphony Orchestra – flagship of the Proms – had given a dynamic rendition of Tchaikovsky's intense overture, *Romeo and Juliet*, one of the great staples of the romantic repertoire. In complete contrast, and featured on the *Last Night*, was contemporary composer Jonathan Dove's *Our Revels now are ended* (a smaller-scale work written in 2004, but revised for larger orchestral and vocal forces). A fitting title for the end-of-season ritual, the work is a ten-minute-long dreamscape, based upon Shakespeare's *The Tempest*:

*"...The solemn temples, the great globe itself,  
Yea, all which it inherit, shall dissolve,  
And like this insubstantial pageant faded..."*

Duncan Rock, baritone, (with superb diction) sang these words of the mystic character, Prospero, magus of his enchanted island – the work creating a sense of standing on a lonely, twilight coast, time slipping through our hands. A sense of reflection continued in the second half of the proceedings with Vaughan Williams's nocturne, the *Serenade to Music*, his tribute from 1938 to Sir Henry Wood. For Vaughan Williams, a scene from *The Merchant of Venice* provided the very essence of all that we understand by Shakespeare and enchantment: a perfect farewell to this year's Proms:

*"How sweet the moonlight sleeps upon this bank!  
Here will we sit and let the sounds of music  
Creep in our ears...  
...Peace, ho! The moon sleeps with Endymion  
And would not be awak'd."*

Stuart Millson

# Freedom of Information and the 'absolute exemption'

By Tim Crook

There has been some good news on the FOI front with the new Information Commissioner, Elizabeth Denham, saying she supports the expansion of the Freedom of Information Act to include private companies that provide public services.

The UK's FOI system had been described by Tony Blair, the Prime Minister who introduced it, as his 'greatest mistake'. He thought he was a 'nincompoop' for giving the green light to statutory rights to official information.

Nevertheless, there are huge chambers of secrets that remain totally dark in multiple lawyers of government and state body operations.

This is certainly true of the section 23 absolute exemption that denies any public interest test for the release of information relating to security bodies such as MI5, MI6, and GCHQ.

It might seem perfectly understandable that the exemption applies to matters relating to national security. But the lock on information goes back to a time when the people identified in the files are all dead, and took part in the operations from the

early part of the 20th century.

And this is where grave injustices and absurdities are being generated not only for historians and investigative journalists, but for surviving family members of people connected to the events covered up.

The espionage, crime and romance author Alexander Wilson was highly acclaimed and had over 20 novels published between 1928 and 1940.

The recent publication of nine of his spy novels prompted the Daily Mail to say "James Bond may find he has a worthy rival."

Wilson worked for Section 10 of the Secret Intelligence Service between 1939 and 1942. His MI6 unit specialised in bugging embassies and diplomatic legations of friendly and neutral countries in London.

He was a listener and interpreter. The unit worked 250 lines and the surveillance included the operations of countries such as Sweden, China, Switzerland, the Free French, Polish government in Exile, the US Embassy, Portugal, Iran/Persia, Turkey, and Egypt.

His intelligence reports were circulated to the Prime-Minister Winston Churchill, and all the intelligence agencies, and were known as 'Special Material.'

## Top secret

It is possible to find the 'top secret' document at the National Archives from the Foreign Office asking the Post Office to bug the lines of the Egyptian Embassy in August 1942 'without mentioning the missions.'

Wilson was listening into the telephone lines Grosvenor 4621 and 4622. Since 1939 he had specialised in tracking the speech and behaviour of the Egyptian Ambassador and his diplomats.

The operation was critical to British military operations in North Africa which became the only

theatre of direct battle with Axis forces after the fall of France in 1940.

Under the new General Bernard Montgomery, it was essential that the Eighth Army defeated Rommel and his desert rats at the Battle of El Alamein in the autumn of 1942.

The Egyptian Ambassador, Hassan Nachat Pasha, had previously been Ambassador in Berlin for ten years and knew the Nazi leadership intimately. Nachat was suspected of being part of an Egyptian political elite hoping that Germany and Italy would defeat the British.

A declassified secret file released to the Public Record Office in May 2013 titled 'The case of the Egyptian Ambassador' revealed that Alexander Wilson was dismissed from SIS in October 1942 because he faked a burglary and had been in serious trouble with the police.

