

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 Street, London, on 15 April 2010.

Present:

Chairman: Paul Dacre (NPA)

Jonathan Grun (NPA)	Colin Grant (NS)	June Smith-Sheppard (PPA)
John Witherow (NPA)	Mike Sassi (NS)	Harriet Wilson (PPA)
Richard Wallace (NPA)	Hannah Walker (NS)	Damian Bates (SNS)

Attending:

Baroness Buscombe (Chairman, PCC); Stephen Abell (Director, PCC); Ian Beales (*Secretary*).

Apologies were received from Ian Murray and Neil Benson.

Membership: The Chairman welcomed new members Damian Bates, of the Aberdeen *Evening Express* (SNS); Colin Grant, Cambridge Newspapers (NS); Mike Sassi, Staffordshire Sentinel News and Media (NS); and Richard Wallace, *Daily Mirror* (NPA).

Minutes of the meeting held on 26 November 2009 were approved and signed.

Code Committee website: The secretary said traffic on the website had continued to expand. The PCC had assisted in increasing the subscriber membership to more than 2,000.

Bribery Bill: The secretary reported that the passing of the Bribery Bill posed a potential threat to journalists, as it offered no public interest defence and carried a maximum 10-year sentence. An issue was whether changing the Code to cover 'inappropriate payments' might provide some protection. The Chairman said this was a serious issue that should be considered at the next meeting, once the industry had considered the implications.

Online Codebook: It was agreed that, due to heavy spring agendas, updates to the online Codebook should be rescheduled for consideration annually at autumn meetings.

Privacy checklist: The secretary presented a revised version of Alan Rusbridger's checklist of questions on privacy suggested for inclusion in *The Editors' Codebook*.

It was agreed the existing Key Questions on privacy made all the essential points. No change was needed.

Select Committee Report and PCC Governance Review: The secretary reported briefly on the CMS Select Committee report, and the Government's response to it, and also on progress of the PCC's Governance Review. As the issues involved often overlapped, specific suggestions were considered together either in a general discussion on procedural matters or as part of the Code Review.

It was agreed that the secretary would draft a response to the Select committee and circulate it by email for approval.

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PROCEDURAL CHANGES (SUBJECT TO PRESSBOF APPROVAL)

Lay membership and relations with the PCC: The committee discussed at length various suggestions, including from the CMS Select committee and the Government's response to it, that the Code Committee should admit lay members, including a lay chairman. There was general agreement that installing a lay chairman would weaken the Code's authority within the industry and that lay members would bring only marginal presentational benefits. An option of introducing PCC lay-commissioners to serve on the Code Committee on a rotating basis was considered as a way of improving both public credibility and lay commissioners' understanding of the Code Committee's work. However, the PCC Director expressed concerns, shared by the Governance Review panel, that this could blur the roles of the two organisations.

It was agreed that any outcomes should await the report of the Governance Review, but the current main options were that:

- The PCC would revive its dormant Code sub-committee, which would liaise informally with the Code Committee via the secretary to help improve mutual understanding.
- The PCC Chairman and Director should remain as Code Committee lay observers, increasingly acting as a two-way conduit for expressing operational or other concerns.
- The Code Committee, when consulting the industry on recommended changes to the Code, would as a courtesy seek the input of the Commission.

Moderating websites: The Select Committee recommendation, supported by the Government, that newspapers should proactively monitor their websites and take down offensive material before complaints were received was considered. Most members said their sites were reader-moderated, because of resource implications and because moderation could compromise their defence in the event of legal action. The evidence was that self-moderation worked. Stephen Abell said the PCC was looking at online issues.

It was agreed the secretary should prepare a paper on this, in the light of legal advice, and in association with the PCC.

Positioning of adverse adjudications: Peter Preston's proposal to the Governance Review that the Commission should dictate positioning of adverse adjudications was broadly supported by the PCC Chairman and Director. They were against new sanctions and said that, currently, 70% of editors would informally discuss positioning in advance. However, people had not accepted that things had changed. The PCC sought greater 'branding' of adjudications - with *Press Complaints Commission* given in full in headlines - thus increasing credibility by showing that these adjudications caused editors genuine pain.

