

Editors' Code of Practice Committee

Private and confidential

Minutes of the Editors' Code of Practice Committee meeting held at the offices of the Newspaper Society/NPA, 18-20 St Andrew's Street, London, on 6 November 2008.

Present:

Chairman: Paul Dacre (NPA)

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| Jonathan Grun (NPA) | Mike Gilson (NS) | June Smith-Sheppard (PPA) |
| Neil Wallis (NPA) | Douglas Melloy (NS) | Harriet Wilson (PPA) |
| | Ian Murray (NS) | David Pollington (SDNS) |

Attending:

Sir Christopher Meyer (Chairman, PCC); Tim Toulmin (Director, PCC); Ian Beales (*Secretary*).

Apologies:

Apologies were received from Neil Benson (NS); Adrian Faber (NS); Alan Rusbridger (NPA); John Witherow (NPA).

Minutes of the meetings held on 15 April 2008 were approved and signed.

Business arising:

1. **Swan Turton correspondence:** The secretary said that, following the committee's rejection of Swan Turton's suggested Code changes, Mr Jonathan Coad had responded with a series of criticisms mostly directed at the PCC that appeared vexatious, rhetorical and aimed at impressing the DCMS Select committee. We had politely terminated the correspondence.

European Commission privacy study: The committee noted that a question on the desirability of a European Press Ethic Code had been dropped from an EC survey, following British industry complaints.

Code Committee website: The secretary said the website had received 82,400 hits since launch. The 273 unique visitors in October was the second highest monthly total.

Exploitation by freelance agencies: The secretary suggested a call from John Dale, of *Take A Break* magazine, for the Code to ensure that freelance agencies paid interviewees fairly for True Life stories sold to magazines was outside the committee's remit and might be more appropriate for the PPA. June Smith-Sheppard said the agencies were becoming greedy and that the issue should be put back to the PPA. It was agreed, at the Chairman's suggestion, that the committee should write telling Mr Dale that we recognised his concerns and have passed the issue to the PPA to look at.

Protection of judges: The secretary reported at length on the continued insistence of the House of Lords Select Committee on the Constitution that the Code be changed to protect judges from "inaccurate and intemperate reporting" in the press. This was despite the Code Committee having previously rejected such a change as against the principles of a free press. He said the Select Committee had not answered the queries put to it by the Code Committee, but was being supported by the Government. However, the judges, in their response to the Select Committee, appeared to have ignored this particular issue.

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Code Committee members were unanimous that it would be wrong in principle to make the judges a special case. The Chairman said judges were acting insidiously by interpreting the laws to create law that had not been introduced by Parliament and that criticism should be expected. He said there was a case for strengthening *The Editors' Codebook* to emphasise the possible role of the Judicial Communications Office, but that our response should be robust in reminding the Select Committee of the importance of press freedom.

Neil Wallis said it was extraordinary that judges should be beyond criticism if they chose to interpret a law in a certain way. They are not elected, what else could we do? Mike Gilson said the Select Committee, in demanding a Code change, had ignored most of the points the Code Committee had made. Tim Toulmin said it was untrue that judges had no redress through the PCC, as the Select Committee claimed. Judges already use the Commission.

It was agreed to send a polite but robust response to the Select Committee rejecting the call to change the Code, but offering to explore the possibility of using *The Editors' Codebook* to emphasise the role of the Judicial Communications Office in avoiding inaccurate comment.

Revision of The Editors' Codebook: The secretary talked the committee through the key changes in the Codebook, with particular reference to the guidance on suicide reporting, harassment, data protection, and the reworked elements explaining why the discrimination clauses did not apply to groups. These were agreed, unchanged. However in the narrative, it was agreed that a reference to an 'impeccable' record on publishing adverse adjudications might be a hostage to fortune. The word 'excellent' was substituted. Also, Neil Wallis said Peter Andre should be described in the text as Jordan's husband, rather than partner.

Committee members expressed disappointment that the revised Codebook would only be available online, rather than as a hard copy book. Neil Wallis said the *News of the World* would want 200 books, so that all staff members could have a copy. Mike Gilson could not understand why it would not be in book form, as it could be funded by the cover price as in 2004/5. The secretary said this was an issue for PressBof, because of the financial implications. The Chairman agreed there was clearly a demand for the book in hard copy format, and that he was sure PressBof would investigate whether it would be feasible.