An MI5 officer called Alex Kellar had been tasked to investigate Wilson's reports indicating the Egyptian Ambassador in London and his staff were intelligence gathering against the interests of Great Britain and her Allies. Kellar concluded Wilson had fabricated the reports.

The head of Foreign Office, Sir Alexander Cadogan, the MI5 Director General and 'C' of MI6 condemned Wilson as a serious public danger, a 'master of fiction', who had produced 'pure invention.'

The third 'C', Sir Stewart Menzies, said: "I do not think it at all likely that we shall again have the bad luck to strike a man who combines a blameless record, first rate linguistic abilities, remarkable gifts as a writer of fiction, and no sense of responsibility in using them!"

The file indicates the Foreign Secretary and Secretary of State for War Sir Anthony Eden read and took a great interest in the report. The file also makes clear that the government were determined that Alexander Wilson would be prevented from obtaining any kind of official or responsible employment.

He was never published anywhere again. He and his third wife and family were plunged into abject poverty and near destitution. At one time one of his sons was sent to a children's home. Another was considered being given up for adoption.

His son from his second marriage was told that his father had been killed at the battle of El Alamein and never saw him again. In the early 1950s Wilson worked as a hospital porter in a local NHS casualty unit. He died in obscurity in 1963.

MI6 Headquarters in Second World War London





*Alexander Wilson in 1940,*

### Mysterious

For some mysterious reason the Alex Kellar MI5 file that claims to discredit Wilson on the basis of a single sensitive source has been withheld under the FOI Section 23 absolute exemption.

One reason might be that Kellar was working for the KGB traitor Anthony Blunt who headed the MI5 section intelligence gathering from London embassies. The British intelligence establishment did not know that Blunt was telling his KGB controllers in Moscow that his main agent targeting the Egyptian ambassador was unreliable. She has been named in Soviet archives as the socialite Lady Dalrymple Champneys.

What is also in the public domain is that other secret files released to the PRO confirm that the Egyptian Ambassador was collecting intelligence in London and discussing post war relations with the Soviet Ambassador.

When Nachat went on leave to Cairo in 1944, he plotted the overthrow of the pro-British Egyptian government installed two years previously. The British ambassador in Cairo, Sir Miles Lampson, begged the Foreign Office to engineer Nachat's recall to London saying: "Nachat is being a political nuisance and his early return to London would be a blessing."

Major A.W. Sansom of Egyptian field security in Cairo published his memoirs in 1965 and said the majority of the Egyptian elite and armed forces were pro German and Italian and actively working against the British.

He said prior to 1942, "Under an almost openly pro-German Prime Minister, Aly Maher Pasha, for nine months the Egyptian Government gave our enemies all the aid it possibly could."

A United Nations file from 1948 reveals German intelligence and Foreign Office

documents proving the Egyptian diplomatic service was playing a double game with the British even after the defeat of Rommel at El Alamein 1942.

### Defeat

Plans were discussed to smuggle King Farouk into exile in Berlin, and bomb Tel Aviv. Hitler and Ribbentrop exchanged secret overtures of support and hopes for British defeat in Egypt with King Farouk's diplomats.

All of this evidence suggest a prima facie case that Alexander Wilson had been the victim of a plot hatched to discredit him and his MI6 surveillance operation so that the covert KGB operative Anthony Blunt could take over at MI5.

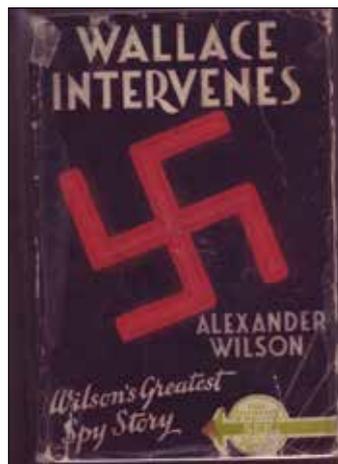
Rather than fake his own burglary in October 1942, had Wilson's flat been the target of an

MI5 or KGB raid to fit him up?