Members were agreed that the 'pain' was indeed genuine. Responding to Paul Dacre's call for give and take on positioning, Lady Buscombe confirmed that the system would remain bespoke, with each case decided on its merits. The secretary said that, while most editors consulted the PCC informally, having positioning imposed by Commissioners was a more sensitive issue. It might be possible to have a format by which the Commission gave the Director delegated powers to agree positioning with editors. Such mutual agreement might provide a formula that could be codified, as suggested for apologies and corrections.

It was agreed the secretary and PCC director should draw up a form of words to define a process and report back.

Online media convergence: The NUJ, MediaWise, Campaign for Press and Broadcasting Freedom and others suggested that as print and broadcasting websites co-existed online, there should be conformity of standards, so that Ofcom issues, such as taste and decency, and the need for balance were included in the Editors' Code.

It was agreed that the limits on broadcasting freedom due to lack of bandwidth should not be adopted by a diverse press.

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Code Committee transparency: The secretary reported on suggestions that the committee improve its public credibility via greater transparency – such as publishing the reasons for Code Review decisions, and the minutes of meetings. Reasons for Code changes were already published but, while individual proposers of suggestions were informed of the reason for rejection, this could appear negative if published en bloc.

Members agreed that there were many misconceptions about the Code Committee's role, including the fact that it was the *Editors' Code* and not the PCC Code. Stephen Abell said the PCC was considering a new advertisement setting out the way the system worked, and was to publish model minutes, without a narrative.

It was agreed that, to try to improve transparency, the secretary should:

- Draft possible criteria for publishing minutes to be included at the next meeting.
- Publish on the website answers to popular misconceptions about self-regulation.
- Incorporate the website's current Frequently Asked Questions into the Codebook itself to increase readership.
- Distribute to editors a letter for publication, or advertisement, announcing the annual Code Review.

Wider remit for Code Committee: The Governance Review panel believes the burden of defending the self-regulatory system falls disproportionately on the PCC and has floated the possibility that the Code Committee might take on a wider role to help rectify this. The secretary said any extension of the remit would be a decision for PressBoF. Paul Dacre said the PCC was left to take the flak because the industry was in a difficult position, being seen as *parti pris*. It needed spokesmen who were above the fray.

ANNUAL CODE REVIEW

Suggestions from the CMS Select committee, the Government, the public, and the industry were considered.

Accuracy

Clause 1i – prior notice: The CMS Select committee, the Government's response to it, Schillings solicitors and others suggested various ways in which the Code should cover pre-notification of people about articles concerning them. The secretary said the European Court of Human Rights had agreed to fast-track Max Mosley's claim that the absence of a right of prior notice from the *News of the World* in his privacy case breached his human rights. The case would probably be heard late this year or early next, and an advance submission from the Media Lawyers Association made reference to codes of practice. It would therefore be unwise to try to codify this without legal advice. The committee had already agreed to update *Codebook* guidance and it might be better to go no further. The Chairman said the industry would probably need to be consulted on any form of words.

* **Decision:** The secretary should consult on draft *Codebook* guidance and report back.

Clause 1i – headlines: The CMS Select committee, the Government's response, petitioners online and others suggested the Code should require that headlines on stories accurately reflect the content. The secretary said while headlines were already covered by the Code within the context of the story, they were not specifically mentioned to avoid being judged in isolation. He presented a couple of options for amending the Code, but suggested guidance in a *Codebook* panel might cover the issue better, making clear that headlines should reflect the essence of the story. Members supported the *Codebook* option, but felt '*the essence of the story*' was too narrow and restrictive, especially for magazines.

* **Decision:** The secretary should prepare a draft, giving a fair degree of latitude.

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Clause 1i – manipulation of pictures and low threshold of accuracy: In evidence to the PCC Governance Review, MediaWise suggested the Code should include a photography clause, to cover digital manipulation. The NUJ said the current requirement to take care to avoid inaccuracy was a low threshold. The committee agreed the Code's mention of pictures covered digital manipulation and that this was made clear in the Codebook. The NUJ assertion of a low threshold on accuracy was unsupported by evidence.

* **Decision:** No change.

Clause 1i – Due Prominence for apologies and corrections: The CMS Select committee, the Government's response, online petitioners, MediaWise, Swan Turton and others called variously for apologies and corrections to appear on the same page or earlier than the original reference and suggested the Code should require editors to give the PCC advance notice of positioning. The secretary said this largely codified what happened already and produced a draft for consideration, which allowed for mutual agreement between the editor and the PCC. This could work if the secretariat had powers to agree the positioning on behalf of the PCC, as routinely happened already.