Data Protection Act: The committee considered whether further changes to the Code were needed to meet the industry's obligations to demonstrate its commitment to protecting personal data, following the Government's decision to shelve proposals that could have led to journalists being jailed for offences under the Act. It was agreed that the comprehensive coverage in the revised Editors' Codebook, together with the specific changes in the Code in 2007, fully demonstrated the industry's determination to ensure compliance.

Alan Rusbridger, who could not be present, had written suggesting that for the current measures to be credible the industry would need to be able to demonstrate how the pledges to strengthening contracts, improved training and rigorous audit controls on cash payments to agents were being observed and monitored. Paul Dacre said he could address this in his Chairman's Foreword to the Editors' Codebook, which would be flagged up by a press release, for wider publicity. Also, the industry was conducting a survey of how individual organisations were responding. For example, Associated Newspapers had made compliance a contractual issue, staff had attended seminars, and auditing controls were in place. Neil Wallis said every *NoW* staff member had attended a seminar on Data Protection and had been issued with guidance. The Chairman said the trade bodies should be asked to communicate the same message stressing the importance of compliance.

Suicide reporting: Papyrus, a charity working to protect young people at risk from suicide, proposed that - following the Bridgend suicides - the Code should be amended to make suicide a separate Clause, and that the rule on excessive detail should be replaced by a requirement to avoid *any detail that might contribute to copycat suicide, such as detail or location*. The secretary said that, having met representatives from Papyrus, he believed they would welcome the Codebook's expanded references to Suicide Reporting and the specific Briefing Note, with its suggestions of discretionary measures that editors might take to avoid causing unintended offence or inviting criticisms of insensitivity.

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If a Code change were needed, it could be introduced as part of the Code Review next year. The secretary said that it would be possible, as part of the Code Review, to put a Reporting Suicide subheading on the current Clause 4ii, so that the issue was emphasised without renumbering the Clauses, which could cause confusion.

Neil Wallis said he believed the word 'excessive' should be replaced by 'explicit'. Tim Toulmin said the Codebook provisions would be incredibly helpful for the PCC in dealing with the public and lobby groups following the Bridgend suicides. Doug Melloy believed the Codebook's coverage would also greatly assist editors and their staff.

The Chairman said the Codebook had gone a long way to meeting requests of the lobby groups, who would probably never be entirely satisfied. The committee agreed to the inclusion in the Briefing Note of the discretionary measures that editors might consider. It was decided to gauge the response of Papyrus, the Samaritans and other bodies to the Codebook guidance before considering further changes to the Clause.

Harassment: The committee considered whether, in the light of the Kate Middleton case and others, there was a need to change the Code. Tim Toulmin said this part of the Code worked very well, especially with the passing on of 'desist' requests. It was agreed no amendment was necessary now, but that it should be kept under review.

Annual Code Review: The secretary said the annual review would be announced early in December, with a January 31 deadline for suggestions.

OTHER BUSINESS

Privacy: The Chairman raised growing concerns about the PCC being pre-empted by complainants who, assisted by no-win, no-fee arrangements, were going directly to the courts to take advantage of the developing, judge-made laws of privacy.

Tim Toulmin agreed that while judges were referring to PCC adjudications, these did not include any landmark cases, because the complainants were going straight to the courts - where they would have both damages and the force of law - or the papers were settling. Neil Wallis said the risk of injunction meant that there was a huge pressure on newspapers not to put allegations to the complainants ahead of publication, which then went against them at the trial. It was Catch 22. The court decisions were having a chilling effect on the PCC, which had major implications if the Commission was losing its ability to deal with these complaints. Mr Toulmin said the PCC was trying to stimulate a debate on it.

June Smith-Sheppard and Harriet Wilson said that, increasingly, magazines too were being affected by CFA-supported claims, driven by the complainant's desire for cash compensation. Ian Murray confirmed that it was the same in the regional press industry; newspaper lawyers would usually advise that any 50-50 case should be settled.

It was agreed, at the Chairman's suggestion, that the secretary should consult with relevant parties and prepare a discussion paper for the next Code Committee meeting.

NEXT MEETING: It was left to the Chairman and secretary to call the meeting, probably in March or April.