Some light on these intriguing questions could be shone if FOI requests to release the Kellar file and indeed all MI6 documents relating to Alexander Wilson were agreed to.

It has taken two years to get to the Information Tribunal where all of the obvious public interest issues have been completely ignored because of the absolute exemption rule.

An attempt was made to challenge this barrier by arguing the situation is a breach of freedom of expression in English



*The cover of Wilson's 1939 spy novel 'Wallace Intervenes'*

common law and under the European Convention of Human Rights. It was argued that the privacy rights of Wilson's children had been breached; particularly as the information might help explain why in 1942 a 9 year old boy was cruelly forced to falsely grieve over the death of his father.

Privacy is about human dignity, identity, and the right to family life- what happened

to Wilson and his family from the end of 1942 was catastrophic and could amount to a state crime.

It was further argued that the Freedom of Information Act 2000 creating an absolute exemption in relation to MI6 and MI5, could only cover the period from when these security bodies had been properly established in law in 1989 and 1994.

### Public interest

What happened over 70 years ago related to Foreign Office historical files which should be subject to the public interest test.

All of these arguments have been rejected. It seems very unlikely that these secrets will ever be prised open through FOI litigation in the near future.

The Times journalist Duncan Kennedy has fought doggedly to unpick another absolute exemption blocking his investigative work into George Galloway's Mariam Appeal.

His original FOI requests were made in 2007. Nearly 10 years later, after countless legal hearings up to UK Supreme Court level, the steel shutters of absolute exemption remain.

He too is challenging the block on the basis of interference of his Article 10 Freedom of Expression rights.

The CloJ is the only journalism body campaigning for the engagement of the public interest test in relation to historical files held by security bodies for more than 30 years. The absolute exemption rule is undemocratic, oppressive and counter-historical.

It is also unspeakably cruel to many of Alexander Wilson's relatives who may not live to see the day when documents are eventually released to explain the tragedy and trauma of their own family history.

## Conviction overturned

Press freedom campaigners are celebrating an appeal court ruling in Greece that has overturned the criminal conviction of a prominent Greek investigative journalist who had been jailed for defamation.

A three-judge panel of the Athens Court of Appeal unanimously threw out the conviction of Kostas Vaxevanis, editor of the investigative magazine HotDoc. A lower court had sentenced him to 26 months in prison for defamation in March 2015.

The International Press Institute welcomed the appeal court ruling and said "this encouraging move should be followed up by the repeal of criminal libel laws."

# Starting Your Own Business

By Ken Skehan

With so many changes in the world of journalism in recent times, there may be many considering a change to becoming a self-employed freelancer, or indeed, have had that position imposed upon them. We thought a guide to starting your own business could be helpful if that's the case.

Becoming a freelance journalist or photographer is a big step. Getting commissions for your work from editors is exciting, and essential if you are to make a living... as is managing the financial aspects of your new business.

Deciding whether to be self-employed or start your own Limited Company is the first choice to be made. It's an important decision because your legal responsibilities and reporting requirements differ for each. In both cases there are essential initial actions to take if you are to start your new business on a sound basis.

**Becoming self-employed:** You should immediately register your new business with HM Revenue & Customs (HMRC) to advise them that you are now self-employed. Registering with HMRC will create an account for your payment of income tax and National Insurance (NI) on your self-employed earnings, the payment timings and methods of which are different from when you were an employee.

**Setting up a Limited Company:** A new company must be registered with Companies House. The process requires very specific information about who owns the company, its financial structure and how it will be run. When successfully registered a new legal entity is created that has its own reporting requirements and tax regime. Services of an accountant are essential if you are to keep on top of making sure your new company – and you as its principal director – meets all its reporting and tax responsibilities while you generate revenue for the business. As a director you must also complete a self-assessment tax return. A Limited Company needs to have a bank account in its name.

**Record keeping:** in both instances you should immediately begin keeping detailed and accurate records of income and expenditure, for which you have become responsible for reporting. Get into the habit of noting down all your expenses as they occur rather than waiting until you have to complete your tax returns to try and remember what you spent. HMRC's website area on starting a business (<https://www.gov.uk/working-for-yourself/overview>) provides detailed guidance on what expenses are allowable deductions from your income to determine the amount of tax you will pay. Whether you complete your self-assessment yourself, or pay a

professional (accountant or bookkeeper) HMRC require you to keep records for up to 6 years of expenses and proof that you incurred them.