* **Decision:** It was agreed the Code would be amended to state:

ii) A significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and - where appropriate - an apology published. In complaints involving the Commission, prominence should be agreed with the PCC in advance.

Opportunity to reply

Clause 2 – Right of reply: MediaWise suggested, via the Governance review, that the Code should offer an appropriate right of reply to genuinely aggrieved parties that would allow them to present, unmediated, their side of the story or point of view. [redacted] suggested both a right of reply and that newspapers provide obligatory space for readers' complaints. The committee decided the current opportunity to reply was reasonable.

* **Decision:** No change.

Privacy

Clause 3 – informed consent and distorted rulings: MediaWise suggested the test of a reasonable expectation of privacy favoured the privileged, who were guarded by high walls and expensive lawyers, and called for the Code to offer a right of 'informed consent' to protect non-media savvy people. This would include copy checks to prevent them being duped into giving or selling stories against their own interests. The NUJ claimed, without supporting evidence, that the current privacy wording distorted PCC adjudications. The committee decided that a reasonable expectation of privacy allowed for different expectations as between the rich or privileged and more ordinary individuals.

* **Decision:** No change.

Discrimination

Clause 12 – Inclusion of groups and allowing third party complaints: The National Aids Trust, the Building and Social Housing Foundation, West London Mental Health Trust and others, including – in evidence to the Governance review - MediaWise, Campaign for Press and Broadcasting Freedom, and the NUJ, suggested various options for widening Clause 12 to embrace discrimination against groups and to allow third party complaints.

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The secretary said discrimination against groups was the Code's most contentious issue. It had always been resisted on the basis that, while pejorative or prejudicial remarks about individuals were not acceptable, a similar bar on groups would be an infringement of free speech. Third parties can complain about inaccurate stories about groups under Clause 1's Accuracy provisions. A recent survey of 20 European press self-regulatory systems revealed that only four cover discrimination against groups.

* **Decision:** No change.

Confidential sources

Clause 14 – Crediting sources: Suggestions from online petitioners that all sources should be credited unless they do not wish to be, and from [] that there should be a presumption – on the U.S. editorial model – that official spokesmen were routinely named, were rejected. The committee said that these issues, however laudable, were matters for free editorial choice.

* **Decision:** No change.

GENERAL ISSUES

Advocating illegality: [] suggested the Code should include a clause to prevent the publication of articles justifying illegal acts, such as torture to prevent terrorism. The committee decided that, if this sort of journalism went beyond the bounds of free speech, the law would cover it. If it were not in the public interest to prosecute, it would equally not be in the public interest to prevent publication.

* **Decision:** No change

Photography: MediaWise wanted the committee to improve its guidance on photography. This should cover issues such as the use of 'stock' pictures as illustrations, and the copying and keeping of images supplied for single usage – especially given the reliance on 'citizen journalists' to supply them. Although much of this is covered in the Codebook's general guidance – such as photography at funerals and in hospitals and in reporting of crime – the committee felt there should be a Briefing panel on photography/image use for the benefit of photographers and picture desks. However, issues such as financial transactions with suppliers of pictures, including citizen journalists, were outside the Code's remit.

* **Decision:** Include photography Briefing panel in *The Editors' Codebook*.

Editorial balance: Park Homes Residents Action Alliance asked that the Code should prevent magazines and newspaper editorial features from misleading elderly purchasers by directly comparing prices of park homes, which typically depreciate with age, with those of traditionally-built freehold houses. The committee agreed that the Code's accuracy provisions already allowed the PCC to adjudicate on misleading information.

* **Decision:** No change.

Biased court reporting and naming and shaming: [] complained that reports of ongoing trials are often based on the prosecution's opening address, without making clear that these are allegations or giving the defence case; and do not state that a case is ongoing. [] whose husband died while serving a jail sentence for child sex abuse, asked that the Code should require even-handed reporting of such cases, without false allegations, or inciting vigilantism with lurid headlines in naming-and-shaming campaigns. The committee decided the accuracy provisions already allowed the PCC to adjudicate on poor reporting of trials.

* **Decision:** No change.

Next meeting: It was agreed provisionally to meet in November on a date to be confirmed.