

## Everything about the Netherlands Press Council

### The 'power' of the press

The Dutch have always been a nation of down-to-earth and mostly decent people. Decent and perhaps a tad boring.

This in actual fact also applies to the press, because this 'act-normal country' hardly ever sees any substantial media scandal.

This does not mean that journalists never cross the line. But the Dutch newspapers, magazines, radio and television usually observe great care, despite the increasing pressure of commercial interests.

The constitutional right to freedom of speech does not give journalists the right to publish whatever they want. The power of the press is often exaggerated in that respect. Journalists are not above the law, which was drawn up to protect people against slander and libel for instance.

Also, 'hearing both sides of the story' is a usual approach in journalism. Trouble is, there is no law that compels a journalist to do so. On a European level the parties are fighting to have the 'droit de réponse' (right of reply) laid down by law, thereby offering civilians more protection against the media. But that is a long way off yet.

How can we reprimand media and journalists who got things wrong?

It strongly depends on the gravity and the damage caused by such a journalistic error.

Suppose a dentist is wrongly accused, in a medium, of regularly treating his patients unprofessionally. He could probably close his surgery, while the gravity and material damage of the publication are beyond imagination. In such an extreme case, the dentist is more than likely to go to court.

Such cases are not the order of the day in Dutch journalism. It is usually about someone feeling mistreated by the media, without there being any direct financial damage. About the fact that a story about him has been published, that the truth was stretched, that his privacy was unnecessarily infringed and that he was not given the opportunity to tell his side of the story.

If a person feels duped, he is advised to contact the journalist involved or the (chief) editor of the medium as soon as possible. Some media have an ombudsman or readers editor for cases like this.

It is possible that any rough spots are ironed out during a personal meeting, during which the journalist explains himself.

One of the options is that any inaccuracies are corrected in a follow-up publication or rectification, or that a letter is published.

If it is not possible to reach a solution with the medium, there is always the *Raad voor de Journalistiek* [Netherlands Press Council].

### **What is the Netherlands Press Council?**

The Netherlands Press Council is an independent organisation, where people can go if they have a complaint about journalistic activities. The Council is a body of self-regulation for the media.

One half of the Council comprises journalists, the other half experts who are or were somehow involved in journalism, such as a professor for journalism or a member of the board of a publisher or broadcasting corporation.

That composition is mirrored in the five-head boards, in which the Netherlands Press Council deals with complaints during hearings. Such a board is headed by an independent chairman from the judicial sphere, and further comprises two journalists and two non-journalists. They are assisted by an independent secretary.

### **What the Press Council can and can't do**

The Netherlands Press Council is an organisation that can only pass judgement; it cannot impose any sanctions. So it does not work like the Medical Disciplinary Tribunals who can, if they have to, forbid failing colleagues from carrying on with their profession.

Nor can the Netherlands Press Council force a journalist or medium to correct any erroneous reporting in a rectification, and it cannot award compensation. In the Netherlands, that is a task for the courts.

The Netherlands Press Council assesses whether a journalist has been prudent in his job and whether - to put it briefly - a certain publication crosses the boundaries of journalistic ethics.

The decisions of the Council contribute to the forming of an opinion on the journalistic codes of conduct.

### **The Press Council can do more**

A number of years ago, a study into the performance of the Netherlands Press Council led to an expansion of its powers.

#### ***Mediation***

The Council can mediate between the complainant and the medium or the journalist involved. The advantage is that the Council is involved from the start, not just afterwards, and can thus prevent any proceedings.

For instance, a newspaper is preparing a publication, and the subject of that article feels he should at least be given the opportunity to tell his side of the story. If subsequently any contact between the person involved and the journalist or newspaper leads to nothing, the Netherlands Press Council can mediate.

But speed is also of the essence when someone is made aware of a publication, feels impaired and has a direct interest in telling his side of the story. Mediation by the Council will probably have more of an impact than rendering a decision.

After a request for mediation has been received, the first thing to do is find out if the other party wishes to cooperate in the mediation process. After all, without that cooperation, mediation will not be successful. The mediator then provides the parties with a guide in order to find a solution for the problem. He plays a neutral part in all of this. The mediator does not take sides and passes no judgement on the issue.

If mediation fails, the complaint will be taken up by the Council.

### ***Statement without a complaint***

The Netherlands Press Council used to be an organisation that made its opinion public only when asked to do so via a complaint.

These days, the Council can air its strong views in the public debate about current, general issues relating to journalistic ethics and the professional probity of journalists, such as the use of hidden cameras for instance.

It means the Netherlands Press Council now has a more active role in the public opinion.

### **Lodging a complaint**

If a person feels that his or her interests have been prejudiced and thinks that mediation will not solve the issue, he or she can lodge a complaint with the secretariat of the Netherlands Press Council. The Council does not charge for a complaints procedure.