You'll also have to register for VAT if your turnover exceeds the prevailing level HMRC set for compulsory registration - £83000 per annum for 2016.

**Budget Planning:** Your financial patterns are about to change from what you've always known as the norm. In order to receive income you need to issue invoices, which are not always paid as quickly as you'd like. I've known editors 'buy' an article for an agreed fee, but not pay for it until the piece is published. For example, a travel article may not be used until it's the appropriate season to have a special edition focused on the destination your work relates to.

Planning to meet your existing financial commitments starts with recognising what those commitments are. I'm no longer surprised by how many people in my starting your own business workshops have no idea of their total regular outgoings. Some of these are fixed obligations (eg. mortgage or rent, council tax, utilities, insurances, any contracts such as broadband supply or mobile phone) and some will be more discretionary (groceries, entertainment, leisure activities and holidays amongst others).

It's always a good exercise to complete this analysis anyway. It's absolutely essential when starting a business. Knowing what money you NEED to have to cover your expenditure helps identify where that money will come from in the early days, as well as areas where you might adjust your spending.

Then add in the costs you are going to incur in carrying out your work – travel, subsistence, equipment, insurances (see below) professional membership subscriptions and so on.

In general, when starting your business you should have sufficient funds available at outset to cover at least six months of your regular household and business expenses.

Your budget planning will run hand in hand with your marketing plan. You should begin to work out what revenue you need to generate – and from where – for the work you do. You'll probably know which organisations more regularly use freelancers. You'll also know the (seemingly ever decreasing) going rates for different types of media. Whilst this document doesn't address marketing ideas, developing a plan of potential sources of income brings focus to your marketing effort that will shape your financial planning too.

**Insurance:** Whilst public liability

insurance is not compulsory, it is eminently sensible to have. If in the course of your work you cause some sort of problem for which the party affected is awarded compensation it could radically affect you and your loved ones if you don't have appropriate insurance cover. Similarly, Professional Indemnity insurance is advisable, in case, for example, you infringe another's copyright (even inadvertently) or write or say something deemed to be libellous or slanderous. Be aware though that most providers of such insurance will not provide such cover for anyone whose business interests include journalism, considering the risk too high. There are specialists who will cover journalists though.

If you have any employees, including casual workers or temporary staff, you're required by law to take out employers' liability insurance, currently to a minimum level of £5million. It covers claims from employees who've been injured or become seriously ill as a result of working for you.

## Tax and National Insurance

When you were employed your tax and NI were accounted for you by your employer each time you got paid. Now that you run a business, everything has changed...

**Self employed:** Although in general you'll pay tax twice yearly, usually in July and the following January in relation to each tax year, your first tax bill as a self-employed individual could be a very long time after you register as self employed, and could seem surprisingly high.

For example, if you became self-employed on June 1, 2016, tax on profit earned between June 1, 2016 and April 5, 2017 will be payable by January 31, 2018. At that time you'll also have to make an interim payment on profit earned for the first six months of the 2017-2018 tax year, which will normally be half the amount of the 2016-2017 tax year's bill. Added to that are Class 4 NI contributions based on the profit earned.

Which effectively means you will be paying tax in January 2018 on profit earned up to 19 months previously in one hit.

It is essential to remember that revenue invoiced is not your available earnings and should not be spent in full as it comes in. I always recommend that newly self-employed people get in the habit of putting away at least 25% of their revenue as soon as it is received, in a separate place from their day-to-day business bank account, so that when their first tax bill arrives they can easily pay it. In these days of low interest rates on savings you might consider buying premium bonds with that 25%. These are completely secure and accessible quickly – and your savings towards tax might even

make you a millionaire. It's a habit that should be continued to ensure subsequent years' tax bills can easily be paid.

**Limited Company:** When your company was registered a financial year end date for it will have been set. The company must pay corporation tax on its profits no later than 9 months after its declared year end. Directors must submit a self-assessment return and pay any tax due on income earned as any other individual taxpayer does - by January 31 in the following tax year. If the company employs staff, income tax and NI on their earnings must be collected and paid monthly by the company. Your accountant will normally offer a service to do this.

Whether self-employed or a Limited Company, I would always recommend using the services of a professional to ensure you make the most of the available expense allowances that legitimately reduce your tax liabilities. But who to choose?

A recommendation from someone you know who runs a similar size business is always a good place to start. Balancing the cost of professional advice against your turnover is sensible too, as even a relatively small accountancy practice need to cover their staff and offices expenses within their fees, so can seem disproportionately expensive to a small business owner. A bookkeeper may not provide tax advice, but if your affairs are fairly simple may be all you need. There are now online accountants who provide relatively low cost service that ensures all reporting requirements are met and tax liabilities are minimised. I've never met my online accountant, although I know in return for his monthly fee (less of a shock than annual payments) he's on the end of a phone if I need him for specific advice, prompts me well in advance to provide information he needs to submit to HMRC as my representative, then tells me how much to pay and when to do it by - and when I forget, reminds me before I get fined.

Even if a customer is what you might consider a prompt payer, they are not likely to process your invoice for at least a month after they receive it. So make sure you send invoices promptly and that they include the date by which you expect it to be paid.

Many large organisations routinely sit on invoices for 2-3 months before making payment, irrespective of the terms stated on them. This makes the contract you strike with your customer very important from the outset. Always ask what terms of payment they normally apply. If their norm is 2-3 months (or more as highlighted above where payment is on publication) you need to factor into your price a cost for the delayed payment.

It's always a good idea to take responsibility for recording what terms are agreed with your client. Send an email detailing price, any conditional aspects such as deadlines, payment terms and expected output. If you then need to chase a customer for payment you have the high ground, in that you are doing no more by chasing payment than what was agreed.

Never lose your temper over payment - there's always the next commission to think about. Even though at the time you won't be talking to your key customer (the commissioning editor), there's a good chance the accounts payable clerk might feed back any conflict to people who matter to your future earnings. I find starting a conversation with finance people by asking for their help is often a disarming way to accelerate payment of your outstanding and future invoices.

There's no doubt that starting a business is exciting. It brings with it responsibilities and challenges. Ultimately, a business only fails for financial reasons, so give your fledging business the best chance of succeeding by organising your finances properly from the outset and continue to practice good habits as your business grows.

## The Encrypted Pocketbook of Passwords

By Raef Meeuwisse, pp112,  
published by Cyber Simplicity,  
£6.99

ISBN 978-1-911452-08-9

**H**ow many of you have separate passwords for each website that you access? Not many, I bet, although security experts all say avoid using the same password over and over again. The problem for us all is remembering different passwords without committing the dreaded sin of writing them down.

Well this little book encourages you to write down your passwords so you don't need to remember them, except that they are not the full password. Each one has a single, simple, secret key that is not written down but kept in your head.

I started using this useful little book almost as soon as I got the review copy. It guides the reader through the basics of how to create a good password but with a twist. It enables you to have a separate password for every online account you hold and not have to memorize them. You can write them down in this book and even if someone else reads it, they won't be any the wiser.

It seems to cover almost everything. There are a couple of points that aren't covered that I have found from experience. Most sites expect you to use a password of at least 8 characters but a few old-fashioned ones have a max of 8. I have also found sites that don't accept special characters. Either of these issues might limit your choice of password but this does not seriously affect the value of this very handy book.

Of course there are sophisticated on-line password managers where the complete passwords are stored in a secure way. The latest of these YOLO as in "you only log in once" intended for Android users. Others are available from Dashlane, LastPass, 1Password, Roboform and Google's Smart Lock among others. Hmm. For those who may have a sneaking feeling that hackers might get into computerised password managers, use pen and paper such as this book. After all, a notebook can't be infected with malware.

Norman Bartlett

## Shortlisted for the Mind Media Awards

**M**ind, the mental health charity, has announced the shortlist for its 2016 Media Awards.

The shortlisted entries from across the media spectrum cover a wide range of mental health issues. The nominees will go head-to-head on Monday November 14 at The Troxy theatre in London.

Mind's annual award ceremony celebrates and honours the very best portrayals and reporting of mental health problems across broadcast, print and digital media.