In order to have a complaint taken up, the complainant *must* have a direct interest in the issue.

He does if he is directly involved in the contested publication and his *personal interests have been prejudiced* by that publication. In general we can say that this is the case if the publication is about the complainant or if the complainant is mentioned in that publication. If in doubt, the best thing to do is discuss the matter with the secretariat.

The procedure is however not restricted to complaints submitted by persons. Businesses or (government) institutions can also lodge a complaint.

Sometimes in a publication it is not an individual interest that is at issue, but a collective interest. In that case, a complaint can be lodged by an organisation that - according to its articles of association - aims to look after the interests of the collective in question. It is then up to the Council to decide whether that organisation has a case with the complaint.

The Council does not deal with third-party complaints pertaining to general objections against reports in the media.

As a rule, a complaint must be submitted within six months of the journalistic act against which the complaint is made. If this period is exceeded, the complainant must be able to prove that he cannot reasonably be blamed for that.

The following must be listed in a complaints letter (*the notice of complaint*):

- the name, address and telephone number of the complainant + signature;
- the journalist(s) and/or the medium against whom the complaint is made;
- a clear description of the complaint;
- why the complainant feels he has a direct interest in a decision from the Council;
- the complaint must be accompanied by the publication that is the subject of the complaint. This can be a copy of an article or - if it concerns radio or television - a recording of the broadcast in question or the literal transcription.

The signed notice of complaint must be sent to the Council's secretariat in eightfold. It is not possible to lodge a complaint by fax or e-mail.

If the complainant feels that his complaint should be treated as urgent, he can make a request to that end. The chairman of the Council will make a decision on that request.

### ***What happens next?***

- The complainant is notified once the secretariat has received the complaint.
- A copy of the notice of complaint is immediately forwarded to the person against whom the complaint is made. He or she is asked to respond to that within three weeks. The complainant receives a copy of the statement of defence.
- At the same time, those involved will be notified of the date on which the Netherlands Press Council will deal with the complaint.
- Most of the times, the Council - in its preparation for the hearing (oral proceedings) - needs nothing more than the notice of complaint and the written statement of defence from the other party. Both parties are invited to the hearing, but it is not compulsory for them to attend.
- Sometimes the Council can reach a decision on the basis of the documents (notice of complaint and statement of defence) alone. In that case, oral proceedings are not necessary.

## The hearing

The hearings of the Netherlands Press Council are held in Amsterdam. They are public in nature, which means anyone can attend. However, the chairman may decide to deal with the complaint 'behind closed doors', when the privacy of minors needs protecting for instance.

The issues to be publicly dealt with during the hearing are announced in a press release approximately one week prior to the hearing. This announcement is also placed on the Council's website.

The complainant and defendant are given the opportunity to explain their points of view during the hearing. They can be assisted by someone they trust and who is able to give additional information. This usually is a lawyer, but it may also be a member of the family, a colleague or a friend. The councillors can ask the parties questions during the hearing.

If the Council feels it has received enough information, the oral proceedings are concluded.

## The decision

The Netherlands Press Council announces its decision within eight weeks of the hearing. It is sent to those involved in writing. No appeal can be made against the Council's decision.

The substantiated decisions of the Netherlands Press Council are published in full on the Council's website at all times. The secretariat ensures that a summary of the decision is published in *De Journalist*, the trade journal of Dutch journalists and that it is distributed via a press release.

If a complainant objects to his name being mentioned in the publication of the decision, he can notify the Council of this. The Council will then decide whether there is any reason to anonymise the decision.

The medium involved is asked to publish the decision. It is not obliged to do so, but a growing number of media decide to do so of their own accord.

## Netherlands Press Council Foundation

The Netherlands Press Council was set up by the *Stichting Raad voor de Journalistiek* [Netherlands Press Council Foundation]. This foundation in its turn was set up by the *Nederlandse Vereniging van Journalisten* [Netherlands Union of Journalists], the *Nederlands Uitgevers Verbond* [Dutch Publishers Association], public broadcasting organisations and the *Nederlands Genootschap van Hoofdredacteuren* [Dutch Society of Editors-in-Chief].

The foundation has members from regional and commercial broadcasting corporations, the *Algemeen Nederlands Persbureau* [Dutch Press Agency], the *Nederlandse Nieuwsbladpers* [Netherlands Newspaper Press] and Internet organisations.

The organisations that participate in the Foundation, the participants, make a financial contribution towards the preservation of the Council and with that the continuation of its work.

The Council's board of management, comprising representatives from the participating parties, appoints the members of the Netherlands Press Council and adopts the Regulations pertaining to the Council's working methods.

The Council itself is an independent complaints organisation, which forms an organisational part of the Netherlands Press Council Foundation. The board of management of the Council is in close contact with the members of the Council, without of course taking over its powers.

### **Addresses**

***If you want more information on the Council or if you want to lodge a complaint:***

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