Stories from those with lived experience have a strong presence this year, with those up for nomination including Jeremy Vine's 90 second stories on BBC Radio 2, Channel 4's The Island with Bear Grylls and BBC Three documentary Professor Green: Suicide and Me.

Paul Farmer, Chief Executive of Mind, the mental health charity, says: "The media we consume, whether through TV documentaries, print news, digital blogs, radio or film, has a huge impact on people's attitudes towards mental health problems. Sensitive, accurate portrayals play a vital role in reducing the stigma and discrimination experienced by people with mental health problems.

"The entries this year reflect the media's efforts to tell real stories, and dedicate an increasing amount of space to people speaking about their own experiences. I would like to congratulate all the nominees for making it to the shortlist, and wish the judges good luck in what will be a very tough job picking the winners!"

See [www.mind.org.uk](http://www.mind.org.uk)

# Chartered Institute of Journalists 2016 Conference, Bournemouth

The Institute's Annual General Meeting and Conference will take place in Bournemouth on Saturday October 15, at the Royal Bath Hotel.

All members are invited to attend and play a full part in the proceedings.

Below you will find ways in which you can participate including how you can put your name forward to serve on the Institute's Professional Practices Board.

We hope you will be able to attend, and maybe have dinner with us afterwards.

## Would you like to stand for election to the Professional Practices Board?

The PPB is the part of the Institute that deals with our trade union activities. It campaigns on matters that affect the day-to-day lives of working journalists and deals with legal battles on behalf of members.

Contact Tim Crook - [timcrook@cioj.co.uk](mailto:timcrook@cioj.co.uk) - for more details. Deadline: October 5.

## Annual Dinner

On the evening of the Conference, members will be having dinner at the hotel. If you wish to join us you will be more than welcome. The cost will be in the region of £30 which will be payable in advance. Please let Diane know if you wish to attend - [memberservices@cioj.co.uk](mailto:memberservices@cioj.co.uk).

## See all details at [www.cioj.org/2016AGM](http://www.cioj.org/2016AGM)

### Some of the motions to be discussed

- In order that finances of the charities be simplified, management control improved, consistency in approach be encouraged and the administrative load on Head Office be eased, Conference requests Council to arrange, with the agreement of the Charity Commission, for the Orphan Fund, Benevolent Fund and Pension Fund to be merged as a single charity overseen by one set of Trustees so that the Institute's reserved charitable funds shall be more fit for purpose in today's social environment.
- To reflect the increased importance and workload of the Professional Practices Board, the Chairman of the PPB shall be elected bi-annually for a period of 2 years alongside the Vice-President and Council by ballot of all eligible members. The Chairman of the PPB shall be an ex-officio member of council, and an Honorary Vice President of the Institute. The current Chairman of the Professional Practices Board shall remain in office until the next scheduled elections for Vice President and Council in December 2018, and shall be appointed an Honorary Vice President of the Institute effective immediately should this motion pass.
- Recognising the growing importance of electronic and on-line media within journalism, AGM approves of the creation of two new categories of membership as follows:

The eMCIJ, for journalists working in electronic media who would otherwise qualify for full membership of the Institute.

The AeMCIJ, equating to the existing Affiliate membership, for those who work in electronic media but who do not earn the majority of their income from it.

- Recognising the need for journalistic standards and integrity to be upheld in the on-line media, this AGM authorises Council to introduce a CIOJ 'Chartermark' for on-line news organisations and news blogs which will indicate that such organisations and blogs operate within the guidelines set down in the Editor's Code of Conduct and the Institute's own Code of Practice. This AGM further authorises the Council, after consulting with the Professional Practices Board, to empanel a body – possibly a body corporate with directors appointed by Council – to set fees and to hear grievances relating to websites granted a 'Chartermark'.



**Saturday**

**15 October 2016**

**Venue:**

**The Royal Bath Hotel,  
Bath Road  
Bournemouth  
BH1 2EW**

**Accommodation:**

**Rooms are available at very competitive rates for CIOJ members and their guests attending the Conference. Rooms will need to be booked and paid for in advance via head office.**

**Contact Diane if you wish to book for the conference:**

**020 7252 1187.**

